Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 15980. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. HICKS of Massachusetts:

H.R. 15981. A bill to amend the Railroad Retirement Act of 1937 to provide a 20-percent increase in all annuities and pensions thereunder; to the Committee on Interstate and Foreign Commerce.

By Mr. McDONALD of Michigan:

H.R. 15982. A bill to impose a moratorium on new and additional student transportation; to the Committee on the Judiciary.

By Mr. MELCHER:

H.R. 15983. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Marias-Milk Unit of the Pick-Sloan Missouri Basin program in Montana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROE:

H.R. 15984. A bill to amend title III of the act of March 3, 1933, commonly referred to as the "Buy American Act," with respect to determining when the cost of certain articles, materials, or supplies is unreasonable; to define when articles, materials, and supplies have been mined, produced, or manufactured in the United States; to make clear the right of any State to give preference to domestically produced goods in purchasing for public use, and for other purposes; to the Committee on Public Works.

By Mr. YATES:

H.R. 15985. A bill to amend the Export Administration Act of 1969 in order to promote freedom of emigration; to the Committee on Banking and Currency.

By Mr. GALIFIANAKIS:

H.J. Res. 1261. Joint Resolution authorizing the President to proclaim the first week beginning on a Sunday in April of each year as "National Textile Week"; to the Committee on the Judiciary.

By Mr. STEELE:

H.J. Res. 1262. Joint resolution designation of the month of July of each year as "National Drum Corps Month"; to the Committee on the Judiciary.

By Mr. FISH:

H. Con. Res. 647. Concurrent resolution to collect overdue debts; to the Committee on Ways and Means.

By Mr. DAVIS of Georgia:

H. Res. 1050. Resolution regarding the transfer of rural letter carriers; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

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

By Mrs. HECKLER of Massachusetts:

H.R. 15986. A bill for the relief of Isabel Eugenia Serrane Macias Ferrier; to the Committee on the Judiciary.

By Mr. McKINNEY:

H.R. 15987. A bill for the relief of Apostolos Sederopoulus; to the Committee on the Judiciary.

By Mr. REES:

H.R. 15988. A bill for the relief of Raphael Gidharry; to the Committee on the Judiciary.

SENATE—*Thursday, July 20, 1972*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

Eternal Father, we thank Thee for Thy mercies which are new every morning, when weariness has been dispelled by the blessed gift of physical rest and spiritual renewal. O Thou restorer of the soul lead us in paths of righteousness for Thy name's sake.

Prosper the counsels of those who confer for peace and strengthen those whose duty is yet to bear the burden of battle. Be with those here and everywhere who strive for a new age of justice, brotherhood, and peace.

May all men of good will be encouraged by the message of the prophet:

Fear thou not; for I am with thee; be not dismayed; for I am thy God; I will strengthen thee; yea, I will help thee; yea, I will uphold thee with the right hand of my righteousness.—Isaiah 41:10.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 19, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from California (Mr. TUNNEY) is now recognized for not to exceed 15 minutes, to be followed by the distinguished Senator from Maryland (Mr. MATHIAS).

(The remarks that Mr. TUNNEY made at this point on the introduction of S. 3814, dealing with the Bank Secrecy Act, and the ensuing debate are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. MANSFIELD. Mr. President, if the Senator from Maryland desires time, I will yield my 3 minutes to him.

Mr. MATHIAS. I appreciate the generosity of the majority leader, but we have concluded.

The ACTING PRESIDENT pro tempore. The period for the transaction of routine morning business will not extend beyond 9:40 a.m., and statements therein will be limited to 3 minutes.

VICE PRESIDENT AGNEW

Mr. HANSEN. Mr. President, the season being what it is, it should not be surprising, I suppose, to hear suggestions from time to time that President Nixon should dump Vice President AGNEW as his running mate this year.

I do not profess to know what motivates such suggestions. I suppose it is just another form of midsummer madness in a presidential election year.

I have always understood that a presidential nominee, and not self-anointed kingmakers, should be responsible for selecting the man he would like to have on the ticket with him. Speaking for myself, I am perfectly willing to leave this responsibility where it has long abided.

But I do want to say, in all candor, that I deplore the reflections on Vice President AGNEW which I believe are implicit in the suggestions that he should be replaced. No man has filled this office with more poise, and with more effectiveness, and with more credit to himself and his party.

As President Nixon said in an interview last January and repeated in a news conference as recently as June 29:

> Mr. Agnew has conducted himself . . . with great dignity, with great courage, some controversy—which is inevitable when you have courage—and that under the circumstances, since he was a member of a winning team, I did not believe that breaking up a winning team was a good idea. That was my view then and that is my view now.

As far as I have been able to determine, that is still the prevailing opinion in the only place where it counts when it comes to choosing a candidate for Vice President.

The Vice President has had a very substantial role in this administration—far more, I believe, than any other Vice President has been called upon to play. I have been particularly impressed with his efforts to promote our federal system of government through his concern in improving relations between Washington and the State and local governments.

He has demonstrated his courage in many different ways. He has not been reluctant to meet with individuals and groups of differing political views, and he has not been afraid to voice criticism of the national news media and some of our ivy-towered universities which I believe is shared by a large segment of our people.

So it is not surprising that Mr. AGNEW should be the target of a political ambush, just as Mr. Nixon was the target of Harold E. Stassen's dumping efforts in the 1950's. He has been a strong Vice President and one is reminded of the refrain which goes something like this:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Ingratitude is a weed of any clime,
It may thrive at first, but fades in time.

The Vice President deserves our gratitude—and I am sure this will be reflected in just a short time. President Nixon has said he will make known his decision about a running mate before the Republican convention next month, and I am confident that the President will choose very wisely.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By Mr. MANSFIELD:

A petition of the Maryland Veterans for Peace, Baltimore, Maryland, praying for the Members of the Senate to use their delegated rights and powers to bring about an early end to the war in Southeast Asia; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FANNIN, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 3337. An act to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes (Rept. No. 92-975); and

H.R. 8694. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets numbered 22-E and 22-F, and for other purposes (Rept. No. 92-976).

By Mr. CHILES, from the Committee on Government Operations, without amendment:

H.R. 8708. An act to extend the authority of agency heads to draw checks in favor of financial organizations to other classes of recurring payments, and for other purposes (Rept. No. 92-977).

REPORT ENTITLED "CRIMINAL LAWS AND PROCEDURES"—REPORT OF A COMMITTEE (S. REPT. NO. 92-974)

Mr. McCLELLAN, from the Committee on the Judiciary, pursuant to Senate Resolution 32, 92d Congress, first session, submitted a report entitled "Criminal Laws and Procedures", which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Robert L. Carter, of New York, to be a U. S. district judge for the Southern District of New York.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

ORDER FOR STAR PRINT OF REPORT NO. 92-894—LABOR-HEW APPROPRIATIONS, 1973

Mr. MAGNUSON. Mr. President, on June 21, 1972, I submitted the report of the Committee on Appropriations to accompany H.R. 15417, the fiscal year 1973 Labor-HEW appropriation bill.

Several committee explanations on health and education were omitted from the text of the report when it was printed, and some errors were made in printing.

Therefore, I ask unanimous consent that there be ordered a star print of Senate Report No. 92-894, incorporating the explanations in the original report and correcting those necessary printing errors.

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

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. TUNNEY (for himself and Mr. BROCK):

S. 3814. A bill to amend Public Law 91-508 to prescribe procedures pertaining to the disclosure of certain financial information by financial institutions to State and Federal governmental departments and agencies, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCHWEIKER:

S. 3815. A bill to amend the Federal Aviation Act of 1958 in order to require the screening by weapons detecting devices of all passengers in regularly scheduled air transportation. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 3816. A bill for the relief of Rosita Djoanda. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3817. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966, and for other purposes. Referred to the Committee on Commerce.

By Mr. SPONG:

S. 3818. A bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes. Referred to the Committee on Commerce.

By Mr. BAYH:

S. 3819. A bill to amend the Controlled Substances Act to establish effective controls against diversion of particular controlled substances and to assist law enforcement agencies in the investigation of the diversion of controlled substances into other than legitimate medical, scientific and industrial channels, by requiring manufacturers to incorporate inert, innocuous tracer elements in all Schedule II and III depressant and stimulant substances, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 3820. A bill to provide for payment of costs of pending litigation out of funds appropriated to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332-A. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN:

S. 3821. A bill for the relief of Jozefa Sokolowska Domanski. Referred to the Committee on the Judiciary.

By Mr. MILLER (for himself and Mr. HUGHES):

S. 3822. A bill authorizing the City of Clinton Bridge Commission to convey its bridge structures and other assets to the State of Iowa and to provide for the completion of a partially constructed bridge across the Mississippi River at or near Clinton, Iowa, by the State Highway Commission of the State of Iowa. Referred to the Committee on Public Works.

By Mr. MAGNUSON (by request):

S. 3823. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself and Mr. BROCK):

S. 3814. A bill to amend Public Law 91-508 to prescribe procedures pertaining to the disclosure of certain financial information by financial institutions to State and Federal governmental departments and agencies, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

BANK SECRECY ACT

Mr. TUNNEY. Mr. President, today I am introducing a bill to amend the Bank Secrecy Act. The distinguished Senator from Maryland (Mr. MATHIAS) is present today to discuss a bill he is planning to introduce relating to the same subject matter, although slightly different in form. I would hope that the Senate would consider these bills, work its will and, finally, before this session is over, amend the Bank Secrecy Act. I believe that statute, along with the regulations prescribed by the Department of the Treasury, represent a clear and present danger to privacy in America.

Mr. President, it is now almost 1½ months since I wrote a letter to the Secretary of the Treasury asking to be informed on a number of matters in connection with the recently prescribed Bank Secrecy Act regulations. I have been assured time and time again by the Secretary and his staff that a response would be forthcoming shortly. Yet, the days go by without a word of explanation.

The purport of my questions dealt with some very fundamental policies underlying the regulations as well as procedures and safeguards to be utilized and adopted when applying those regulations to real situations.

I am simply astounded and outraged at the way the microfilming regulations roll on without any indication or assurance from Treasury as to why it is taking place and what safeguards with respect to the regulations are contemplated. The people are entitled to know, and it is the duty of the Government to explain. It is the height of arrogance to meet this proper inquiry with nothing but cold, calculated nonresponsiveness.

While I was studying the new Bank Secrecy Act regulations, I and many of my fellow Californians became alarmed by the lack of statutory safeguards insuring our banking privacy against unauthorized disclosures. Our research has disclosed that there is no statutory prohibition upon a bank's disclosing any information it sees fit to any recipient. The Government's known propensity for data-collecting coupled with some known instances of FBI surveillance has created the apprehension that another precious

part of our freedom from unwarranted intrusion may disappear.

I was flabbergasted to read in the San Francisco Chronicle of July 18 a statement by a Government official contained in an article on a hearing held last Monday on the suit brought by the American Civil Liberties Union and the California Bankers Association challenging the constitutionality of the Bank Secrecy Act and the regulations. The U.S. attorney, referring to the bank depositors, told the court—and I quote:

They have no right to privacy of bank records.

Mr. President, if the U.S. attorney was authorized to make that statement, it is very apparent that our Government, with its insatiable appetite for information has an incredible lack of sensitivity concerning the people's right to be let alone.

That insensitivity makes it essential to protect legislatively an individual's banking privacy, to assure his right and ability to control the dissemination of information pertaining to his personal banking transactions. In a climate of distrust and cynicism on the part of a large segment of our citizenry toward their government, it is crucial that the people be provided this assurance.

Mr. President, today I am introducing a bill to fill this vital need. I now send it to the desk for appropriate reference, and ask unanimous consent that it be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD at the end of the Senator's remarks.

(See exhibit 1.)

Mr. TUNNEY. Mr. President, the bill designed to be an insurance policy against unwarranted and improper intrusions by anyone, including Government, into a person's banking life.

At the same time it will relieve the banks from the uncomfortable and conflicting position of having to please both the Government as well as the customer.

The bill is designed to cover all varieties of financial institutions including banks, savings and loan associations, credit card companies and the like. It prohibits unwarranted disclosure of financial records showing individual transactions in or with respect to a particular account. This includes checks, invoices, or similar instruments drawn on, issued, payable, or billable by a financial institution.

The bill permits disclosure of the protected information only upon certain very well-defined conditions: First, when the account holder has consented to it; second, when a subpena has been served requiring those records; third, or when a "probable cause" hearing has been held resulting in a court order requiring disclosure of those records.

In the event a subpena is the means by which the records are to be obtained, the bill requires service to be made upon the account holder himself in order that he wil have notice of its issuance thereby affording him an opportunity to demand a court hearing in the event he believes the subpena to be improperly issued.

By requiring direct service of subpena on the account holder, no longer will the bank have to worry about whether it should notify the account holder when a subpena is served or whether it should challenge the Government in court on the customer's behalf.

Mr. President, I might add that the Library of Congress has informed me that there are over 100 different administrative subpenas which can be issued by Federal governmental agencies and departments. This incredible number of subpenas available to Government agents demonstrates clearly the need to give notice to the account holder, if we are going to protect from improper intrusion the right of banking privacy that Americans have a right to expect.

The bill also provides, however, that when a probable cause hearing has been undergone which results in the issuance of a court order for any particular bank records, no such notice to the account holder will be required on the part of law enforcement agencies.

There is good reason for allowing law enforcement authorities this method. If a court determines there is probable cause that a crime has been committed and that the evidence will be found among the bank records, the Constitutional fourth amendment protection will have been safeguarded, and then enforcement authorities should be allowed to utilize the element of surprise.

The bill will allow the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and similar agencies to reform periodic examination or audit of financial records pursuant to their statutory authority.

But the bill prohibits for the most part any such agency or, indeed, any other governmental department or agency obtaining records pursuant to the procedures outlined in the bill, to use or retain the disclosed information for any purpose other than the specific statutory purpose for which the information was originally sought. This protection is subject to one exception: Such information may be used and retained where it provides evidence giving rise to complaint or indictment within 6 months of obtaining such information. This will have the effect of precluding the accumulation of such information for any noncriminal investigatory purpose, but will not require the Government to wear blinders in the event some highly incriminating evidence is disclosed.

The bill provides for civil remedies against the financial institution, the United States, or any other person or agency violating the act as well as criminal penalties. It also allows injunctive relief to be available to persons who are affected by violations of the act.

EXHIBIT 1

S. 3814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 91–508 is amended by adding a new Title VII at the end as follows:

SHORT TITLE

"SECTION 1. This title may be cited as the 'Financial Records Privacy Act.'

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this title to prescribe procedures governing the disclosure by certain financial institutions of information relating to the financial affairs, transactions, condition or status of persons who maintain a share, or deposit or credit card account with those institutions in order to safeguard certain rights guaranteed by the Constitution, including the right of privacy.

"DEFINITIONS AND APPLICABILITY

"SEC. 3. (a) As used in this title—

"(1) The term 'financial institution' means a bank service corporation as defined by 12 USC section 1861 or any bank, institution, or financial institution defined in or affected by Titles I and II of Public Law 91–508, or any other type of business or institution performing similar or substitute functions of any of the foregoing.

"(2) The term 'person' means an individual, partnership, corporation, association, trust, or any other legal entity organized under the laws of any State or the United States.

"(3) The term 'account holder' means any person maintaining a share, deposit, or credit card account with a financial institution.

"(4) The term 'financial records' means with respect to any account holder—

"(A) any document granting signature authority over such account holder's deposit, share or credit card account;

"(B) a statement, ledger card, or other record of a deposit, share, or credit card account, which shows any balance or transaction, or both, in or with respect to such account holder's account;

"(C) a check, draft, money order, invoice, receipt, or similar instrument drawn on a financial institution by such account holder or otherwise chargeable to his account, or issued, payable or billable by a financial institution for the account, or at the direction, of such account holder;

"(D) a check, draft, money order, invoice, receipt, or similar instrument received by a financial institution from such account holder for deposit, collection, or billing;

"(E) any individual item other than an institutional or periodic charge, made pursuant to any agreement between a financial institution and such account holder which constitutes a debit or credit to the account holder's deposit, share, or credit card account if such item is not otherwise included in this subsection 3;

"(F) any record held by a financial institution containing information furnished by the account holder and pertaining to the account holder's financial condition or status;

"(G) any records performing similar or substitute functions for any of the foregoing.

"(5) (A) The term 'supervisory agency' means—

"(1) the Federal Deposit Insurance Corporation;

"(2) the Federal Home Loan Bank Board;

"(3) the Federal Savings and Loan Insurance Corporation;

"(4) the National Credit Union Board;

"(5) the National Credit Union Administration;

"(6) the Federal Reserve Board; and

"(7) the Comptroller of the Currency;

"(8) any State department or agency which is required by law to perform periodic examination or audit of the financial records of non-federal financial institutions.

"(B) Notwithstanding any other provisions of this Title, the examination or audit of financial records by any officer or employee of a supervisory agency in the exercise of his duties as such an officer or employee in accordance with applicable laws shall not be affected by this Title except as prescribed below in Section 5.

"CONFIDENTIALITY OF RECORDS

"SEC. 4 Except as provided in Sec. 6, a financial institution is prohibited from disclosing to any officer, employee, agent, department or agency of any State or the United States, or to any other person, copies of or the information contained in any financial records relating to any account holder unless—

"(a) Such account holder has given the financial institution written consent on each occasion when disclosure is requested after receipt from such institution of written notification of the request stating the name of the intended recipient and, if applicable, the statutory purpose for which the information is to be obtained; or

"(b) (1) A person requesting such disclosure presents a signed written authorization from such account holder naming the intended recipient, specifying the information to be disclosed and, if applicable, specifying the statutory purpose for which the information is to be obtained, and

"(2) The financial institution receiving such request and authorization notifies its account holder in writing by registered mail, return receipt requested, of the request including the name of the intended recipient and, if applicable, the statutory purpose for which the information is to be obtained and no contrary instructions are received from such account holder within ten days of such mailing; or

"(c) Such records are made available pursuant to a federal or state subpena or summons which has,

"(1) been personally served upon the account holder and the financial institution in accordance with applicable laws governing service of process, and

"(2) (A) such account holder in writing directs the financial institution to comply with such subpena, or

"(B) the elapse of the period of compliance or 15 days whichever is longer, has taken place without a court order precluding compliance having been served upon the financial institution; or,

"(d) Such records are made available pursuant to a federal or state subpoena which has,

"(1) been served upon the account holder by substituted service in accordance with applicable laws governing service of process with a copy of the subpoena served upon the financial institution and,

"(2) (A) such account holder in writing directs the financial institution to comply with such subpena, or

"(B) a court of competent jurisdiction has thereafter ordered compliance with the subpoena, such court order being served upon both the account holder and the financial institution; or

"(e) Such records are made available in response to an order of a court of competent jurisdiction after a probable cause hearing which on its face comports with the requirements of the fourth amendment of the United States Constitution.

"Sec. 5. (a) No supervisory agency, or any state or federal governmental department or agency, or any officer, employee, or agent of a State or the United States obtaining copies of or the information contained in any financial records may,

"(1) use or retain in any form the information disclosed by any financial institution for any purpose other than the specific statutory purpose for which the information was originally obtained unless such information provides the basis for or gives rise to a civil or criminal complaint or indictment within six months of obtaining such information.

"(b) The prohibition of disclosure shall not limit or prevent the dissemination of statistical information not identified or identifiable as derived from any particular person's deposit, share, or credit card account.

"SEC. 6. Notwithstanding any other provision in this Title, a financial institution is not prohibited from disclosing necessary financial records—

"(a) to a bank service corporation to perform bank services;

"(b) to an appropriate state agency to report accounts deemed by law to be abandoned;

"(c) to persons solely for the commercial purpose of collecting delinquent balances on particular accounts to which the financial records relate;

"(d) to a surviving spouse or relative of a deceased account holder where such person is entitled by law to claim any assets held by the financial institution;

"(e) to appropriate state or federal agencies in compliance with state revenue laws or the Internal Revenue Code of 1954 solely for the purpose of filing the financial institution's income tax return.

"CIVIL PENALTIES

"SEC. 7 (a) for each willful violation of this Title, the person to whom such records relate may recover from such financial institution, the United States or any other person willfully violating this Title an amount equal to the sum of—

"(1) any actual damages sustained by such person as a result of the violation;

"(2) such punitive damages as the court may allow; but not less than $5000; and

"(3) in the event of any successful action to enforce liability under this section, the cost of the action together with a reasonable attorney's fee as determined by the court.

"(b) For every other violation of this Act, the person to whom such records relate may recover from such financial institution, the United States, or any other person violating

"(G) any records performing similar or this Title an amount equal to the sum of—

"(1) any actual damages sustained by such person or the sum of $1000, whichever is greater; and

"(2) in the event of any successful action to enforce liability under this section, the cost of the action together with a reasonable attorney's fee as determined by the court.

"(c) An action to enforce any liability under this Act may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within three years from the date on which the liability arises, or the date of discovery of such liability, whichever is longer.

"CRIMINAL PENALTIES

"SEC. 8 (a) Any partner, director, officer or employees of a financial institution who willfully participates in a violation of this Title is guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than one year or fined not more than $5000, or both.

"(b) Any officer, employee or agent of any department or agency of any State or the United States who induces or attempts to induce a violation of this Title, is guilty of a misdemeanor and upon conviction shall be imprisoned for not more than one year or fined not more than $5000, or both.

"REMOVAL AND DISQUALIFICATION FROM OFFICE

"SEC. 9 (a) Any officer, employee, or agent of a department or agency of the United States who is convicted of a violation of this Title shall be removed from the civil service.

"(b) Any person who has been removed from office under section 9(a) shall be disqualified from holding any office in any department or agency of the United States for a period of five years following his removal.

"INJUNCTIVE RELIEF

"SEC. 10. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this title. In the event of any successful action under this section, the cost of the action together with a reasonable attorney's fee as determined by the court may be recovered.

"WAIVER OF RIGHTS

"SEC. 11. No waiver by an account holder of any right hereunder shall be valid, whether oral or written, or with or without consideration.

"INCONSISTENT PROVISIONS OF LAW

"SEC. 12. Should any other law of the United States or any other jurisdiction grant or appear to grant power or authority to any person to violate the provisions of this chapter, the provisions hereof shall supersede and *pro tanto* override and annul such law, except those statutes hereinafter enacted which specifically refer to this title.

"SEPARABILITY

"SEC. 13. Should any provision or provisions of this title be declared void by decree of any court, the remaining portions thereof shall remain in force to the extent compatible with such decree.

"EFFECTIVE DATE

"SEC. 14. The provisions of this title shall become effective upon the expiration of 180 days following the date of enactment."

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from California has 7 minutes remaining.

Mr. TUNNEY. Mr. President, I yield to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is to be recognized for 15 minutes for his own speech. He will be recognized now for 22 minutes.

Mr. MATHIAS. Mr. President, I thank the Presiding Officer and the Senator from California for yielding to me at this point.

I have appreciated working with the Senator from California and with his staff on this problem. I have prepared legislation which is similar in purpose to that which the Senator from California is introducing today. My legislation contains some additional features. Therefore, we will submit two separate bills for the consideration of the committee and the Senate. Both bills, however, are directed at the same problem. It is a problem which I have discussed at great length with individual members of the banking community in Maryland, with representatives of the Maryland Bankers Association, and with the Maryland Chapter of the American Civil Liberties Union.

As the Senator from California has explained, this is a serious threat to the freedom of the banking industry, and a threat to the personal privacy of every American. This threat was created by the 1970 amendments to the Federal Deposit Insurance Act. At the time when we passed this bill, it was known as the Bank Secrecy Act of 1970 or the Swiss Bank Account Act.

When this bill was passed, I think it was clearly the intent of Congress to assist the Treasury Department and law enforcement officials in getting information which, up to that time, had not been available relative to the so-called numbered Swiss bank accounts and other secret foreign bank accounts.

It was clearly not the intent of Congress, however, that these powers dele-

gated to the Treasury Department by the bill should be employed against domestic banking institutions for the purpose of indiscriminately scrutinizing every check which passes through a bank. I am not saying that we have yet reached that point, but the power asserted by the Treasury Department could readily lead to that situation. They are saying they have the authority to do just that.

OFFICIALS AT THE TREASURY DEPARTMENT

Mr. President, at this point I ask unanimous consent to have printed in the RECORD at the end of my remarks certain correspondence with the Treasury Department, and certain articles and certain editorials from the Washington Post and the American Banker which have been written on this subject.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. MATHIAS. Mr. President, the Bank Secrecy Act of 1970 itself gave the Secretary of the Treasury the power to require every bank and financial institution in America to keep records, including the microfilming of checks, financial deposits, withdrawals, and other transactions involving the bank or any of its customers.

The act further requires that the banks turn over these records to the Treasury upon its request, and that the banks make certain reports of formal transactions even without a request from the Treasury.

Moreover, the Treasury is permitted to give the records to any other agency in the Government, including the Internal Revenue Service and the Federal Bureau of Investigation—each of which can now obtain a complete history of the records of every citizen's financial dealings, no matter how small the amount nor how private the purpose.

In effect, if implemented in the way the Treasury Department proposes to implement it, this law makes the financial institutions of America the agent of the Government rather than the agent of their customers.

I think that we would still prefer that a financial institution be considered as the servant of its customers rather than be considered as a tool of an increasingly large and inquisitive government.

So, it is to the overextension of the power granted by this act that I think the Senator from California and I object. The original purpose of the act was to bolster the Government's ability to combat organized crime and the secrecy surrounding certain foreign bank accounts. However, I cannot support the power that has been asserted and claimed by the Treasury Department which extends far beyond the legitimate needs of the Government for these purposes.

As I mentioned earlier, there have been efforts from my office to correspond with the Treasury Department on this subject. However, this correspondence has proved to be disappointing. While the Treasury has responded to each of my inquiries, I am not satisfied that there is an understanding within the Treasury Department of the very real dangers which these regulations pose to the fundamental rights of all Americans. In fact, the Bank Secrecy Act, as implemented by the regulations of the Treasury Department, raises several important constitutional issues.

As the Senator from California has told the Senate, the California Bankers Association and the American Civil Liberties Union have joined together to bring this matter to the judicial attention in a suit which has been filed in California. There is a similar suit in the District of Columbia filed by the ACLU.

The basic contention of this litigation is that the law violates the first amendment's guarantee of freedom of speech and assembly, the fourth amendment's guarantee of the right against unreasonable searches and seizures, and the 14th amendment's guarantee of equal protection under the law. The parties further contend that the act imposes an unwarranted restriction on the fiduciary relationship between a bank and its customers which is essential in our modern economic system.

I associate myself with each of these arguments. I think it is very significant that the Federal court in California has granted a temporary restraining order which will delay implementation of the regulations until the court can hear further arguments in the case. Whatever the court may do, however, Congress cannot escape the burden of its responsibility for having enacted the 1970 amendments, for overseeing and supervising their administration, and for now making further amendments as I think is clearly necessary in this case.

I think we have an obligation to correct the error that we made in drafting the 1970 act in such a way that it would be susceptible to the interpretation the Treasury has now put upon it.

Therefore, I have prepared the Citizens Privacy Protection Act of 1972. This act has two main thrusts. First, it would guarantee that a person's records in a financial institution are as secure from Government surveillance as they would be in the customer's own home. Second, it would restrict the Treasury Department's power to require banks to maintain records to a small area of activity relating directly to international financial transactions.

The act states that a fiduciary institution may disclose the records of any customer only upon the customer's consent or under a court order which would be sufficient to support the issuance of a valid search warrant to obtain the financial records if these records were in the home of the customer. It further provides that any such court order must be served upon the customer and the institution at least 21 days before the records are to be turned over to the Government.

This provision would give the customer time to take legal action to challenge the validity of the court order.

By restricting recordkeeping to activities directly related to international financial transactions, the bill would exempt about 95 percent of the financial activities of Americans from any recordkeeping or any surveillance under the 1970 act, while still permitting the Treasury Department to explore the possible misuse of foreign bank accounts or to pursue international organized crime. The act contains both criminal and civil penalties for any institution or individual who, knowingly and willfully, violates this act or induces any other person or institution to violate this act.

The bill does not affect recordkeeping now required solely for use by Government agencies which supervise the internal financial operations of the bank.

The bill will be submitted and considered by the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs. I have been in touch with members of the subcommittee, and I am hopeful arrangements can be made for an early hearing because this is a matter which is very active; it is in the forefront of the concerns of thousands of citizens and hundreds of financial institutions. Not much damage has yet been done but a great deal can be done unless Congress makes its will known soon.

I hope that with legislative action the Treasury Department will reconsider its position and will help resolve the problem by immediate administrative action.

EXHIBIT 1

CORRESPONDENCE BETWEEN SENATOR MATHIAS AND THE TREASURY DEPARTMENT CONCERNING THE BANK SECRECY ACT

MARCH 10, 1972.

Hon. JOHN B. CONNALLY, Jr.,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: A growing amount of concern has been expressed to me about the implementation of titles I and II of P.L. 91–508, the financial recordkeeping legislation of 1970, and its impact on individual privacy.

I would therefore appreciate receiving as soon as possible copies of all regulations, orders, memoranda, guidelines, directives and similar documents of general applicability issued pursuant to Titles I, II and IV of this Act, plus a full and specific list of any and all delegations of authority under those titles which you have made.

In addition, I would appreciate your response to the following questions:

1) Which Federal agencies, bureaus and offices, within or outside the Treasury Department, have access to the microfilms and other records retained by financial institutions pursuant to this Act? At what administrative level—division head, individual investigative agent, etc.—may an inspection of any such records be initiated?

2) On what grounds or according to what criteria may an inspection be initiated?

3) What, if any, warrant, subpena or other judicial order is required before the records of an individual's accounts or transactions may be inspected? copied? used in a grand jury proceeding or introduced as evidence? How do present procedures on these points differ from those in effect prior to the enactment of P.L. 91–508?

4) What is the authority of the officers, bureaus or agents with access to these financial records (as listed in your response to question 1) to transmit copies of such records or the information they contain to other Federal or non-Federal law enforcement officers or bureaus which do not have direct access to the records? If records or information may be transmitted, to whom and in accord with what laws, regulations or other criteria?

5) What controls or oversight does your Department maintain to insure that the contents of such financial records will not be improperly used or disclosed? What are the penalties for unauthorized use or disclosure?

I appreciate your cooperation in making this information available to me at the earliest possible date.

With best wishes.

Sincerely,

CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., March 20, 1972.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is in reply to your letter of March 10, 1972 concerning Public Law 91–508 enacted October 26, 1970.

On June 10, 1971 the Treasury Department issued proposed regulations pursuant to Titles I and II of the Act. A copy of those proposed regulations is enclosed for your convenience.

On July 21, 1971, there was issued under Title IV, a notice of effective date. A copy of this notice published in the Federal Register is enclosed.

At this time no final regulations have been issued under Titles I and II of Public Law 91–508.

Sincerely yours,

SAMUEL R. PIERCE, Jr.

MARCH 28, 1972.

Hon. SAMUEL R. PIERCE, Jr.,
General Counsel, Department of the Treasury, Washington, D.C.

DEAR MR. PIERCE: Thank you very much for your letter of March 20 sending me the proposed regulations issued by the Treasury Department pursuant to Titles I and II of P.L. 91–508.

I appreciate your responding so promptly to this part of my inquiry of March 10, and hope that you will followup as soon as possible with supplemental information in response to the specific questions which I posed in that letter.

With thanks for your continuing cooperation, and best wishes.

Sincerely,

CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

THE GENERAL COUNSEL OF
THE TREASURY,
Washington, D.C., April 6, 1972.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is in reply to your letter of March 28, 1972 with further reference to your letter of March 10, 1972.

We have now filed with the Federal Register the final regulations to be issued under Titles I and II of Public Law 91–508. A copy of these regulations is attached for your convenience. You will note that these regulations become effective July 1, 1972.

The questions contained in your letter of March 10, 1972 deal with various aspects of the availability of the records which will be required to be kept by financial institutions under the new regulations. The short answer to these questions is that, while Public Law 91–508 and the regulations issued thereunder require that financial institutions keep such records, neither that statute nor the regulations in any way change the availability of bank records to Government agencies. In other words, bank records will be available to Government agencies to the same extent and in the same manner, but to no greater extent and in no different manner, than would be true without this statute and these regulations. For this reason, we are unable to answer your specific questions with regard to Federal agencies other than the Treasury Department. With respect to the Treasury Department, the Internal Revenue Service will have access to these records in the manner provided in 26 U.S.C. 7602. That statute provides:

"For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary or his delegate is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary or his delegate may deem proper, to appear before the Secretary or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry."

In addition to the recordkeeping requirements imposed on financial institutions, the regulations provide that each person having a foreign financial account retain records of such account.

Section 241(b) of Public Law 91–508 specifically provides:

"No person required to maintain records under this section shall be required to produce or otherwise disclose the contents of the records except in compliance with a subpena or summons duly authorized and issued or as may otherwise be required by law."

In addition to the keeping of records, the regulations provide that certain reports must be made to the Secretary of the Treasury. Section 103.43 of the regulations provides:

"The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought, and the official need therefor."

Since these regulations do not become effective until July 1, 1972, no procedures for or controls on making such reports available have yet been developed.

Very sincerely yours,

SAMUEL R. PIERCE, Jr.

REMARKS OF JUDGE SAMUEL R. PIERCE, JR., GENERAL COUNSEL, ON PROPOSED REGULATIONS ON FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

The Department of the Treasury today issued regulations to implement Titles I and II of Public Law 91–508, the Financial Recordkeeping and Currency and Foreign Transactions Reporting Act of 1970. These regulations will become effective on July 1, 1972.

According to Treasury General Counsel Samuel R. Pierce, Jr., the issuance of these regulations is a further step in the major efforts of this Administration directed toward frustrating organized and white collar criminal elements who use secret foreign accounts to assist in concealing substantive violations of drug smuggling, securities, gambling, and currency laws, as well as the untaxed income generated from these and other illegal activities. The regulations are expected to benefit both such foreign-related and domestic law enforcement efforts without burdening legitimate commerce.

The regulations will:

Require all persons maintaining foreign accounts to disclose that fact on their Federal income tax returns, and to maintain the government wants to see his account.

Require all persons transporting, mailing, or shipping from the United States to a foreign country, or receiving from without the United States, currency or bearer instruments in amounts in excess of $5,000, to report such transactions to the Customs authorities;

Require financial institutions to secure a social security or taxpayer identification number with respect to each account opened after June 30, 1972;

Require all financial institutions to make reports to the Treasury of unusual currency transactions involving amounts of more than $10,000;

Require financial institutions to keep for five years records of all transfers into or out of the United States involving more than $10,000;

Require financial institutions to keep for five years certain other records which will be useful for law enforcement purposes.

In addition to the above, the regulations require banks to retain for a period of two years records which would be needed to reconstruct a deposit or share account and to trace a check deposited in such account. Treasury will continue to study both the types of records to be kept and the most desirable retention period in order to maximize enforcement benefits and minimize unnecessary and burdensome paperwork. Assistant Secretary Eugene T. Rossides will head a small group within the Treasury to work with the financial community in this effort.

The new regulations are a revision of proposed regulations which were published in the Federal Register on June 10, 1971. The revisions reflect the many pertinent and useful comments received regarding the proposed regulations.

In revising these regulations the Department has taken account of all comments received, and every effort has been made to insure that the final regulations will serve their law enforcement purposes, while at the same time not interfering with legitimate international monetary transactions, unduly burdening financial institutions or others, or imposing unreasonable requirements that would serve no useful purpose. In doing this we have taken account of existing recordkeeping procedures and the lengths of time existing records are ordinarily kept. An internal committee within the Treasury Department has spent a considerable amount of time revising and reviewing the regulations in the light of the comments received, to be sure that these objectives are accomplished.

Governmental access to these records is not changed by either the statute or the regulations, but will continue to be subject to the requirements of existing law regarding subpoena and other legal processes.

[From the Washington Post, July 18, 1972]

CHECKING ON CHECKING ACCOUNTS

Financial records, so rich in their meticulous detail, are gold mines of information about any citizen, business or group—the sources and amounts of income, credit practices, memberships, subscriptions, contributions made and received. To federal or state agents probing many alleged crimes and irregularities, from tax evasion to narcotics trafficking to the activities of political dissidents, months of surveillance or weeks of wiretapping may be less fruitful than an hour of rummaging through the files of a suspect's checking account. The average depositor no doubt assumes that such revealing records are held in the strictest confidence by his bank, but this is not always the case. For example, this spring a Californian who has contributed to radical causes since 1964 found an internal bank memo which had been inserted in one of his

monthly statements by mistake. "This memo," it said, "is to authorize you to read checks to the FBI before sending the statement to the customer."

The point is that while the money in bank accounts is protected against loss, bank records are not similarly protected against loss of privacy. There is no explicit federal law to prohibit financial institutions from taking such liberties with their customers' files, perhaps out of a misplaced eagerness to cooperate with the governments which regulate banking. Most banks, moreover, seem quite reluctant to disclose their policies on disclosure. When the American Civil Liberties Union polled the nation's 100 largest banks this April, only 19 replied. Of those, 16 said specifically that they would require a court order before opening up their files to investigators; only eight responded that, as a matter of policy, they attempt to notify a customer whenever records of his account are being subpoenaed or searched.

A newly implemented law with the misleading title, "The Bank Secrecy Act," will make such incursions into bank records much easier and therefore, as such matters usually go, more widespread. The act, approved in 1970, was intended to help federal agents pierce the secrecy shielding the finances of organized crime, particularly the squirreling of funds in numbered Swiss accounts. But Congress, with little regard for the legitimate claims of privacy at stake, gave the Secretary of the Treasury wide latitude to require financial institutions to keep all records found "to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings."

Treasury has now ruled that banks must keep microfilms or other copies of virtually all checks, bank statements and other transactions, and must report to Treasury a wide range of currency transfers over $10,000. Administration officials insist that these sweeping regulations involve no expansion of the present reach of IRS agents, the FBI and other potential probers. Indeed, it is hard to see how copies of most people's routine checks would be "highly useful" to proper crime-fighting at all. But, given all else we know about the official itch to collect files on citizens, it is also hard to believe that these new gold mines of information will never be worked.

The administration's expansive reading of the "Bank Secrecy Act" redoubles the need for legislation to protect depositors against improper disclosures of their records by banks and to buttress conscientious banks against the demands of aggressive investigators. The ACLU, Senators Mathias and Tunney, and others are preparing sucn legislation. Banking groups should be no less concerned than their customers, for the integrity of banks as the custodians of people's private business is at stake.

[Articles in American Banker about Bank Secrecy Act]

SENATE MAY GET BILL CURBING GOVERNMENT SCRUTINY OF ACCOUNT RECORDS

WASHINGTON.—Sen. Charles McC. Mathias, R., Md., plans to introduce legislation this month that would amend the 1970 Bank Secrecy Act to include safeguards to protect the right of individuals from unwarranted government scrutiny of their bank account records, his office said Thursday.

This disclosure followed by one day the filing of a lawsuit by the American Civil Liberties Union Foundation of Northern California and the $78.1 million-deposit Security National Bank, Walnut Creek, asking the Federal court to enjoin the implementation of the act and the attendant Treasury Department regulations, scheduled to become effective July 1.

The foundation also asked the court to declare the act and the regulations unconstitutional on the grounds they violate the First, Fourth, Fifth, Ninth, Tenth and Fourteenth Amendments to the Constitution by requiring financial institutions to report information to the Treasury Department without first consulting customers.

A spokesman for Sen. Mathias' office said he is now considering introducing some legislation amending the act because "we're concerned both that this is a real threat to a lot of peoples' privacy and it is a tremendous burden on banks to microfilm everything."

The act and regulations were designed to help fight organized crime—particularly operations financed through secret foreign accounts—and give the Treasury Department broad authority to establish recordkeeping and reporting requirements for financial institutions.

Under the regulations issued by the Treasury earlier this year banks must keep on file records for a period of two years of most personal check transactions and records for five years of all transfers into or out of the U.S. involving more than $10,000. They must also report to Treasury unusual transactions involving more than $10,000 and must keep for five years certain other records that are useful for law enforcement purposes.

What Mr. Mathias is concerned about, as well as at least two other Congressmen, Sen. John V. Tunney, D., Calif., and Rep. Don Edwards, D. Calif., is that regulation issued by the Treasury which give the Secretary authority to make information obtained from bank reports available to any other department or agency that is involved in a criminal, tax, or regulatory investigation. They also are concerned with the regulation giving the Secretary sole discretionary authority to impose additional record-keeping or reporting requirements on banks in regard to particular individuals.

As Mr. Tunney said in a speech last month, "it appears to me that under this arrangement, any Federal agency may begin its investigation by fishing through all those reports to see if something suspicious is found."

The spokesman for Sen. Mathias said the Congressman would like to see spelled out what kind of records agencies can look at, a procedure to notify an individual that the government agency wants to see his records, what Federal agencies can have access to microfilm records and under what grounds these agencies can inspect the data, whether such information can be released only after warrants are issued, what limits are there to one agency disseminating data to other agencies, and what controls are to be used to make sure that guidelines established from the Secretary's office are followed at all levels.

In addition, the spokesman said some legislation may be needed to restrict the numbers of banks whose international account records are examined by the government. Banks have told Sen. Mathias, the spokesman said, that if the government wants to fight international crime by examining bank accounts, "all you have to do is look at the international accounts of a half-dozen banks, because all international transactions" flow through just a small number of institutions. The spokesman said it may not be necessary to require all banks to keep such records, and the "Treasury has no right to look at all accounts" because most Americans are not involved in international dealings.

If amendments are introduced to restrict the number of banks that would come under the Treasury's record retention and reporting requirements, these also would make certain that the government would follow certain procedures to get access to the records, the spokesman said.

For example, the spokesman said, the amendments might say to the government, in effect, "if you want to look at the records, you first have to get a subpena," and spell out how a customer is to be notified that the government wants to see his account.

The legislator's spokesman also said Mr. Mathias has been corresponding with the Treasury since last March about the Bank Secrecy Act and the Treasury regulations and has been raising questions about the privacy issues. "We've not been satisfied so far with the response."

The Senator, he said, has spoken to Treasury about delaying the implementation of the regulations July 1 until guidelines are spelled out to safeguard the rights of the individuals, but "we've been told this is impossible. We've been told Treasury will not consider any changes until after the regulations are in effect for at least three months."

Treasury, he said, wrote to Mr. Mathias and said it will follow existing laws that regulate the release of information to government agencies, and that such data would be isued only through the subpena process. However, this does not appear to satisfy Mr. Tunney or groups such as the ACLU that are concerned with the Federal Bureau of Investigation obtaining access to the records.

On Wednesday, Roy Englert, deputy general counsel for the Treasury Department, said that the Internal Revenue Service can obtain access to records maintained by banks only after writing an administrative subpena, and that if a bank refuses to comply, the IRS is then forced to go to court to get an enforcement order. He conceded, however, that there is no such subpena safeguard regulating the release of reports by the Treasury Secretary to other agencies requesting this data. This "is sort of a problem," Mr. Englert said.

The spokesman for Mr. Mathias acknowledged it is getting late in the year to introduce amending legislation, but he added, "I think we have a chance of getting somewhere and a chance of getting the Treasury to pay attention to what we're saying." The legislation combined with the ACLU suit, he said, should get the Treasury "to wake up and recognize the problem, rather than deny it exists."

He said that Sen. Mathias previously had introduced legislation on the subject of government data banks and privacy and is interested in this subject.

An aide to Mr. Erwards also said the Congressman had written to Treasury for additional information about the new Bank Secrecy Act regulations and that "he has expressed a tremendous amount of concern over the regulatitons and the possibility of wholesale invasion of privacy." Mr. Edwards is a member of the House Judiciary Committee, which oversees government agencies in the area of civil rights.

PRIVACY CALLED KEY

WALNUT CREEK, CALIF.—The banking industry chose the wrong issue in expressing opposition to enactment of the 1970 Bank Secrecy Act, according to Fortney Stark Jr., who along with his bank is among plaintiffs in a suit filed last week to have the act and attendant Treasury Department regulations enjoined and declared unconstitutional.

In an interview, the 40-year-old president and chairman of the $78.1 million-deposit Security National Bank, who has the reputation of being a banker maverick and on Tuesday won the Democratic nomination for U.S. Representative from the Eighth District, said the industry's initial reaction in fighting the act was to complain about the inconvenience of the paperwork burden it would impose on institutions in reporting and recording financial transactions of customers.

"I say this was the wrong issue," Mr. Stark observed, "because somehow the costs of the paperkeeping chores would be either absorbed or passed on to customer."

Privacy is the fundamental issue involved in requiring banks to report certain transactions directly to the government with no consultation with customers and to keep records which will be available to Treasury and potentially to other agencies for investigation, Mr. Stark said.

A person's checking account, he maintained, "is a storehouse of information on what he is and what he does" in society and "our business has prided itself on confidentiality." And this confidentiality is threatened now by the act and Treasury regulations," he added.

"The issue here is that I'm on the hook to look at your account and decide whether or not I turn you in," he said, and "if I make a mistake, I'm liable for civil damages. It's not part of my duty to spy on my customers," he said, "and it's possible for me to be put in that position."

Under the act's regulations issued by Treasury earlier this year financial institutions must report to Treasury unusual currency transactions involving more than $10,000 and must keep on file records for a period of two years of most personal check transactions and records for five years of all transfers into or out of the U.S. involving more than $10,000. The Secretary also has the authority to impose additional recordkeeping and reporting requirements on institutions in regard to particular individuals.

Mr. Stark said he is upset by the Treasury "passing a rule requiring me to report information without issuing a court order."

In addition, the Treasury regulations give the Secretary authority to make information obtained from bank reports available to any other department or agency involved in a criminal, tax or regulatory investigation. A report on the act by the Senate Banking, Housing and Urban Affairs Committee said that access to these records by law enforcement agencies will be obtained only through legal process.

But Mr. Stark said the Treasury regulations did not specify what safeguards the Treasury Secretary must establish to make certain that bank data is not indiscriminately disseminated and there is nothing to prevent the Secretary from changing his mind about requiring subpoenas for such data.

The California banker said he is 100 percent in favor of the act's intent to catch tax evaders and criminals but that he does not believe "we can win the battle and lose the war." If the court rules that the act and regulations are unconstitutional, he said, "then Congress can redo it and put proper privacy things into it."

In Mr. Stark's view, there are as many John Birchers who think the suit which he and his bank filed with the American Civil Liberties Union of Northern California is a good idea as there are "democrats." This, he said, is because these groups do not want their membership lists to be available to government agencies and they fear these lists could be reconstructed by the agencies getting access to checking account data maintained by banks. The ACLU has claimed that its members want to maintain anonymity and that the act's implementation could cause them to lose members and contributions. Unless an organization "goes to cash currency transactions, there can be no way it can hide its operations from the Administration," he said.

He compared the potential threat posed by the act and regulations with that which occurred in the 1950s when subversives were listed. "No one signed a petition for years," Mr. Stark said, for fear his name on the petition would get into the hands of government representatives who might denounce him as a subversive.

Mr. Stark said he does not know "or really care" if other bankers join him in the suit to enjoin the act because "I have a low opinion of the banking industry from the standpoint of corporate responsibility and service to the public." Bankers, he said, "resist change, are insecure in their positions and are very backward.

"What irks me about the banking industry is the bitching and moaning that goes on about government setting interest rates or creating truth-in-lending legislation," but that the industry "misses the ship on what we're getting into with the suit" namely, the questions of privacy and constitutional rights.

He said his own institution's policies, if the Federal Bureau of Investigation comes in without a subpena and asks to reconstruct some records of an individual it is investigating, is not to hand the records over. But "very seldom do they come in without a subpena," he said. Generally, he said, the bank notifies a customer that the FBI has presented the bank with a subpena. Exceptions are made, he said, and when the FBI comes in and says it is tracking down a murderer or a kidnaper, "we say you don't have to get a warrant."

JUSTICE ASKS DENIAL OF MOTIONS AGAINST BANK PRIVACY ACT

(By William Zimmerman)

WASHINGTON.—The U.S. Department of Justice, opposing two motions for preliminary injunctions against the 1970 Bank Secrecy Act and attendant Treasury regulations, last week asked a Federal district court in San Francisco to deny the motions and dismiss the complaints filed against the government by the American Civil Liberties Union Foundation of Northern California and the California Bankers Association.

In briefs filed with the U.S. District Court for California's northern district, which has scheduled Monday a three-judge panel to hear arguments on the injunction motions and on the plaintiff's assertions that the act and regulations are unconstitutional, Justice declared the plaintiffs have no standing to maintain these suits.

Justice, which is representing the Secretary of the Treasury and eight other Federal agency defendants in the suit, further asserted the plaintiff's complaints "do not state any causes of action upon which relief can be granted in that no legal rights of the plaintiffs have been violated, nor have the plaintiffs suffered any legally redressable harm or injury."

The legal agency added that the statute and regulation under attack are valid and constitutional "and that therefore the instant suit is unconsented suit against the sovereign United States of America and should be dismissed under the doctrine of sovereign immunity." Copies of the briefing were made available by the department in Washington.

Two separate suits seeking to enjoin and prevent government agencies from enforcing the Secrecy Act and regulations were filed last month—the first by the ACLUF of Northern California, acting on behalf of the $78.1 million-deposit Security National Bank, Walnut Creek, Calif., the bank's chairman and president, the ACLU of Northern California Inc., and the ACLU's legal director, and the second, by the California BA, acting on behalf of its more than 150 member institutions.

The plaintiffs have charged that the act and regulations which require financial institutions to maintain microfilm records of customer transactions and to make reports to the Treasury Secretary of currency transactions exceeding $10,000, are unconstitutional.

Specifically, the bankers have alleged that the automatic reporting requirements of the act would force them to break the confidential relationship they have with customers and ignore the customer's Fourth Amendment right to secure their "papers and effects against unreasonable searches and seizures." If the assurance of privacy is absent, the California BA has maintained, banks "will be seriously and perhaps irreparably handicapped in their efforts to solicit and conduct business."

Such injury, the California BA has said, "will deprive members of their property without due process of law and denies members the equal protection of the laws guaranteed to them under the Fifth Amendment."

Among the charges made by the American Civil Liberties Union is that the act and regulations empower the Treasury Secretary "to roam at will through bank records of individuals and organization thus thoroughly undermining the right of associational privacy guaranteed by the First Amendment."

On June 30, acting on motions by the same two plaintiff groups, the same Federal court issued a temporary restraining order delaying nationwide the reporting portion of the act and regulations, which were to go into effect July 1. The order will stand pending outcome of Monday's hearings on the preliminary injunction motions.

Judge William T. Sweigert, in granting this order, however, made no finding on the "extent, if any, to which basic constitutional rights may be impaired by this new law."

In its briefs, Justice maintains that the plaintiffs have no standing as a matter of law to maintain the lawsuits and to obtain the preliminary injunctions. "They cannot specify any legally recognized right which would be violated if the statute and regulations in question were enforced, and hence they can point to no legal injury flowing from the enforcement of said statute and regulations."

As far as the nonbanking plaintiffs are concerned, Justice said, "under presently existing laws, apart and separate from the statute under attack, the Federal Government can inspect any bank records which pertain to said nonbanking plaintiffs; and no recognized privilege nor the Fourth nor Fifth Amendments to the Constitution prohibit any such reasonable inspection of records by the Government."

Justice observed that nothing in the statute gives the Government any greater right to access to bank records than it possessed before. It said that when the Government wants to inspect bank records under the provisions of the new statute, it will have to use an administrative summons or judicial subpena as it did in the past.

If a bank or customer believed the use of the summons or subpena constituted an illegal search and seizure under the Fourth Amendment, Justice said, this could be contested in court in the same manner as it was done before.

The ACLU, on the other hand, has maintained that the Act fails "to specify the procedures by which the information which banks now are required to maintain is to be turned over to the Federal government," and "appears to authorize 'seizures' without limitation as to scope or relevancy."

As for the banking plaintiffs, Justice said, "it is clear that under existing law the Federal government acting in an area properly subject to Federal legislative jurisdiction can require a person or bank to keep records, as does the statute under attack."

It observes, "The Supreme Court, this circuit, and practically every other circuit has established beyond doubt that the Federal government has the right to inspect bank records which pertain to taxpayers, and no recognized privilege nor the Fourth nor Fifth Amendments to the Constitution prohibit any such reasonable inspection of records by the government.

The California BA had observed in its brief that "we are aware of no cases finding Fourth Amendment protections inapplicable to bank records."

Justice further argues that the recordkeeping requirements under the Treasury Secretary's regulations enacted under the

1970 Secrecy Act are "certainly more circumscribed" than the requirements under the 1954 Internal Revenue Code which requires every person doing business in the nation to keep records for tax purposes as the Secretary or his delegate may order.

Congress has stated that the purpose of the Secrecy Act is to aid the government in enforcing Federal tax laws, Justice says. The Internal Revenue Code's provisions, "if anything, are broader than the statute under attack," the agency notes, and adds that these have been repeatedly held constitutional as against the contentions that they provide for unreasonable searches and seizures and compel taxpayers to be witnesses against themselves in violation of the Fourth and Fifth Amendments."

The agency asserts that "it cannot conceivably be concluded that the statute now under attack, which is more circumscribed and particular in its delegation to the Secretary to be deemed to be an unreasonable delegation of authority."

The California BA has contended that the Act's regulations promulgated by the Treasury Secretary earlier this year give him "vague and unrestricted appropriations of power," and has cited one particular section of the regulations—designated 103.45—which it says, "does not even appear to be within the authority authorized by the act itself."

This section allows the Secretary, at his sole discretion by written order or authorization, "to make exceptions to, grant exemptions from, impose additional recordkeeping or reporting requirements authorized by statute, or otherwise modify" the regulations' requirements.

The banking group said this discretionary power threatens to deprive member banks of their constitutional right of due process and equal protection under the Fifth Amendment, and is a void delegation of legislative power.

Justice contends that the banking plaintiffs "apparently do not question the reasonableness of the regulations heretofore promulgated under the statute under attack, but rather, complain that the delegation to the Secretary is so broad that he may in the future issue an unreasonable order."

The agency maintains that the Supreme Court "has expressly refused to grant relief upon the assumption that a public official may be able to act unreasonably in the future under a broad delegation of authority."

The Justice Department also makes an additional point on why it believes the California BA has no standing to maintain its suit. It points out that the association does not engage in banking as such in its own name, and neither the act nor regulations require the group to keep any records or make any reports to Treasury.

If the association had brought the suit as a class action on behalf of its individual member banks, "a different issue would be presented," Justice says. "However, the simple fact is the association has brought the suit in its own name and accordingly, its suit should be dismissed as it has suffered no economic injury and therefore has no standing to maintain its suit."

The California BA, on the other hand, says it does have standing to sue and cites this year's Supreme Court decision in the case of Sierra Club v. Norton which said "an organization whose members are unjured may represent those members in a proceeding for judicial review."

Justice, too, cites the Sierra Club decision to suport its argument and quotes that part of the decision which says "party seeking review must allege facts showing that he is in himself adversely affected."

Justice also rejects the argument raised by the ACLU that it will lose significant numbers of members and contributions because access to its bank records by government agencies will result in a loss of anonymity of the group's members. Any alleged "chilling effect" of the group's First Amendment right to freedom of association "is speculation of the wildest sort," Justice maintains. "If anyone did feel inhibited in paying dues to or making contributions to the American Civil Liberties Union, he could allay his fears by making such payments in cash."

Moreover, Justice says the plaintiffs are not entitled to entry of preliminary injunctions "as they cannot demonstrate that they will suffer any irreparable harm if preliminary injunctions are not granted."

The agency also says the injunctions should not be entered because they "would not maintain the status quo, but would irrevocably impair the government's right to financial information as provided in the state and regulations under attack."

Without the Act and the Treasury regulations, banks would be free "to keep incomplete or no records and are free to destroy existing bank records after retaining them but for a short period of time. This, of course," Justice says, "results in information being lost to the government forever.

"The statute under attack and the regulations promulgated thereunder seek to remedy this loss. Granting of the requested injunctions would not maintain the status quo but would continue this loss of information," the brief says.

CALIFORNIA BANKERS ASSOCIATION SAYS SECRECY ACT'S THREAT TO RIGHTS OF CUSTOMERS COULD CAUSE BANKS SERIOUS HARM

SAN FRANCISCO.—The automatic reporting requirements of the 1970 Bank Secrecy Act and attendant Treasury regulations will compel banks to ignore their customers' constitutional rights, which, in turn, could seriously harm the financial institutions, the California Bankers Association has charged.

The state banking group, acting on behalf of its more than 150 member institutions, made this charge in a memorandum filed with the U.S. District Court for California's northern district here in support of its motion for a preliminary injunction enjoining and preventing government agencies from enforcing that act and regulations.

A three-judge panel on Monday is expected to hear arguments on this motion and to decide whether the act and regulations are unconstitutional, as the association has alleged. At that time, the panel also will hear a similar related motion filed by the American Civil Liberties Union Foundation of Northern California, which is acting on behalf of the $78.1 million-deposit Security National Bank, Walnut Creek, Calif.; its chairman and president; the ACLU of Northern California, Inc., and the ACLU's legal director.

The original hearing was set for July 20, but was moved ahead to July 17, after the Federal court on June 30 granted the same two plaintiff groups a temporary restraining order delaying nationwide a portion of the act and regulations, which were to go into effect July 1.

The portion temporarily enjoined—pending the outcome of Monday's hearing on the preliminary injunction motions—would have required banks to report to Treasury currency transactions by customers involving more than $10,000 as well as the transportation via courier to or from customers of monetary instruments having a value of more than $5,000.

In the supporting memorandum, the California BA maintains that the courts have recognized that the relationship between a bank and its customer is a contractual one and the most important element of this contract is "the banks' express and implied assurance of privacy."

In addition, the brief states, the privacy inherent in bank-customer relations is protected by the Fourth Amendment, which gives to individuals the right to be secure in their "papers and effects against unreasonable searches and seizures."

The automatic reporting requirements of the act would force banks to ignore their customers' Fourth Amendment rights, the association observes.

"One may question the banks' right to raise this Fourth Amendment objection," the brief says. "But there can be no doubt that the automtaic reporting requirements of the act and the regulations mock the assurance of privacy said to be a 'fundamental precept' in bank-customer relations."

If this assurance of privacy is absent, the association says, "the banks will be seriously and perhaps irreparably handicapped in their efforts to solicit and conduct business.

The brief points out that the reporting requirements "are an attempt, for whatever reason, to evade the protection afforded by warrant or subpoena process and the judgment of an independent magistrate."

The brief also cites a Treasury regulation which grants the Treasury Secretary authority to modify the reporting and recordkeeping requirements in regard to particular transactions or classes of transactions "by the simple expedient of a 'written order or authorization,' a term he is free to define for himself."

The association, in opposing this authority, cites the U.S. Supreme Court decision on June 19, which ruled that the Administration acted unconstitutionally and unlawfully in refusing to seek court warrants before engaging in wiretapping and electronic surveillance of alleged domestic radicals and subversives.

The California BA brief cites the Supreme Court's ruling that "the government's concerns do not justify departure in this case from the customary Fourth Amendment requirement of judicial approval prior to initiation of a search or surveillance."

The banking group observes that the mandatory reporting requirements of the Secrecy Act appear to violate the Fourth Amendment safeguards that the High Court outlined in its recent decision.

The government through the act and Treasury regulations, which require banks to microfilm and retain a variety of records about customer accounts, "would make banks unwitting and unwilling diarists of their customers' financial lives," the association charges.

It adds that "the government could not defend an act of Congress and implementing regulations directing telephone companies to record and retain detailed records of all telephone calls by all their various subscribers. Such an act would surely violate the Fourth Amendment right to freedom from 'broad and unsuspected governmental incursions into conversational privacy.'"

The act is aimed at the bank's customers, the brief says, and nowhere in the act or regulations or in the legislative history "is there any suggestion that the records are required for regulation or supervision of the bank."

There can be no pretense that the act and regulations directing banks to keep the records are necessary for effective supervision of the nation's banks, the California BA alleges. "The government cannot argue, for example, that copies of the fronts and backs of all checks or the records needed to reconstruct a checking account are, suddenly, required by the Federal Deposit Insurance Corp. or the Federal Reserve Board."

It adds there can be no suggestion offered that the act "is in aid of national defense or domestic security or that any of this nation's 'great purposes' will be impaired by, for example, a decision of this court restricting record-keeping to those documents that would ordinarily be kept by a bank and requiring the government to obtain a warrant

or subpena before examining a bank account."

The banking group also argues that the regulations promulgated by the Treasury Department under the act give the secretary "vague and unrestricted authority, not subject to the Federal Administrative Procedure Act" and not even within the authority authorized by the Secrecy Act itself.

The Justice Department, which is representing Treasury and the other government agency defendants in the two suits, was given until July 13 to file its brief in opposition to the plaintiffs' motions.

In opposing the original motions for a temporary restraining order, the United States Attorney for the Northern District of California, argued that the affidavits filed by the plaintiffs were entirely insufficient to show the irreparable damage requirement needed by the court to issue a temporary restraining order. The government said that the affidavits "are based upon speculation as to imagined abuses of constitutional rights of persons."

The U.S. Attorney said "until it is made evident that such abuses as are imagined by plaintiffs actually occur in the operation of the regulations and law, no restraint against operation of the law as intended by Congress should issue."

In issuing the temporary restraining order, the Federal court exempted from restraint the issuance or enforcement of any judicial or administrative process authorized by existing law requiring production of bank records.

The government had argued that curtailing the release of all records would be "clearly uncalled for in its disastrous effect of hampering proper government use of process in criminal and civil proceedings that have been recognized for decades and thoroughly tested and approved by the courts of this nation."

ABA Has No Plans Now To Block Bank Secrecy Law—Stults

CHICAGO.—Portions of the 1970 Bank Secrecy Act, which takes effect Saturday, are a mistake, according to Allen P. Stults, president of the American Bankers Association, but the ABA has no immediate plans to join the California Bankers Association or the American Civil Liberties Union in court suits seeking to block its enactment, he said.

In elaborating on remarks he made in a newspaper column article appearing Wednesday in a Chicago newspaper, Chicago Today, he said that while the association does not intend for the time being to pursue litigation, "our options are open—our decision is not irrevocable." In the meantime, the ABA expects to remain in touch with bank regulatory agencies and to make its feelings known to them about the secrecy law, he said.

An ABA spokesman said in Washington that a decision on whether the national trade group would intervene in the California BA–ACLU court suits may be made at an executive committee meeting scheduled in mid-July in Washington.

"There is a feeling in the banking business that it is a confidential business." Mr. Stults said, "A person gives you his money and a statement of his worth on a confidential basis. It's strictly between you and me. The relationship is the same as that between a doctor and his patient or a lawyer and his client."

The California BA filed suit last week in a U.S. district court in San Francisco to enjoin the Treasury Department and other Federal agencies from enforcing the secrecy law and attendant regulations.

Meanwhile, ACLU officials in San Francisco and Washington in connection with a suit the ACLU filed June 7, said they intend to ask the courts some time this week to issue a temporary restraining order to halt implementation of the law.

In its complaint, the California BA alleged that compliance with the act and regulations will prevent banks from maintaining the confidential nature of their depositors' and customers' transactions and thereby destroy the institution's business relationships with customers.

Mr. Stults, who also is chairman and chief executive officer of the $935 million-deposit American National Bank & Trust Co., said bankers are unhappy with parts of the secrecy law because it violates the confidential nature of the banking business.

Concerning a requirement in the law that financial institutions keep complete five-year records of certain savings and checking accounts, Mr. Stults said that such records have been obtainable in the past by subpena or other legal action and thus, the requirements are unnecessary.

The Chicago Today article, written by William Gruber, the paper's financial editor, noted that two other Chicago banks, the $8.4 billion-deposit Continential Illinois National Bank & Trust Co. and the $7.1 billion-deposit First National Bank of Chicago anticipate increased microfilming costs because of the law. Continental estimated it will cost $15,000 more for film during the next 12 months and FNB said it will spend an extra $40,000 or $50,000.

California Bank Association Files Secrecy Suit

SAN FRANCISCO.—The California Bankers Association, on behalf of its 158 member-institutions, Thursday filed suit in U.S. District Court here seeking to enjoin the Treasury Department and eight other Federal agencies from enforcing the 1970 Bank Secrecy Act and attendant regulations. These are to become effective July 1.

In addition to asking the court for the state's northern district to issue a preliminary and permanent injunction to restrain implementation of the statute and regulations, the complaint also petitioned for a judgment on the constitutionality of the act. The filing of the suit had been anticipated.

Counsel for the California BA said Thursday that, unless the U.S. Attorney raises objections, the association will move immediately to consolidate its suit with a similar one filed June 7 by the American Civil Liberties Union Foundation of Northern California. That group is acting on behalf of the $78.1 million-deposit Security National Bank, Walnut Creek; its chairman and president Fortney H. Stark Jr.; the ACLU of Northern California, Inc., and the organization's staff counsel, Charles Marson.

Mr. Marson said he welcomes the action by the California BA "with open arms" and that he is glad the issues raised in the ACLU suit are getting the "strong attention by the banking industry."

Earlier this week, Mr. Marson said, in an interview, he likely will ask the court either on June 28 or 29 to issue an order that would temporarily restrain the implementation of the act and regulations. Such an order, if issued, in effect would constitute a temporary holding action against the act's implementation until the court can rule on the motion to issue a preliminary injunction. The effort to obtain a temporary restraining order will be supported by the California BA, according to Philip E. Diamond, a partner in the group's counseling law firm, Landels, Ripley & Diamond, San Francisco.

In New York, John Shattuck, staff for the ACLU's national headquarters, said Thursday the ACLU is going ahead with its plans to file a similar suit possibly by the middle of next week in U.S. District Court for the District of Columbia. He said he had obtained the consent so far of two other organizations and one individual, in addition to the ACLU itself, to act as plaintiffs in the suit, and "we hope to have some banks" also represented as plaintiffs.

"We have contacted eight or nine banks so far," he said, observing the complaint will be filed even if banks are not immediate participants in the suit.

Under the Bank Secrecy Act and Treasury regulations banks, in an effort to help the government obtain evidence to fight organized crime—particularly operations financed through secret bank accounts—are required to report to Treasury currency transactions by customers involving more than $10,000 as well as the transportation via courier of monetary instruments having a value of more than $5,000. They must also keep records of checking and savings account transactions.

In its suit the California BA alleged that compliance with the provisions of the act and regulations will prevent banks from maintaining the confidential nature of their depositors' and customers' business transactions and thereby destroy the institutions' business relationships with customers.

"The destruction of such business relationships will cause members to sustain irreparable injury by virtue of losing significant numbers of customers and depositors as well as losing the good will and confidence essential to the operation of a bank," the suit alleged. "Such injury will deprive members of their property without due process of law and denies members the equal protection of the laws guaranteed to them under the Fifth Amendment to the United States Constitution," it charged.

The California BA further charged that implementation of the act and regulations will force banks to act as agents of and co-conspirators with the government for the purpose of illegally violating bank customers' right of privacy, freedom of speech and assembly, and engaging in reasonable searches and seizures.

The complaint also took notice of the decision by the U.S. Supreme Court on Monday that declared unconstitutional the Federal government's practice of wiretapping, without first obtaining court approval, of domestic radicals considered dangerous to the national security.

The California BA suit asserted that a number of bank customers and depositors "are religious, political and controversial entities or members of such entities to whom the freedom of speech and association is protected under the First Amendment. Such customers," the suit alleged, "are often the targets of official surveillance because of the unorthodoxy of their beliefs. Disclosure of the information called for by the act and regulations is a method of implementing such surveillance," the suit alleged.

The California BA also is critical of a regulation promulgated by Treasury which gives the Secretary sole discretionary authority to make exceptions to or modifications in the recordkeeping or reporting requirements in particular situations. Such discretionary power, the association alleged, threatens to deprive banks of their constitutional right of due process and equal protection "and is additionally a void delegation of legislative power and/or an excessive exercise of legislative power previously delegated."

The association further charged that such discretionary authority vested in the Secretary does not comply with procedures specified by the Administrative Procedures Act.

Mr. Diamond stated the procedures act is aimed at giving the public due process of their rights and that agency rules must be made only after public notice is given and public hearings held, and that the California BA wants to make certain that such a procedure is followed by the Secretary.

Banks Differ on How To Guard Privacy

NEW YORK.—Banks generally appear to endorse the principle of protecting the confi-

dentiality of customer records from surveillance by government investigatory groups, but there are differences of interpretation among them over how far they must go and what methods they should use to accomplish this objective, an American Banker analysis shows.

This assessment is drawn from a review of disclosure procedures of 19 major commercial banks—all among the nation's 100 largest—which were discussed by the institutions' representatives in letters written to the American Civil Liberties Union here, which, in turn, made them available to this newspaper.

Aryeh Neier, executive director of the ACLU in evaluating the letters says "there does not seem to be any general policy" among banks that characterizes their efforts to protect the privacy of bank account records from review by outside third parties. "They're all over the lot," he asserts.

An examination of the letters shows some institutions reporting they will resist informal inquiries by governmental groups for customer account information and adamantly maintaining that the only way they will release such data is if they are served with a subpena or court order. Yet exceptions to this rule are pointed out.

Some banks say they fulfill their responsibility to protect customer privacy by agreeing to release information only after a subpena is served on them and declare they are not obligated to notify customers that the government has demanded such information.

Others disagree with this view and assert that banks are responsible for alerting customers to the fact that the government wants to monitor their accounts. Such notification, they state, is necessary to give the customers the opportunity to take legal action to quash the subpena.

Still others say they agree with the principle of notifying customers about subpenas, but that there are times when they must make exceptions to this rule—and it is the exceptions that most concern the ACLU.

Two institutions pointed out that banks should take even one further step in safeguarding the confidentiality of records, and this is to send a bank representative to court in the instance when a subpena requires a court appearance of a customer plaintiff. This is done to minimize the likelihood of information being disclosed to the court beyond the scope of the inquiry.

In examining these varied approaches, Mr. Neier states there remains "an enormous amount to be done, we have to do a great deal more pushing" to make certain that banks adopt policies that effectively protect the privacy of individuals and organiaztions, such as his own, that maintain bank accounts.

The ACLU, as Mr. Neier suggested in a letter written April 25 to the heads of the nation's 100 largest banks, says it is concerned that banks may be allowing themselves to play a key role in the government's surveillance of politically active citizens. This is accomplished, the civil rights group says, by allowing agencies, such as the Federal Bureau of Investigation, access to customer records without first obtaining subpenas and without the customers' permission or even knowledge.

The ACLU has urged banks to adopt a three-point program to protect the privacy of people maintaining accounts with them from government surveillance by:

Declaring publicly on an individual and industrywide basis that they are firmly committed to honoring the confidentiality of customer information entrusted to them.

Declaring that no employee, at any level, be permitted to accede to any request made by a governmental investigator for access to records of any customer—whether an individual or an organization—except in response to a subpena.

Not divulging the records requested in the subpena until the bank sends a copy of the subpena to the customer and gives him enough time to assert his right to fight the subpena by taking appropriate legal action.

The tone of the letters written by chief executive and senior officials or legal representatives to the ACLU suggests that banks support the principle of customer confidentiality raised by the ACLU.

As one president of a major eastern bank observes, "it has been our firm policy to treat the records of a depositor's account in strict confidence, if for no other reason than we think it imprudent to incur a possible liability for unwarranted disclosure of a customer's affairs."

A midwestern bank asserts that "under no circumstances will the bank divulge information to private institutions corporations or individuals concerning a customer's banking business without that customer's prior consent. Nor will the bank honor informal request from governmental agencies, Federal or local, which seek information concerning a depositor's transactions."

The bank points out that such informal requests "often come in the form of letters and oral demands by governmental officials," and to these the bank replies that it "demands service of the appropriate legal document which on its face reflects that it was executed in accordance with the respective legal standards."

This institution, as does at least one other of the responding institutions, says it will consult its legal counsel to approve the authenticity and legality of the subpena.

One additional institution says that in addition to subpena and court orders calling for production of records, all informal requests or demands to produce records or give information without a subpena must be referred promptly to the legal counsel for guidance on whether the information should be released.

The use of the bank's legal department as a central clearing point for all types of inquiries apparently was instituted by the institution's head office as a control mechanism to keep tabs on all informal and formal thirty-party inquiries. This was the only one of the 19 institutions that referred specifically to such a procedure.

ACLU officials, including Mr. Neier and John Shattuck, staff counsel, have urged the implementation of some such control mechanism, for they point out that while top management may issue a policy statement on surveillance, the branch level may either ignore or stray from it.

It is at the branch level, they allege, where a bank officer is most frequently approached by the FBI or law enforcement official for customer data without presenting a subpena. And the branch officer, they allege, may release such data either because he is intimidated by the law officer, wants to cooperate in order to be in the good graces of the law officer when the time comes he may need his help, or because the bank officer is not fully aware of how management views the bank's responsibilities to the customer's right to privacy. The ACLU officials claim that often the senior management back at headquarters is not aware that such disclosures are being made.

None of the 19 institutions in their letters referred to the question of what their policies are in dealing with inquiries from the FBI specifically. It is this agency which the ACLU alleges poses the biggest threat to individual Constitutional rights by gaining access to bank records for political surveillance purposes.

Messrs. Neier and Shattuck assert that the lack of comment by the banks about the FBI may be indicative of two problems: One, that the banks may not have fully thought out the question of implementing controls over their participation in any FBI investigations, and, two, that the banks may not view the FBI as a potential invader of privacy or enemy.

Mr. Neier refers to a conversation he recently had with a midwestern banker who also is an active ACLU member and who reportedly told him that banks tended to be more cooperative with the FBI or police than they were with the Internal Revenue Service, which they see as posing more of a threat to personal privacy.

The letters written to the ACLU also give the reader some insight into what exceptions banks make to their disclosure policies. One Eastern bank, for example, while asserting its policy is to rely on a subpena before releasing information to any agency, cites an exception to this policy caused by a state statute relating to relief receipients. This law, the bank's president says, "compels us to make records available even in the absence of a subpena and which imposes substantial penalties for noncompliance."

However, as reflected in the letters, the most numerous instances of exceptions to bank policy cited and the widest range of interpretation appears to revolve around the issue of whether banks feel they are responsible for notifying customers when they are served with a subpena for releasing customer data. The ACLU maintains that such notification is necessary in order to give an individual the opportunity to contest the validity of the subpena.

Of the 19 banks, two specifically state it is not their policy to send a customer a copy of the subpena or otherwise notify him when they are required to disclose information regarding his banking transactions.

One of the two says, "so many demands for records are made upon us that we would be reluctant to undertake to our customers a duty of notification lest we slip up in some particular sense and possibly subject ourselves to a liability that would not exist absent that undertaking."

This bank further observes, 'such an undertaking would compel us to adopt such procedures as would be necessary to guarantee our performance that we think would be disproportionately time-consuming and expensive."

Most of the other institutions subscribe to the principle of notifying the customers about the subpena, but at the same time many qualify their statements that they will take such action with the phrases, "where possible," "when possible," or "within the bounds of reason and the circumstances of the particular matter."

As one institution's attorney observes, it is the bank's policy "to make a reasonable effort to communicate with a customer before releasing any information relating to his account. However, you must appreciate that many times it is impossible to communicate due to the customer's illness, absence from home, change of address, time requirement of the order or subpena or other legitimate causes beyond the control" of the institution, the attorney says.

Another bank says that in certain instances, "we are served with a subpena in which certain records must be produced immediately and there is hardly enough time to advise our customers. Whenever possible, we do so," it says.

Two other institutions cite specific exceptions to the rule of notifying customers.

One notes, "occasionally, we are served with a subpena which, for reasons which are generally obvious, the government does not want the party notified of the investigation. This happens in narcotics investigations, for instance. Furthermore," the bank says, "Internal Revenue occasionally requests that the investigation be secret."

In such situations the bank says the

possible exceptions are discussed either with the legal office or the vice president of the bank's customers' services unit.

The other institution cites an exception arising when the bank is served with a grand jury subpena or a search warrant.

This bank maintains that "by the terms of a grand jury subpena, the bank is ordered, subject to criminal penalties, not to disclose to its depositor that he is under investigation. Accordingly," the bank's lawyer says, "the bank cannot inform its depositor that investigation has been made on his accounts.

"Similarly, when the bank is served with a search warrant, executed by a judge or magistrate, the bank is compelled to give immediate disclosure to governmental authorities. Although the bank is seldom subject to search warrants, the bank makes every effort through its counsel to check the validity of the warrant," the letter says.

This same institution, however, appears to take a different stance from the other bank on releasing information to the IRS without notifying customers. It says, "from time to time, the bank receives service of tax summons which compel the bank to turn over documents to internal revenue agents." Under the Internal Revenue Code, it asserts, the bank must be allowed no less than 10 days to produce the requested documents.

The bank continues:

"Hence, upon service of such summons, the depositor is always notified of the government's investigation in order that he may have the opportunity to enjoin the investigation. A tax summons, like a search warrant, must be honored by the bank in the absence of a court order to the contrary, inasmuch as severe criminal sanctions apply to one who fails to comply with a tax summons."

This same institution reports it also is frequently served with creditor's writs in the form of garnishments, attachments and tax levies. "Although the bank is required by law to place the funds demanded into hold accounts, the customer is immediately notified that his funds have been attached in order to facilitate his raising any legal defense he may have prior to the disbursement of funds to the creditors," the institution says.

In commenting on these exceptions, Mr. Neier of the ACLU maintains, "I don't think the exceptions have the force of law. They are policy exceptions" for the most part, he says, "and can be altered if a bank wants to by taking a different policy stance." For example, both he and Mr. Shattuck assert that refusing to notify a customer that his records have been subpenaed for a grand jury investigation is a misreading of the law. Mr. Shattuck asserts that just as a grand jury witness cannot be sworn to secrecy about his testimony, the issue of keeping secret from a customer the fact that documents have been subpenaed is questionable.

In the case of narcotics investigation, Mr. Shattuck concedes this "gets trickier." He still believes the bank should not refuse to notify their customers about receiving a subpena because a law enforcement agency's safeguard is that the subpena won't be quashed if it's been issued for probable cause."

On the possibility of a customer fleeing if he finds out his records have been subpenaed, Mr. Shattuck says that one way to circumvent this situation would be for the law enforcement agency to seek a subpena to arrest the individual pending the grand jury investigation. The agency likely would have probable cause to seek the arrest of the individual, Mr. Shattuck says.

Mr. Neier, however, is quick to point out that the ACLU's particular focus in the surveillance effort is not on IRS inquiries or narcotics dealing investigations. "Our focus is on political surveillance," and says he is concerned about agencies which attempt to learn about a person's political views by examining his bank records. This, Mr. Neier says, violates the individual's rights under the First Amendment to the Constitution which safeguards freedom of speech, belief, right to assemble and right of political association.

In Mr. Neier's view, there cannot be any exceptions made to the subpena requirements if an individual's Constitutional rights are to be safeguarded. He says, "our procedures outlined to the banks certainly will impose some restrictions on how law enforcement officials operate." But he adds, the issue boils down to whether you place "a higher value on protecting privacy or on some other interest."

In the letters, two of the 19 banks cite one other procedure they have adopted to put a limit on how much information is disclosed to third parties. This is to make certain that in any court case the bank discloses only the required information in open court and in the presence of counsel for all interested parties.

One of the institutions says, "upon receipt of a subpena requiring an appearance in court, we are not content to merely notify the customer and then make the records available. In such cases our customer is, of course, notified, but a bank representative appears at the time and place required, thereby minimizing the likelihood of disclosure beyond the scope of the inquiry."

Mr. Neier regards the return of letters from 19 banks so far as a relatively good showing in light of the fact that the four-page ACLU letter was reproduced in mimeographed form, rather than being typed, and carried the salutation "Dear Bank President," rather than citing the specific names of the officers. The letters, he said, "have been informative in revealing" some dimensions of the problems of dealing with surveillance. This subject has not been publicly discussed in any great detail in the past.

The ACLU, he says, will press on three fronts to deal with the question of customer account privacy:

"To litigate when we do find instances of violations and to get court protection." He says he is hopeful that the lawsuit filed last week by the ACLU of Northern California seeking to enjoin the 1970 Bank Secrecy Act from going into effect and having it declared unconstitutional could bring about a broad enough decision from the court which would be applicable to all other suits brought on the bank surveillance question.

To make the public aware of the problem and to get customers to bring pressure on banks to adopt policies that protect their right to privacy. Mr. Neier hopes by this summer to have developed a model contract that customers might present to their banks in which the financial institutions would agree to release information to third parties only after being served with a subpena and to notify customers when they have received such a subpena.

To try to promote the "notion of banking ethics" on the privacy issue before the entire banking industry. The ACLU will attempt to ask those bankers included among its supporters to introduce the subject of bank confideniality into conference programs sponsored by the ABA and other banking associations, he said.

Mr. Shattuck said that the ACLU's national privacy committee, of which he is staff chairman, now is preparing model legislation which would attempt to enforce the confidentiality of bank records. He said the ACLU plans to see this legislation introduced in New York State and in Congress, but that such actions will not be taken until next fall.

The 19 banks which wrote letters to the ACLU are:

The $1.7 billion-deposit United States National Bank of Oregon, Portland; the $1.7 billion-deposit Pittsburgh National Bank; the $10.4 billion-deposit Chemical Bank, New York; the $2.1 billion-deposit Harris Trust & Savings Bank, Chicago; the $2.1 billion-deposit Detroit Bank & Trust Co.; the $1.6 billion-deposit Fidelity Bank, Rosemont, Pa.; the $949.8 million-deposit County Trust Co., White Plains, N. Y.; the $793.7 million-deposit Banco Popular de Puerto Rico, San Juan; the $1.1 billion-deposit Northwestern National Bank, Minneapolis, Minn., and the $859.9 million-deposit Ohio National Bank, Columbus.

Also, the $20.3 billion-deposit Chase Manhattan Bank NA, New York; the $10.6 billion-deposit Morgan Guaranty Trust Co., New York; the $995.1 million-deposit First Western Bank & Trust Co., Los Angeles; the $1.4 billion-deposit First Wisconsin National Bank, Milwaukee; the $5 billion-deposit United California Bank, Los Angeles; the $4.6 billion-deposit National Bank of Detroit; the $935.1 million-deposit American National Bank & Trust Co., Chicago; the $8.4 billion-deposit Continental Illinois National Bank & Trust Co., Chicago, and the $29.1 billion-deposit Bank of America NT&A, San Francisco.

ACLU Asking Banks To Establish Curbs on Government Access to Customer Records

(By William Zimmerman)

New York.—The American Civil Liberties Union is urging the banking industry to formulate policy statements and procedures aimed at protecting the confidentiality of customer records from surveillance by government investigatory agencies and insuring that customers are alerted when these agencies subpoena banks for such account information.

The 14 banks that so far have formally responded to the organization's request—which was made in a letter dated April 25 sent by the ACLU to the presidents of the nation's 100 largest banks—said they support the concept of record confidentiality, and at least half said they have specific policies to insure this, Aryeh Neier, the organization's executive director, said Thursday.

He warned, however, that such policies made at the top management level "may not be enforced on a day-to-day basis at the local levels."

Mr. Neier, in his letter, said he was making this request of the institutions because allegedly "many banks voluntarily allow agents of the government—police, FBI agents, investigators for Congressional committees—to examine at will the records of individual and organizational accounts, without the permission or indeed the knowledge of any of the people involved."

In so doing, he alleged, "these banks have allowed themselves to play a key role in the government's increasing surveillance of politically active citizens." The ACLU official added that when a bank reveals this information to a third party "it betrays the trust of its customers and commits a direct assault upon their right of privacy."

He said that similar letters now are being sent by ACLU affiliates throughout the 50 states to banks smaller than the 100 largest.

The civil rights group has proposed a three-step program that the industry might adopt to protect customer rights against unconstitutional intrusion into their rights. These are:

That banks individually and through their professional organizations "declare publicly to their customers a firm commitment to honor the confidentiality of the information entrusted to them."

That no bank employee, at any level, be permitted to accede to any request made by a governmental investigator for access to the records of information from the records of any customer—whether an individual or an

organization—except in response to a subpoena.

That, if a subpoena is presented, the institution not divulge the records requested until the bank sends copy of the subpoena to the customer, along with a written notice of the bank's intent to comply after a reasonable period of time.

In effect, Mr. Neier said the burden is on the bank to notify its client about the subpoena and he defined "a reasonable period of time" before turning over the records as the time it takes to give the customer a chance to get the copy of the subpoena and respond to the legal action.

By following this procedure, he stated, "the bank will be honoring its legal obligations, while permitting its fiduciary, the customer, to assert his own First and Fifth Amendment rights by challenging in court what may be an unconstitutional subpoena."

The ACLU exective director said the group plans to follow up those letters and is giving consideration to preparing a frank model form or agreement that a bank might use with its customers in which the bank would agree to notify the customer if it received a subpoena for the customer's records or if Federal Bureau of Investigation agent had come to the bank asking for the individual's records.

Mr. Neier said that within the past two years the organization has been involved in "no more than seven or eight" legal suits in which bank records have been obtained without their notifying the customers about this and some in which information was given to investigatory groups, specifically, the FBI, without that agency having gone to the Justice Department or courts to obtain subpoenas.

The seven or eight cases, he said, do not represent an "epidemic," but they suggested a movement that "was prevalent enough to warrant our writing letters to the banks and calling attention to the problem." He added the ACLU is not sure at this point whether these specific cases are just "peculiar" instances or on a broader scale basis.

Mr. Neier acknowledged that a subpoena is a legally binding document and that a bank may have to turn over its records to comply with the law, but added that a subpoena "can be quashed in a court proceeding" if an individual is notified that the bank had received the subpoena and can take proper legal action.

He said he is particularly concerned about those instances in which the FBI allegedly could come into a bank and examine the account records of groups, such as antiwar organizations, without first seeking subpoenas. If the FBI could look at the bank records, it could then know who the supporters of that group are.

In 1970, for example, the Fifth Avenue Peace Parade Committee of New York filed a Federal Court suit charging that the FBI used confidential bank records held by the $289.3 million-deposit Amalgamated Bank in that city to obtain information about opponents of the war in Indochina. The suit contended that the bank allowed FBI agents to examine the committee's checking account to identify individuals who had purchased tickets for transportation to Washington for a "Moratorium Day" demonstration against the war that was held in Washington in November, 1969. The bank denied the charge.

Mr. Neier stated that the judge acknowledged there was evidence of surveillance by the FBI, but he did not find there was damage done to individuals involved and ruled that the committee did not prove certain of its allegations. An appeal of his decision is in the courts now.

In another instance, according to ACLU staff counsel John Shattuck, a case is pending in which Muhammad Kenyatta, president of the National Black Economic Development Conference, is suing the FBI, claiming that records stolen from the FBI's office in Media, Pa., show that the Federal agency obtained access to the black group's checking account records from the $293.7 million-deposit Southeast National Bank, Chester.

Mr. Shattuck stated it is difficult to document whether the FBI is searching bank records. The arrangements between FBI agents and the bank are informal, he said. "The FBI agent appears at the bank and flashes his credentials and banks comply instantly and show records. I think it's the most flagrant abuse" of the confidentiality of records, he said, but added, "I don't know how prevalent it is." He added he also is not certain whether top management is aware that such alleged happenings may be occurring.

Mr. Shattuck stated, "I think banks are in a squeeze, and I'm completely sympathetic with them." On the one hand they want good protection from the FBI in this time of numerous bank robberies and the FBI is the agency with jurisdiction to combat this. The banks want to maintain good relationships with the FBI, he said.

Also compounding the problem is the fact that bankers may not know they do not have to show such records unless they get court subpoenas. He said he is not sure how long such alleged happenings have occurred, but suggested that government committees, such as the House and Senate Internal Security Committees in recent years have become increasingly interested in antiwar groups and have been attempting to get hold of bank records.

He cited three examples where banks have been subpoenaed to supply such records and observed the ACLU is fighting the release of these records in the courts. One involves Amalgamated Bank, which was asked by the House committee for records on the Progressive Labor Party. Another involves the $16.3 million-deposit Public National Bank, Washington, which was asked to provide the House group with records on the National Peace Action Coalition and the Peoples' Coalition for Peace and Justice. In these two cases, he said the ACLU was successful in squashing the subpoenas but appeals of these decisions are being carried on in Federal court.

In the third instance, the Senate committee asked the $10.4 billion-deposit Chemical Bank, New York, to release records on the United States Servicemen's Fund, he said. The court in that case ordered the records be released, but the ACLU is appealing the decision, he stated.

The FBI declined to comment on its position in requesting bank records.

The ACLU officials acknowledged the law is a little cloudy on the subject of confidentiality of bank records. They said there is no law that says that banks cannot release information to Federal groups. In fighting against release of such records. Mr. Shattuck said the ACLU does it on constitutional grounds, that when an agency searches bank records and the depositor is not informed about such action, this is a violation of the Fourth Amendment, which regulates the right of search and seizure. Another constitutional ground is given by the First Amendment, he said, which grants freedom of speech, right to assemble and to petition the government, and which, Mr. Shattuck said, guarantees that the government is not entitled to any membership lists of protesting groups.

He also argued it is good banking policy for banks not to indiscriminately release such information because banks are fiduciaries of depositors and information because banks are fiduciaries of customers should be protected.

A number of institutions stated Thursday they have policies in which they will not release any information to investigatory groups unless they are presented with court orders or subpoenas. Among these are the $20.3 billion-deposit Chase Manhattan Bank NA, New York; the $29.1 billion-deposit Bank of America NT&SA, San Francisco; Chemical bank, and the $935.1 million-deposit American National Bank & Trust Co. Chicago.

Louis A. Russo, legal counsel for Chase, said it has always been the bank's policy to treat transactions with customers as confidential, notwithstanding the fact that banking transactions do not enjoy the same privileged relationship as those between lawyers or doctors and their clients. Such records are released only after subpoenas are served or some judicial process is followed and clients are notified of this. He acknowledged, however, as did some of the institutions that wrote letters to the ACLU, that there are exceptions. In the case of some kind of criminal situation, he said, the bank may waive the requirement for subpoenas, but he emphasized such cases are the exceptions. In cases of tax evasion or where some investigatory group may want information about a political activist, Chase requires subpoenas, he said.

He acknowledged, also, that some exceptions have been made with the FBI, but said the bank never gives immediate access to the agency to such information, and has such requests referred to the legal department. He added there is no law that holds banks to keeping customer information confidential, and said, in fact, there are some state laws that require institutions to report to the state account balances of welfare clients and those of patients in state hospitals.

One banker, who asked not to be identified, stated that the question of the FBI asking banks for information on customers is a problem. When the FBI comes in, he said, "it's not the situation of non-payment of taxes, but the question of possible subversion or treason, and then you've got to make a judgment."

This bank said it will filter such requests from the FBI at the highest level of bank management and at the highest levels of the FBI to determine if there is a really good reason to carve out any exception to making such information available.

He said the requests by the FBI, while not overwhelming, "happens to most banks once a year."

American Bankers Association Allen P. Stults, chairman of American NB&T Co., Chicago, said Thursday he personally does not believe the association should get involved in developing any kind of policy statement or procedure on the questions raised by the ACLU. He said this should be left a matter of individual banker conscience.

He says he is in personal agreement with the ACLU's suggestions, and his own bank's policy is never to release any requested information unless a court order or subpoena is issued to his insitution and the customer is notified. A bank customer comes to the bank with part of his worldly possessions, he said, and a bank has the obligation to protect the customer's interests.

He also said it is his bank's policy to say "we're sorry" to the FBI when they come to American National for information, but added, "I'm not so comfortable on our position" on this subject. Mr. Stults said he believes it is in the nation's interest to have the FBI investigate every individual if necessary provided such information is used in the country's best interest. "I'd feel much more comfortable with the FBI knowing everything about everybody," he said, rather than waiting until trouble arises and then trying to do something about it.

Chemical Bank told the ACLU it agrees with their suggestions, but said their recommendations about the subpoenas does not go far enough. It said "upon the receipt of

the subpoena requiring an appearance in court, we are not content to merely notify the customer and then make the records available. In such cases, our customer is of course notified, but a bank representative appears at the time and place required, thereby minimizing the likelihood of disclosure beyond the scope of inquiry."

A spokesman for Chemical said the bank will not just mail out the subpoenaed records "willy, nilly," and would rather bring these to the court proceeding so that if a client's lawyer objects to the records being released, the client is then protected in that more information is not given than is required by the courts.

A spokesman for Bank of America said Thursday that the bank's policy is to release such records only after due process of the law is met and that "ordinarily, we alert customers" when subpoenas are given the bank. There have been instances, he said, when BofA has fought against releasing such information.

The other institutions, in addition to BofA, Chemical, Chase and American NB&T, which have responded to the ACLU letter are: the $1.6 billion-deposit Fidelity Bank, Philadelphia; the $1.1 billion-deposit Northwestern National Bank, Minneapolis; the $949.8 million-County Trust Co., White Plains, N.Y.; the $895.9 million Ohio National Bank, Columbus; the $793,.7 million Banco Popular de Puerto Rico, San Juan; the $8.4 billion Continental Illinois National Bank & Trust Co., Chicago; the $995.1 First Western Bank & Trust Co., Los Angeles; the $4.6 million National Bank of Detroit; the $10.6 billion Morgan Guaranty Trust Co., New York, and the $2.1 billion-Detroit Bank & Trust Co.

ACLU, California Bank Ask U.S. Court To Find 1970 Bank Secrecy Act Unconstitutional

San Francisco.—The American Civil Liberties Union Foundation of Northern California, acting on behalf of the $78.1 million-deposit Security National Bank, Walnut Creek, its chairman and president and two other palintiffs, asked the Federal Court here Wednesday to enjoin the implementation of the 1970 Bank Secrecy Act and the attendant Treasury Department regulations, scheduled to become effective July 1. The foundation also asked the court to declare the act and the regulations unconstitutional.

The ACLU complaint, fied in the U.S. District Court for the state's Northern District, alleges that the act's new bank reporting and record retention rules violate the First, Fourth, Fifth, Ninth, Tenth and Fourteenth amendments to the Constitution by requiring financial institutions to report information to the Treasury Department without first consulting customers.

A similar ACLU lawsuit is scheduled to be filed by the middle of the month on the East Coast, either in New York or Washington, John Shattuck, general counsel for the organization's national headquarters in New York, reported. Potential plaintiffs for the suit are being lined up now, he said.

The California suit named as defendants Treasury Secretary John B. Connally, Treasury Secretary-designate George P. Shultz, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corp., the Commissioner of the Internal Revenue Service, the Commissioner of Customs, the Administrator of the National Credit Union Administration and the Securities and Exchange Commission.

Under the act the Treasury Secretary is responsible for determining which reports are to be required from banks as well as those they are to maintain. As stated in regulations promulgated by Treasury earlier this year, these must have "a high degree of usefulness in criminal, tax or regulatory investigations or proceedings." The other agencies named in the suit are responsible for enforcing the regulations for the institutions they oversee.

The act and regulations were designed to provide law enforcement agencies with better evidence to fight organized crime—particularly operations financed through secret bank accounts—and give the Treasury broad authority to establish proper record-keeping and reporting requirements.

The regulations make it a violation of Federal law for banks to fail to keep on file records of most personal check transactions for a period of at least two years, and to fail to report to the Bureau of Customs "unusual currency" transactions exceeding $10,000. The rules were opposed by financial institutions largely on the ground they would require additional, expensive record-keeping.

A key issue in the ACLU lawsuit revolves around the Treasury regulation which states the Secretary may make information from bank reports available "to any other department or agency of the United States upon the request of the head of such department or agency, made in writing, and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought, and the official need therefor.

Another regulation gives the Secretary the sole discretionary authority to modify, exempt or impose additional recordkeeping requirements on banks in particular situations.

Fortney H. Stark Jr., chairman and president of Security National Bank, said that he and his bank joined the ACLU in the suit because "I cannot stand idly by knowing that government agents now have carte blanche power to pry into the private financial affairs of any one of my customers, for little or no reason."

Under the new regulations, he said, "any person having an account with Security National Bank or any other bank in the nation may be investigated upon the whim of the FBI, the Treasury Department, the Department of the Army or any other government snoop who wants to pry into a person's private financial affairs."

He said he is joining the suit to protect his customers' rights because "people generally believe that transactions with their banks are confidential, and they should be secure in this belief. But under the new regulations this is not true. The customer's relationship with his bank is no longer confidential." Mr. Stark added, "I didn't get into the banking business to be a spy for 'Big Brother.' "

Mr. Stark is a former ACLU board member, and in Tuesday's primary election he won the Democratic nomination for U.S. representative from the Eighth District over incumbent Rep. George P. Milier. In 1970 Mr. Stark's bank drew wide attention by placing a peace symbol atop its new headquarters building.

In the same year the Treasury Department took away the bank's right to sell or redeem U.S. savings bonds when the bank advertised that they were a poor investment. The bank urged Walnut Creek residents to transfer savings bonds funds to bank accounts, or to other investments yielding a higher return than that paid by the government.

Mr. Stark's brother, Thomas A. Stark, who is executive vice president of Security National, declared that the act and its regulations raise "some obvious and grave constitutional questions."

Even if the court does not determine that the act and regulations are not constitutional, he said, the suit should go a long way toward limiting the powers given the Secretary of the Treasury to make customer bank accounts available. This is because the court will have to determine what powers the Secretary does have, Mr. Stark said.

He said these powers are broad and no safeguards are built into them to protect individual rights. In addition, he said, "we don't like being made a snooper on our customers."

Asked whether the bank might be objecting to the act because of the recordkeeping and reporting burdens it will impose, rather because of the constitutional rights issue, Thomas Stark said his objection to the recordkeeping aspect "is practically nil at this point, although it might become onerous later on."

The other plaintiffs in the ACLU suit are Charles C. Marson, legal director of the ACLU at Northern California, Inc., and the ACLU itself. The foundation is the tax-exempt arm of the ACLU of Northern California.

In asking the court for preliminary and permanent injunctions against enforcing the act and the regulations, and in calling for the appointment of a three-judge court to rule on the constitutionality, Mr. Marson alleged that the regulations violate the Fourth Amendment because they amount to a seizure of reported transactions with a general search warrant which the Secretary of the Treasury may fill out at his will.

The Secretary "can, by himself or at the request of some government agency, such as the FBI, search through anybody's bank account for any purpose he wants, in the total absence of any probable cause, or any intervention by any judicial authority," Mr. Marson said. "This kind of intimidation creates fear on the part of people that inhibits their freedom of action. Knowing that the government is constantly watching you has a chilling effect, whether it is by wiretapping your phone or surveillance of the checks you write."

The ACLU further alleges that the act and regulations "flagrantly" violate the First-Amendment right of association in that "the Treasury can perform an easy end run around a long line of Supreme Court decisions holding that the membership lists and lists of contributors to political organizations, such as the NAACP or the ACLU, are immune from government scrutiny."

"Obviously," the ACLU said, "under the Bank Secrecy Act and its regulations, the Secretary of the Treasury can, by himself or at the request of some group, such as the FBI, scrutinize the bank account of the United Committee to Free Angela Davis, the ACLU, the John Birch Society, the Pete McCloskey for Congressman Fund, or any other group he wants. It is very easy to determine who belongs to what group by means of looking at membership checks and contributions." This could cause the ACLU to lose members and donations, the ACLU said.

One of the Treasury regulations, in fact, says banks must prepare and maintain records "which would be needed to reconstruct a demand deposit account and to trace a check deposited in such account through its domestic processing system or to supply a description of a deposited check."

Asked whether he would support the act and regulations if they were amended to spell out safeguards protecting the individual accountholder's rights, Mr. Marson said, "I'd have to see the amendments. The Act would have to be pretty substantially amended," he noted.

In Washington, Roy T. Englert, deputy general counsel for the Treasury, pointed out Wednesday that the new regulations have two aspects. One, he said, pertains to recordkeeping. Under the law, he said, the Internal Revenue Service cannot obtain access to the records unless it obtains a sub-

poena. However, Mr. Englert acknowledged that nothing in the law states that banks must notify customers when the IRS subpoenas their records.

The other aspect, he said, pertains to the Secretary's discretionary authority to make information available to other agencies which request it. The Treasury official conceded there are no subpoena safeguards built into these regulations and at this point no guidelines have been developed on how the Secretary would make such information available to other agencies. "This is sort of a problem," Mr. Englert said, and "we have not resolved anything on this."

Thomas Stark also maintained that the Treasury regulations make it prohibitively expensive for a bank to refuse to supply information to the government. The regulations state that any bank which participates in a violation will be assessed a civil penalty not exceeding $1,000. Mr. Stark has interpreted this to mean a $1,000-a-day fine, and said that if it took 60 to 90 days for a bank to get a court decision to test whether or not to make certain information available, and the bank lost, the penalty could run into a lot of money.

Asked whether the $1,000 fine could be assessed on a daily basis, Mr. Englert said that "What constitutes a violation depends on the facts. One might take the position" that the $1,000 could be assessed daily, he commented, but he added he is not certain about this point.

As to the effect the suit will have on implementation of the Treasury regulations, Mr. Englert said he again is not certain. The government has 60 days from Wednesday in which to file an answer, although this period might be shortened if the plaintiffs seek a temporary restraining order.

A spokesman for the ACLU said the organization likely will amend its complaint to add names of defendants as well as plaintiffs. One informed source said the plaintiffs could include additional banks, and noted some discussions had been held by ACLU representatives with the $29.1 billion-deposit Bank of America NT&SA, San Francisco.

A spokesman for Bank of America said early Wednesday that the bank had not yet seen the litigation and would have to study the matter further before deciding whether or not to join the suit as a plaintiff or to file an amicus curiae brief.

Last month another San Francisco institution, the $6.3 billion-deposit Wells Fargo Bank NA, at a briefing for newspapermen, said it believed that Treasury regulations which require the banking industry to monitor and retain records of certain domestic transactions, as opposed to foreign transactions, should be eliminated.

Harold R. Arthur, vice president and cashier of the bank, said these regulations, if applied, would violate the long-standing bank policy that customers' transactions are their own business, to be treated in confidence. The act's original intent, he observed, was to stop the illegal flow of funds overseas by maintaining records and reporting foreign currency transactions. "We were in perfect agreement that measures should be taken to end illegal practices. However, the regulations, as promulgated by Treasury, encompass far more than merely stopping the illegal transfer of funds overseas."

On April 10, the Marin County Independent Journal reported that Richard Stark, a 29-year-old artist and supporter of radical causes—no relation to the Stark Brothers at Security NB—had discovered that his checking account at Wells Fargo's San Anselmo branch had been reviewed by FBI agents.

The article said Mr. Stark "opened the envelope with his monthly statement and found an inter-department memo wrapped around the checks. The memo, which bank officials said was included in the envelope by mistake, read: "This memo is to authorize you to read checks to the FBI before sending the statement to the customer."

The article quoted Lawrence Hoge, press relations officer for Wells Fargo, as saying, "Sometimes if a guy flashes a badge, they'll come right through here. No employee is going to run to those thick memos to see if they can talk with him."

In an interview this week, Mr. Hoge asserted that the FBI is supposed to have a subpoena when it wants information. In the Stark case the agent made a request for information verbally and obtained the information, Mr. Hoge said. "This was against bank regulation," he added. The bank's policy, he said, is that when he receives a subpoena, for information on an account, it notifies the customer.

Mr. Hoge said he did not know whether there were any instances of the FBI or IRS' agents going directly to branches for information. Management, he said, has since informed its employees not to be awed by Treasury or Secret Service officials coming into the bank. "A lot of people think they're doing the right thing," he explained, releasing such information without first obtaining a subpoena and notifying the customer.

Since the Stark incident, Wells Fargo issued a memorandum to its 10,000 employees which said that disclosure of information about one of its customers to a law enforcement agency without a valid court order or subpoena "was a violation of the confidential relationship between the bank and its customers."

The memo said violation can result in loss of customer confidence, loss of business and make the bank liable to a suit for breach of contract.

It added, "Information regarding customers' accounts must not be given in response to oral or written inquiry except under the following conditions:

"When specific written authority is given the bank by the customer.

"When the bank is served with the subpoena or other valid written order or request."

The American Civil Liberties Union has been waging a campaign since April to get the banking industry to formulate policy statements and procedures aimed at protecting the confidentiality of customer records from surveillance by government investigatory agencies and at assuming that customers are alerted when these agencies subpoena banks for such account information.

In letters sent to the nation's major banks it proposes that:

Banks individually and through their professional organizations "declare publicly to their customers a firm commitment to honor the confidentiality of the information entrusted to them."

No bank employee, at any level, be permitted to accede to any request made by a governmental investigator for access to the records or information from the records of any organization—except in response to a subpoena.

If a subpoena is presented, a bank not divulge the records presented until the institution send a copy of the subpoena to the customer, along with a written notice of the bank's intent to comply after a reasonable period of time. Such an action, in effect, gives the customer the opportunity to respond to the subpoena and attempt to have it quashed through legal channels.

The ACLU plans to develop a model form or agreement that institutions might use in which a bank would agree to notify a customer if it received a subpoena for the customer's records or if an FBI agent asked for an individual's records. The ACLU also reports that several of its affiliates, including that in New York, are attempting to develop model statutes that might be adopted by legislatures to enforce its confidentiality of bank records.

The issues and constitutional rights raised in the San Francisco ACLU suit also are being studied by some members of Congress, including Sen. John Tunney, D., Calif., who discussed the Bank Secrecy Act in a May 20 commencement address at Point Park College, Pittsburgh.

Mr. Tunney described the act and the Treasury regulations as the latest in the government's efforts "to encroach upon our private lives" and criticized the need for keeping some of the records.

"How can my $5-per-month newspaper or milk bill—or even my monthly liquor purchases—be useful in any degree to a criminal tax or regulatory investigation or proceeding?" he asked. "This regulation does nothing more than to pave the way for indiscriminate massive fishing expeditions of incredible dimensions."

While observing that the Senate, in approving the Bank Secrecy Act, said that access by law enforcement officials to bank records would be given only through a subpoena or other lawful process, Mr. Tunney said this "is apparently nothing more than a mirage." He pointed to an article that appeared in the San Francisco Chronicle in which he said correspondent Michael Harris 'reported that Treasury agents already have the authority to issue their own subpoenas and sign the authorizing order."

Mr Tunney further said there is nothing in the regulations which safeguard the reports given by Treasury to other agencies from being disseminated to other Federal departments. "Who knows where the information may wind up?" he asked.

Mr. Tunney also criticized a regulation which requires no reports from banks on persons who maintain accounts with balances which the bank determines do not exceed amounts commensurate with the customary conduct of the business or profession of the customer.

"What this little loophole tells me," he said, "is that a big-time criminal who regularly has large banking transactions will sail through this regulation like a gust of wind."

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

Mr. MATHIAS. I yield to the Senator from California.

Mr. TUNNEY. Mr. President, I commend the Senator from Maryland for his interest and activity in this matter.

At a time when I was drafting a letter to the Treasury Department to inquire why these regulations had been drafted and the purposes the Treasury Department hoped to achieve as a result of these regulations, I learned of the interest of the Senator from Maryland in this matter.

I would like to point out that whereas we have some minor differences in our legislative approaches to the problem, I have read the Senator from Maryland's bill and I think it is an excellent bill.

In a matter of this kind it is clear there is room for a good deal of creativity and imagination. I do not believe that the legislation I have introduced today is engraved in stone and is not without any need for amendment or for alteration. It is my hope that other Senators will join with me and the distinguished Senator from Maryland to work toward the important goal of protecting the privacy of Americans.

I am very deeply disturbed by one aspect the Treasury regulations—namely the microfilming requirements. I know the Senator from Maryland has been working on this point. I would like to address a question to him.

I have written a very detailed letter inquiring about the basis for those regulations to the Secretary of the Treasury, which the Senator from Maryland has seen. I have not received an answer from the Treasury Department.

I would like to know if the Senator from Maryland has had any conversation with high officials of the Treasury Department indicating when the Treasury Department is going to come forward and give an explanation to the Congress and the people of America.

Mr. MATHIAS. Mr. President, I wish to say to the Senator from California that I raised the very same questions with the Treasury Department. I sent a detailed letter asking a number of questions in this area. The initial response I got was a copy of the proposed Treasury regulations which were supposed to speak for themselves. But these regulations were the reason why I had written the letter in the first place. Sending them back to me hardly gives the reason for the dramatic change from the Congress intent. After all, this is not something that just affects banking and banking institutions; this affects everybody who has a checking account or a savings account in the United States. I was disappointed with this response.

I finally had a conversation with Judge Pierce, General Counsel of the Department. He made an effort to reassure me that due process would be protected in administering the law. But I think what they have done is to take the letter of the 1970 amendments, extend them about as far as they would go, and then drafted the regulations on that basis.

We have some responsibility because we passed the law. They have not gone beyond the letter of the law, but I think they have clearly gone beyond the intent of Congress. We are perhaps guilty of overkill in the statutory language but now we have the opportunity to go back and correct it.

Mr. TUNNEY. I would like to know how many Americans know that as of July 1, 1972 every one of their personal checks will be microfilmed and retained for 5 years. I wonder how many Americans know that Treasury has the power to require these microfilm records to be available to the Treasury Department in the form of reports and that such reports would be available to any other agency.

Mr. MATHIAS. It is not only the Treasury Department but also any other agency.

Mr. TUNNEY. Exactly. I think that many people who are aware of what the Treasury Department has done with regulations to date are unaware of the regulatory power which has been retained but also has not yet been exercised.

Mr. President, I ask unanimous consent to have printed in the RECORD regulations of the Treasury Department.

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

[From the Federal Register, April 5, 1972]

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury; Part 102—Instructions relating to reports of currency transactions; Part 103—Financial recordkeeping and reporting of currency and foreign transactions

On June 10, 1971, a notice of proposed rule making to implement the provisions of titles I and II of Public Law 91-508 (84 Stat. 1114 et seq.), was published in the FEDERAL REGISTER (36 F.R. 11208 (1971)). In accordance with the notice, interested parties were afforded an opportunity to submit written comments.

After consideration of all such relevant matters as were presented by interested parties regarding the rules proposed, the regulations set forth below have been adopted.

[SEAL]

SAMUEL R. PIERCE, Jr.,
General Counsel.
EUGENE T. ROSSIDES,
Assistant Secretary.

Part 102 is repealed effective July 1, 1972.

Part 103 is added to Title 31 CFR as follows:

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103.11 Meaning of terms.

Subpart B—Reports Required To Be Made

103.21 Determination by the Secretary.
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103.23 Reports of transportation of currency or monetary instruments.
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Sec.
103.49 Criminal penalty.
103.50 Enforcement authority with respect to transportation of currency or monetary instruments.

AUTHORITY: The provisions of this Part 103 issued under sec. 21 of the Federal Deposit Insurance Act, 84 Stat. 1114, 12 U.S.C. 1829b; 84 Stat. 1116, 12 U.S.C. 1951–1959; and the Currency and Foreign Transactions Reporting Act, 84 Stat. 1118, 31 U.S.C. 1051–1122.

Subpart A—Definitions

§ 103.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.

Bank. (a) Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A commercial bank or trust company organized under the laws of any State or of the United States;

(2) A private bank;

(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;

(4) An insured institution as defined in section 401 of the National Housing Act;

(5) A savings bank, industrial bank or other thrift institution;

(6) A credit union organized under the laws of any State or of the United States; and

(7) Any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State.

(b) Each agent, agency, branch or office within the United States of a foreign bank.

Broker or dealer in securities. A broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Currency. The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued. It includes U.S. silver certificates, U.S. notes and Federal Reserve notes, but does not include bank checks or other negotiable instruments not customarily accepted as money.

Domestic. When used herein, refers to the doing of business within the United States, and limits the applicability of the provision where it appears to the performance by such institutions or agencies of functions within the United States.

Financial institution. Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A bank;

(2) A broker or dealer in securities;

(3) A person who engages as a business in dealing in or exchanging currency as, for example, a dealer in foreign exchange or a person engaged primarily in the cashing of checks;

(4) A person who engages as a business in the issuing, selling or redeeming of travelers' checks, money orders, or similar instruments, except one who does so as a selling agent exclusively or as an incidental part of another business;

(5) An operator of a credit card system which issues, or authorizes the issuance of credit cards that may be used for the acquisition of monetary instruments, goods, or services outside the United States.

(6) A licensed transmitter of funds, or other person engaged in the business of transmitting funds abroad for others.

Foreign bank. A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

Investment security. An instrument which:

(1) Is issued in bearer or registered form;

(2) Is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;

(3) Is either one of a class or series or by its terms is divisible into a class or series of instruments; and

(4) Evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.

Monetary instruments. Coin or currency of the United States or of any other country, travelers' checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments (except warehouse receipts or bills of lading) in bearer form or otherwise in such form that title thereto passes upon delivery. The term does not include bank checks made payable to the order of a named person which have not been endorsed or which bear restrictive endorsements.

Person. An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, and all entities cognizable as legal personalities.

Secretary. The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

Transaction in currency. A transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency is not a transaction in currency within the meaning of this part.

United States. The various States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Subpart B—Reports Required to Be Made

§ 103.21 Determination by the Secretary

The Secretary hereby determines that the reports required by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by through, or to such financial institution, which involves a transaction in currency of more than $10,000.[1]

(b) Except as otherwise directed in writing by the Secretary, this section shall not (1) require reports of transactions with Federal Reserve Banks or Federal Home Loan Banks; (2) require reports of transactions solely with, or originated by, financial institutions or foreign banks; or (3) require a bank to report transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned. A report listing such customers who engage in transactions which are not reported because of the exemption contained in this paragraph shall be made to the Secretary upon demand therefor made by him.

§ 103.23 Reports of transportation of currency or monetary instruments

(a) Each person who physically transports, mail, or ships, or causes to be physically transported, mailed or shipped, currency or other monetary instruments in an aggregate amount exceeding $5,000 on any one occasion from the United States to any place outside the United States, or into the United States from any place outside the United States shall make a report thereof.[2] A person is deemed to have caused such transportation, mailing or shipping when he aids, abets, counsels, commands, procures or requests it to be done by a financial institution or any other person. A transfer of funds through normal banking procedures which does not involve the physical transportation of currency or monetary instruments is not required to be reported by this section.

(b) Each person who receives in the United States currency or other monetary instruments in an aggregate amount exceeding $5,000 on any one occasion which have been transported, mailed, or shipped to such person from any place outside the United States with respect to which a report has not been filed under paragraph (a) of this section, whether or not required to be filed thereunder, shall make a report thereof, stating the amount, the date of receipt, the form of monetary instruments, and the person from whom received.

(c) This section shall not require reports by (1) a Federal Reserve bank, (2) a bank, a foreign bank, or a broker or dealer in securities, in respect to currency or other monetary instruments mailed or shipped through the postal service or by common carrier, (3) a person who is not a citizen or resident of the United States in respect to currency or other monetary instruments mailed or shipped from abroad to a bank or broker or dealer in securities through the postal service or by common carrier, (4) a common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers, (5) a common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper, (6) a travelers' check issuer or its agent in respect to the transportation of travelers' checks prior to their delivery to selling agents for eventual sale to the public, nor by (7) a person engaged as a business in the transportation of currency, monetary instruments and other commercial papers with respect to the transportation of currency or other monetary instruments overland between established offices of banks or brokers or dealers in securities and foreign banks.

(d) This section does not require that more than one report be filed covering a particular transportation, mailing or shipping of currency or other monetary instruments with respect to which a complete and truthful report has been filed by a person. However, no person required by paragraph (a) or (b) of this section to file a report shall be excused from liability for failure to do so if, in fact, a complete and truthful report has not been filed.

§ 103.24 Reports of foreign financial accounts.

Each person subject to the jurisdiction of the United States (except a foreign subsidiary of a U.S. person) having a financial interest in, or signature or other authority over a bank, securities or other financial account in a foreign country shall report such relationship as required on his Federal income tax return for each year in which such relationship exists, and shall provide such information concerning each such account as shall be specified in a special tax form to be filed by such persons.

§ 103.25 Filing of reports.

(a) Reports required to be filed by the first paragraph of § 103.22 shall be filed on or before the 45th day following that on which the reported transactions occur. They shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by him, with the approval of the Secretary. All information called for in such forms shall be furnished.

(b) Reports required to be filed by § 163.23 (a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise directed or permitted by the Commissioner of Customs. They shall be filed with the Customs officer in charge at any Customs port of entry or departure, or as otherwise permitted or directed by the Commissioner of Customs. If the currency or other monetary instruments with respect to which a report is required do not accompany a person entering or departing from the United States, such reports may be filed by mail on or before the date of entry, departure, mailing or shipping, with the Commissioner of Customs, Attention: Currency Transportation Reports, Washington, D.C. 20226. They shall be on forms to be prescribed by the Secretary and all information called for in such forms shall be furnished.

(c) Reports required to be filed by § 103.23 (b) shall be filed with the Commissioner of Customs within 30 days after receipt of the currency or other monetary instruments. 'They may be filed with the Customs officer in charge at any port of entry or departure, or by mail addressed to the Commissioner of Customs, Attention: Currency Transportation Reports, Washington, D.C. 20226. They shall be on forms to be prescribed by the Secretary and all information called for in such forms shall be furnished.

(d) Forms to be used in making the reports required by §§ 103.22 and 103.23 may be obtained from any Internal Revenue office; in addition, forms to be used in making the reports required by § 103.23 may be obtained from any office of the Bureau of Customs.

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under the first paragraph of § 103.22, a financial institution shall verify and record the identity, and record the account number on its books or the social security or taxpayer identification number, if any, of a person with whom or for whose account such transaction is to be effected. Verification of identity for a customer of the financial institution depositing or withdrawing funds may be by reference to his account or other number on the books of the institution. Verification of identity in any other case may be by examination, for example, of a driver's license, passport, alien identification card, or other appropriate document normally acceptable as a means of identification.

Subpart C—Records Required To Be Maintained

§ 103.31 Determination by the Secretary.

The Secretary hereby determines that the records required to be kept by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 103.32 Records to be made and retained by persons havin_ financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported on a Federal income tax return shall be retained by each person having a financial interest in any such account. Such records shall contain the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during the reporting period. Such records shall be retained for a period of 5 years and shall be kept at all times available for inspection as authorized by law. In the computation of the period of 5 years, there shall be disregarded any period beginning with a date on which the taxpayer is indicted or information instituted on account of the filing of a false or fraudulent Federal income of a false or fraudulent Federal income tax return or failing to file a Federal income tax return, and ending with the date on which final disposition is made of the criminal proceeding.

§ 103.33 Records to be made and retained by financial institutions.

Each financial institution shall retain

[1] Forms filed as part of the original document.

[2] Forms filed as part of the original document.

either the original or a microfilm or other copy or reproduction of each of the following:

(a) A record of each extension of credit in an amount in excess of $5,000, except an extension of credit secured by an interest in real property, which record shall contain the name and address of the person to whom the extension of credit is made, the amount thereof, the nature or purpose thereof, and the date thereof;

(b) A record of each advice, request, or instruction received regarding a transaction which results in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account, or place outside the United States;

(c) A record of each advice, request or instruction given to another financial institution or other person located within or without the United States, regarding a transaction intended to result in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account or place outside the United States;

§ 103.34 Additional records to be made and retained by banks.

(a) With respect to each deposit or share account opened with a bank after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such bank shall secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more individuals, such bank shall secure and maintain a record of the social security number of an individual having a financial interest in that account.

(b) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature authority over each deposit or share account;

(2) Each statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account;

(3) Each check, clean draft, or money order drawn in the bank or issued and payable by it, except those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are (i) dividend checks, (ii) payroll checks, (iii) employee benefit checks, (iv) insurance claim checks, (v) medical benefit checks, (vi) checks drawn on governmental agency accounts, (vii) checks drawn by brokers or dealers in securities, (viii) checks drawn on fiduciary accounts, (ix) checks drawn on other financial institutions, or (x) pension or annuity checks;

(4) Each item other than bank charges or periodic charges made pursuant to agreement with the customer, comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under subparagraph (3) of this paragraph;

(5) Each item, including checks, drafts, or transfers of credit, of more than $10,000 remitted or transferred to a person, account or place outside the United States;

(6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account or place outside the United States;

(7) Each check or draft in an amount in excess of $10,000 drawn on or issued by a foreign bank, purchased, received for credit or collection, or otherwise acquired by the bank;

(8) Each item, including checks, drafts or transfers of credit of more than $10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a person, account or place outside the United States;

(9) A record of each receipt of currency, other monetary instruments, checks, or investment securities, and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial instituion, from a person, account or place outside the United States; and

(10) Record prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a demand deposit account and to trace a check deposited in such account through a domestic processing system or to supply a description of a deposited check. This subparagraph shall be applicable only with respect to demand deposits.

§ 103.35 Additional records to be made and retained by brokers and dealers in securities.

(a) With respect to each brokerage account opened with a broker or dealer in securities after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such broker or dealer shall secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more individuals, such broker or dealer shall secure and maintain a record of the social security number of an individual having a financial interest in that account.

(b) Every broker or dealer in securities shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature or trading authority over each customer's account;

(2) Each record described in § 240.17a–3(a) (1), (2), (3), (4), (5), (6), (7), (8), and (9) of Title 17, Code of Federal Regulations;

(3) A record of each remittance or transfer of funds, or of currency, checks, other monetary instruments, investment securities, or credit, of more than $10,000 to a person, account or place outside the United States;

(4) A record of each receipt of currency, other monetary instruments, checks, or investment securities and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account or place outside the United States.

§ 103.36. Nature of records and retention period.

(3) Wherever it is required that there be retained either the original of a microfilm or other copy or reproduction of a check, draft, monetary instrument, investment security, or other similar instrument, there shall be retained a copy of both front and back of each such instrument or document, except that no copy need be retained of the back of any instrument or document which is entirely blank or which contains only standardized printed information, a copy of which is on file.

(b) Records required by this subpart to be retained by financial institutions may be those made in the ordinary course of business by a financial institution. If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained by this subpart, then such a record shall be prepared in writing by the financial institution.

(c) Records which are required by § 103.34 (b)(10) to be retained by banks shall be retained for a period of 2 years. All other records which are required by this subpart to be retained by financial institutions shall be retained for a period of 5 years. All such records shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

§ 103.37 Person outside the United States.

For the purposes of this subpart, a remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit to the domestic account of a person whose address is known by the person making the remittance or transfer, to be outside the United States, shall be deemed to be a remittance or transfer to a person outside the United States, except that, unless otherwise directed by the Secretary, this section shall not apply to a transaction on the books of a domestic financial institution involving the account of a customer of such institution whose address is within approximately 50 miles of the location of the institution, or who is known to be temporarily outside the United States.

Subpart D—General Provisions

§ 103.41 Dollars as including foreign currency.

Wherever in this part an amount is stated in dollars, it shall be deemed to mean also the equivalent amount in any foreign currency.

§ 103.42 Photographic or other reproductions of Government obligations.

Nothing herein contained shall require or authorize the microfilming or other reproduction of

(a) Currency or other obligation or security of the United States as defined in 18 U.S.C. 8, or

(b) Any obligation or other security of any foreign government,

the reproduction of which is prohibited by law.

§ 103.43 Availability of information

The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought, and the official need therefor.

§ 103.44 Disclosure.

All reports required under this part and all records of such reports are specifically exempted from disclosure under section 552 of title 5, United States Code.

§ 103.45 Exceptions, exemptions, modifications, and reports.

(a) The Secretary, in his sole discretion, may by written order or authorization make exception to, grant exemptions from, impose additional recordkeeping or reporting requirements authorized by statute, or otherwise modify, the requirements of this part. Such exceptions, exemptions, requirements or otherwise modify, the requirements may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions They shall, however, be applicable only as expressly stated in the order or authorization, and they shall be revocable in the sole discretion of the Secretary.

(b) The Secretary shall have authority to further define all terms used herein.

§ 103.46 Enforcement.

(a) Responsibility for assuring compliance with the requirements of this part is delegated as follows:

(1) To the Comptroller of the Currency, with respect to national banks and banks in the District of Columbia;

(2) To the Board of Governors of the Federal Reserve System with respect to State bank members of the Federal Reserve System;

(3) To the Federal Home Loan Bank Board, with respect to insured building and loan associations, insured savings and loan associations, and insured institutions as defined in section 401 of the National Housing Act;

(4) To the Administrator of the National Credit Union Administration, with respect to Federal credit unions;

(5) To the Federal Deposit Insurance Corporation, with respect to all other banks except agents of foreign banks which agents are not supervised by State or Federal bank supervisory authorities;

(6) To the Securities and Exchange Commission, with respect to brokers and dealers in securities;

(7) To the Commissioner of Customs with respect to § 103.23 and 103.48;

(8) To the Commission of Internal Revenue except as otherwise specified in this section.

(b) Overall responsibility for coordinating the procedures and efforts of the agencies listed herein and assuring compliance with this part, is delegated to the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations). Periodic reports shall be made by each such agency to the Assistant Secretary, with copies to the General Counsel of the Treasury Department and to the Commissioner of Internal Revenue.

§ 103.47 Civil penalty.

(a) For any willful violation of any requirement of this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) For any failure to file a report required under § 103.23 or for filing such a report containing any material omission or misstatement, the Secretary may assess a civil penalty up to the amount of the currency or monetary instruments transported, mailed or shipped, less any amount forfeited under § 103.48.

§ 103.48 Forfeiture of currency or monetary instruments.

Any currency or other monetary instruments which are in the process of any transportation with respect to which a report is required under § 103.23 are subject to seizure and forfeiture to the United States if such report has not been filed as required in § 103.25, or contains material omissions or misstatements. The Secretary may, in his sole discretion, remit or mitigate any such forfeiture in whole or in part upon such terms and conditions as he deems reasonable.

§ 103.49 Criminal penalty.

(a) Any person who willfully violates any provision of this part may, upon conviction thereof, be fined not more than $1,000 or be imprisoned not more than 1 year, or both. Such person may in addition, if the violation is of any provision authorized by title I of Public Law 91–508 and if the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than 1 year, be fined not more than $10,000 or be imprisoned not more than 5 years, or both.

(b) Any person who willfully violates any provision of title II of Public Law 91–508, or of this part authorized thereby, where the violation is either

(1) Committed in furtherance of the commission of any other violation of Federal law, or

(2) Committed as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period, may, upon conviction thereof, be fined not more than $500,000 or be imprisoned not more than 5 years, or both.

(c) Any person who knowingly makes any false, fictitious or fraudulent statement or representation in any report required by this part may, upon conviction thereof, be fined not more than $10,000 or be imprisoned not more than 5 years, or both.

§ 103.50 Enforcement authority with respect to transportation of currency or monetary instruments.

(a) If the Secretary has reason to believe that currency or monetary instruments are in the process of transportation and with respect to which a report required under § 103.50 has not been filed or contains material omissions or misstatements, he may apply to any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) One or more designated persons.

(2) One or more designated or described places or premises.

(3) One or more designated or described letters, parcels, packages, or other physical objects.

(4) One or more designated or described vehicles. Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.

(b) This section is not in derogation of the authority of the Secretary under any other law or regulation.

Effective date. This part shall become effective July 1, 1972.

[FR Doc. 72–5171 Filed 4–4–72;8:47 am]

Mr. TUNNEY. Now I would like to read from regulation 103.45.

It reads:

The Secretary, in his sole discretion, may by written order or authorization make exceptions to, grant exemptions from, impose additional recordkeeping or reporting requirements authorized by statute, or otherwise modify, the requirements of this part. . . .

and so forth.

It means that the Secretary of the Treasury could impose upon an account holder the obligation to report to the Secretary of the Treasury every single check he writes in his checking account. That is the clear meaning of that language—not that the Secretary of the Treasury has imposed that responsibility now—but at some future point he could impose that requirement. I think that is very, very disturbing.

Mr. MATHIAS. I am disturbed, as the Senator from California is disturbed, by the implications of this requirement. Judge Pierce explained to me that they are not going the whole way with these regulations, but the fact is that they have asserted the power to go the whole way, which is the point the Senator from California makes, and which is a valid point, and a very disturbing point.

Mr. TUNNEY. The other point that ought to be brought out is that there are some people who have the attitude that a person's checking account is not his private property; that, somehow, the records relating to the checking account belong to the bank or to a governmental agency doing an audit of the bank records.

I reject that philosophy out of hand. I think the records of a bank as they relate to an individual depositor's account are the personal property of the depositor or the account holder.

Mr. MATHIAS. And should be held as such.

Mr. TUNNEY. And should be held as such.

By Mr. SCHWEIKER:

S. 3815. A bill to amend the Federal Aviation Act of 1958 in order to require the screening by weapons detecting devices of all passengers in regularly scheduled air transportation. Referred to the Committee on Commerce.

SCREENING OF PASSENGERS IN AIR TRANSPORTATION

Mr. SCHWEIKER. Mr. President, we continue to witness, on a daily or weekly basis, the crime of hijacking of passenger aircraft. The traveling public as well as the crews of the Nation's commercial aircraft continue to face the risk of being kidnapped and being injured or killed, not to mention inconvenienced. All of us continue to be amazed at the ease with which hijackers can take control of an aircraft and demand and receive large sums of money. It is curious that hijackers are still able to take control of aircraft after the rules and sanctions against air carriers ordered by the Federal Aviation Administation. The airlines obviously are sensitive to this problem and the public is very much concerned about it. Nevertheless, the rash of hijackings continue.

Mr. President, it is patently obvious that the hijacking rules established by the Federal Aviation Administration are not strong enough. In addition, there is serious question as to whether the airlines are in full compliance with the regulations promulgated by the Federal Government. The rules established by the FAA to date for the air carriers and airports have required them to establish security plans acceptable to the agency. The agency in most instances has not prescribed the specific procedures or outlines of the required plans. This stems in part from a desire on the part of the agency to permit the airlines to establish those procedures most compatible with their own operations. However, the difficulty has been that the airlines feel that much of this security is a responsibility of the Federal Government, while on the other hand, the Federal Government feels the responsibility in great measure falls upon the airlines. Thus, a stringent and effective security program as yet has not been established.

Clearly, the most critical element in any security program is the screening of passengers prior to their embarkation. At the present time not every passenger is being screened. Obviously, the various methods employed by the airlines have failed to detect far too great a number of hijackers. As a result, men have boarded aircrafts carrying the weapons for a successful hijacking. In the Philadelphia hijacking the hijackers ac-

tually carried a shotgun aboard the aircraft.

According to the Department of Transportation the Federal position in this matter "is clear and unequivocal. Hijack and extortion attempts will be resisted with all the resources and all the forces at the command of the Federal Government." The Department proudly boasts that the success rate for the hijacker has been dropping sharply over the past 3½ years—from 85 percent in March of 1969 to 37 percent thus far this year. The loss of one aircraft, one life, or the injury of one member of the public is still too much. We must insure that every person who boards an airplane can be assured that none of his fellow passengers is carrying the equipment necessary to hijack that aircraft. The way to do that, obviously, is to require all passengers to be screened by electronic screening devices capable of detecting the weapons necessary to threaten the lives of the crew and passengers.

Mr. President, the Congress has already acted in this regard. Both the House and Senate have included in the Department of Transportation fiscal 1973 appropriations bill, which includes funds for the Federal Aviation Administration, the financial resources for the purchase of weapons-detection devices for use at airports. The House appropriated $2 million for the purchase of magnetometers and the Senate increased this amount to $3.5 million for the purchase of "screening devices." The bill provides that these devices may be "transferred, conveyed or loaned to air carriers and commercial operators under such terms and conditions as the Federal Aviation Administration may deem appropriate for use by such air carriers and commercial operators in complying with Federal requirements for passenger screening systems." At the present time the Federal requirements for passenger screening systems do not require that every passenger must be screened by such a device.

Mr. President, today I introduce legislation which would mandate the Administrator of the Federal Aviation Administration to promulgate regulations requiring the airports and air carriers of this country to screen every passenger by an electronic screening device before he boards a commercial aircraft. We have the knowledge and the equipment to stop hijacking. So let us stop hijacking by requiring the airlines to use the magnetic detection devices on all of their passengers on all of their flights.

The Secretary of Transportation recently stated:

> I firmly believe that the best place to catch an airplane hijacker is on the ground before he has an opportunity to jeopardize the lives of innocent people. The equipment of our airports with these devices will help achieve that goal, and therefore I feel it is proper expenditure of public funds.

The Secretary added that through the Federal purchase of weapons detectors additional teeth will be put into the anti-hijacking program initiated by President Nixon's directive of March 9. He noted that this program already has yielded a substantial result by doubling the number of persons arrested at aircraft boarding gates. The Federal Aviation Administration has estimated that 1,500 weapons detecting devices will be needed for such a program, and the cost is estimated to be $3.5 million.

As a matter of public policy we should make it clear that the Nation's airways are secure for the travel of the American public and for the maintenance of commercial air traffic free from the death and destruction which a hijacker can cause. This bill requires the airlines to take the steps necessary to establish and maintain that security. In addition, the bill provides that the Federal Government will in turn supply the airlines the means by which they can establish this security. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 3815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348) is amended by inserting at the end thereof a new subsection as follows:

"SCREENING OF PASSENGERS IN AIR TRANSPORTATION

"(g) (1) The Administration shall, as soon as practicable, prescribe regulations requiring that all passengers in regularly scheduled air transportation, and their carry on baggage, be screened by magnetometers or other more effective weapon detecting devices before boarding the aircraft for such transportation.

"(2) The Administrator shall acquire and furnish airports with devices necessary for the purpose of paragraph (1) of this subsection.

"(3) There are authorized to be appropriated such amounts as are necessary for the purpose of paragraph (2) of this subsection."

SEC. 2. The table of contents of the Federal Aviation Act of 1958 is amended by inserting at the end of the matter relating to section 307 the following:

"(g) Screening of Passengers in Air Transportation."

By Mr. SPONG:

S. 3818. A bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes. Referred to the Committee on Commerce.

ENDANGERED SPECIES

Mr. SPONG. Mr. President, on August 4 the Commerce Subcommittee on the Environment plans to hold hearings on endangered species legislation. In order that the subcommittee may have before it a range of proposals, I introduce today a bill containing the ideas of several persons who have given serious thought to how best to protect endangered animals and plants. I do not at this time take a position on this bill. My purpose is to see that the ideas it contains are considered by the subcommittee.

The problem of preserving those species which are presently threatened with extinction—some 400 animals and an intold number of plants—is one which is of great concern to me the loss of a species is an irreparable loss to us and to all future generations. Present laws have proven to be inadequate. This year we have a chance to improve them. Time is growing short for some species, and prompt action by the Congress is necessary.

Mr. President, I ask unanimous consent that the bill be printed in full in the RECORD at this point.

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

S. 3818

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 "Endangered Species Conservation Act of 1972".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that one of the unfortunate consequences of growth and development in the United States and elsewhere has been the extermination of some species or subspecies of fish and wildlife and flora; that serious losses in other species of wild animals with educational, historical, recreational, and scientific value have occurred and are occurring; that the United States has pledged itself, pursuant to migratory bird treaties with Canada and Mexico, the migratory and endangered bird treaty with Japan, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, the International Convention for the Northwest Atlantic Fisheries, the International Convention for the High Seas Fisheries of the North Pacific Ocean, and other international agreements, to conserve and protect, where practicable, the various species of fish and wildlife and flora that are threatened with extinction; and that the conservation, protection, restoration, or propagation of such species will inure to the benefit of all citizens. The purposes of this Act are to provide a program for the conservation, protection, restoration, or propagation of species and subspecies of fish and wildlife and flora that are threatened with extinction, or are likely within the foreseeable future to become threatened with extinction.

(b) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to protect species or subspecies of fish and wildlife and flora that are threatened with extinction or are likely within the foreseeable future to become threatened with extinction, and, wherever practicable, shall utilize their authorities in furtherance of the purpose of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act,

(1) The term "Federal lands" means all lands or interests therein over which Congress has legislative authority under article IV, section 3, clause 2 of the United States Constitution, including, without limitation, lands enumerated in section 1400 of title 43, United States Code.

(2) The term "fish" means any fish or any part, products, egg, or offspring thereof, or the dead body or parts thereof.

(3) The term "import" means to bring into the territorial limits of the United States and includes, without limitation, entry into a foreign trade zone, and transshipment through any portion of the United States without customs entry.

(4) The term "person" means (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(5) The term "Secretary" means the Secretary of the Interior and the Secretary of

Commerce with respect to functions and responsibilities under this Act relating to fish and wildlife, consistent with such program responsibilities therefor as are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970, and the Secretary of Agriculture with respect to functions and responsibilities under this Act relating to flora.

(6) The term "take," means (A) with respect to fish or wildlife, to threaten, harass, hunt, capture, or kill, or attempt to threaten, harass, hunt, capture, or kill; and (B) with respect to flora, to collect, sever, remove, or otherwise damage in any manner, or to attempt to collect, sever, remove, or otherwise damage in any manner.

(7) The term "United States" includes the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "wildlife" means any wild mammal, game or nongame migratory bird, wild bird, amphibian, reptile, mollusk or crustacean, or other animal, or any part, products, egg, or offspring thereof, or the dead body or parts thereof, including migratory, nonmigratory and endangered birds for which protection is also afforded by treaty or other international agreement.

DETERMINATION OF ENDANGERED SPECIES

SEC. 4. (a) A species or subspecies of fish or wildlife or flora shall be regarded as an endangered species whenever the Secretary by regulation determines, based on the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, and, in cooperation with the Secretary of State, the country or countries in which such fish and wildlife are normally found or whose citizens harvest the same on the high seas, and with interested persons and organizations, and other interested Federal agencies, that the continued existence of such species or subspecies of fish or wildlife or flora, throughout all or a significant portion of its habitat or range, is either presently threatened with extinction or will likely within the foreseeable future become threatened with extinction, due to any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or man-made factors affecting its continued existence.

(b) The Secretary shall publish in the Federal Register not less than annually a list, by scientific and common name or names, of species or subspecies determined, pursuant to this section, to be endangered, indicating as to each species or subspecies so listed whether such species or subspecies is threatened with extinction or is likely within the foreseeable future to become threatened with extinction and, in either case, over what portion of the range of such species or subspecies this condition exists. The Secretary may, from time to time, by regulation revise any such list. The endangered species lists which are effective as of the date of enactment of this Act shall be republished to conform to the provisions of this Act: *Provided, however,* That until such republication nothing herein shall be deemed to invalidate such endangered species lists. The provisions of section 553 of title 5, United States Code, shall apply to any regulation issued under this subsection. The Secretary shall, upon the petition of an interested person under subsection 553(e) of title 5, United States Code, also conduct a review, on the record, after opportunity for agency hearing of any listed or unlisted species or subspecies of fish or wildlife proposed to be removed from or added to the list, but only if he finds and publishes his finding that such person has presented substantial evidence to warrant such a review.

LAND ACQUISITION AND AGENCY COMPLIANCE

SEC. 5. (a) The Secretary shall utilize the land acquisition and other authorities of the Migratory Bird Conservation Act, as amended, the Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as appropriate, to carry out a program in the United States of conserving, protecting, restoring, or propagating those species and subspecies of fish and wildlife that he lists as endangered species pursuant to section 2 of this Act.

(b) In addition to the land acquisition authorities otherwise available to him, the Secretary is hereby authorized to acquire by purchase, donation, or otherwise, lands or interests therein needed to carry out the purpose of this Act relating to the conservation, protection, restoration, and propagation of those species or subspecies of fish and wildlife that he lists as endangered species pursuant to section 4 of this Act.

(c) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965 as amended may be used for the purpose of acquiring lands, waters, or interests therein pursuant to this section that are needed for the purpose of conserving, protecting, restoring, or propagating those species or subspecies of fish and wildlife, that he lists as endangered species pursuant to section 4 of this Act.

(d) The Secretary shall review other programs administered by him and, to the extent practicable, utilize such programs in furtherance of the purpose of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize, wherever practicable, their authorities in furtherance of the purpose of this Act by carrying out programs for the protection of endangered species of fish or wildlife or flora and by taking such actions as may be necessary to insure that actions authorized, funded, regulated or administered by them do not jeopardize the continued existence of endangered species or result in destruction or modification of critical habitat of such species.

(f) In carrying out the provisions of this Act, the Secretary, through the Secretary of State, shall encourage foreign countries to provide protection to species or subspecies of fish or wildlife threatened with extinction, to take measures to prevent any fish or wildlife from becoming threatened with extinction, and he shall, through the Secretary of State, encourage bilateral and multilateral agreements with such countries for the conservation and propagation of fish and wildlife. The Secretary is authorized to assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote conservation of fish or wildlife, including (1) educational training of United States and foreign personnel, here or abroad, in the subjects of fish and wildlife management, research, and law enforcement; and (2) rendering professional assistance abroad in such matters. The Secretary is also authorized to conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the obligations imposed upon him by this Act.

COOPERATION WITH THE STATES

SEC. 6. (a) In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the several States. Such cooperation shall include consultation before the acquisition of any land for the purpose of conserving, protecting, restoring, or propagating any endangered species.

(b) The Secretary may enter into agreements with the States for the administration and management of any area established for the conservation, protection, restoration, or propagation of endangered species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383), as amended (16 U.S.C. 715s).

(c) The Secretary may delegate to a State the authority to regulate the taking by any person of endangered species or subspecies of resident fish and wildlife when he determines that such State maintains an adequate and active program, consistent with the policies and purposes of this Act, to manage and protect such endangered species in accordance with criteria issued by the Secretary.

(d) Any action taken by the Secretary under this section shall be subject to his periodic and continual review at no greater than annual intervals. Such review shall include the consideration of comment received from interested persons.

(e) Nothing in this Act, or any amendment made by this Act, shall be construed as superseding or limiting the power of any State to enact legislation more restrictive than the provisions of this Act for the protection and conservation of wildlife, including the regulation or prohibition of the retail sale of specimens or of products processed or manufactured from the specimens of wildlife, whether such specimens are alive or dead.

(f) The Secretary of the Interior shall promptly undertake an investigation and study regarding the functions and responsibilities which the States should have with respect to the management and protection of endangered species of fish and wildlife. The Secretary shall report the results of the investigation and study to Congress within one year after the date of the enactment of this Act, and such report may include such recommendations as the Secretary may have regarding the extent to, and manner in, which the Federal government should assist the States in establishing and implementing management and protection programs for endangered species.

PROHIBITED ACTS

SEC. (7). (a) Notwithstanding any other Act of Congress or regulation issued pursuant thereto, and except as hereinafter provided, any person who—

(A) imports into or exports from the United States, receives, or causes to be so imported, received, or exported; or

(B) takes or causes to be taken within the United States, the territorial sea of the United States, Federal lands, or upon the high seas; or

(C) ships, carries, or receives by any means in interstate commerce

any species or subspecies of fish or wildlife or flora which the Secretary has listed as an endangered species threatened with extinction pursuant to section 4 of this Act, shall be punished in accordance with the provisions of section 9 of this Act.

(b) Whenever the Secretary, pursuant to section 4 of this Act, lists a species or subspecies as an endangered species which is likely within the foreseeable future to become threatened with extinction, he shall issue such regulations as he deems necessary or advisable to provide for the conservation, protection, restoration, or propagation of such species or subspecies, including regulations subjecting to punishment in accordance with section 9 of this Act any person who—

(1) imports into or exports from the United States, receives, or causes to be so imported, received, or exported; or

(2) takes or causes to be taken within the

United States, the territorial sea of the United States, Federal lands or upon the high seas; or

(3) ships, carries, or receives by any means in interstate commerce

any such species or subspecies of fish or wildlife or flora likely within the foreseeable future to become threatened with extinction.

(c) The Secretary shall allow taking of an endangered species which is likely within the foreseeable future to become threatened only (1) when it can clearly be shown that such taking will not damage the population, or (2) in emergency cases involving human health and safety.

(d) For the purpose of facilitating enforcement of this Act, the Secretary may from time to time, by regulation, extend the protection of this section, to the extent he deems it advisable, to any species or subspecies of fish or wildlife or flora which is not listed as an endangered species, but which so closely resembles in appearance, at the point in question, a species or subspecies of fish or wildlife or flora which has been listed as endangered, that substantial difficulty is posed to enforcement personnel in attempting to differentiate between the endangered and nonendangered species or subspecies of fish or wildlife or flora, and this difficulty poses an additional threat to the endangered species or subspecies.

EXCEPTIONS

SEC. 8. (a) The Secretary may permit, under such terms and conditions as he may prescribe, the importation, taking, or the transportation in interstate commerce of any species or subspecies of fish or wildlife or flora listed as an endangered species threatened with extinction for scientific purposes, and for the propagation of such fish and wildlife in captivity for preservation purposes, but only if he finds that such importation, taking, transportation in interstate commerce, or projected use will not adversely affect the regenerative capacity of such specimen or of such species or subspecies in a significant portion of its range or habitat or otherwise affect the survival of the wild population of such species.

(b) In order to minimize undue economic hardship to any person importing, exporting, taking, or transporting in interstate commerce any species or subspecies of fish or wildlife or flora which is listed as an endangered species pursuant to section 4 of this Act under any contract entered into prior to the date of original publication of such listing in the Federal Register, the Secretary, upon such person filing an application with him and upon filing such information as the Secretary may require showing, to his satisfaction, such hardship, may permit such person to import, export, take or transport such species or subspecies in such quantities and for such periods, not to exceed one year, as he determines to be appropriate.

PENALTIES AND ENFORCEMENT

SEC. 9. (a)(1) Any person who violates any provision of this Act or any regulation or permit issued thereunder, other than a person who commits a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this paragraph, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In the case of Guam such actions may be brought in the district court of Guam; in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands, and in the case of American Samoa such actions may be brought in the District Court of the United States for the district of Hawaii and such courts shall have jurisdiction of such actions. In hearing such action, the court shall sustain the Secretary's action if such action is supported by susbtantial evidence.

(2) Whenever any property is seized pursuant to subsection (c) of this section, the Secretary shall move to dispose of the civil penalty proceedings pursuant to paragraph (1) of this subsection as expeditiously as possible. Upon the assessment and collection of a civil penalty pursuant to paragraph (1) of this subsection, any property so seized may be proceeded against in any court of competent jurisdiction and forfeited. Fish or wildlife or flora so forfeited shall be conveyed to the Secretary for disposition by him in such a manner as he deems appropriate. If, with respect to any such property so seized, no compromise forfeiture has been achieved or no action commenced to obtain the forfeiture of such fish, wildlife, flora, property, or item within thirty days following the completion of proceedings involving an assessment and collection of a civil penalty, such property shall be immediately returned to the owner or the consignee in accordance with regulations promulgated by the Secretary.

(3) Proceedings for the assessment of civil penalties pursuant to paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Any person who knowingly violates any provision of this Act, or any regulation or permit issued thereunder, shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both, and any Federal hunting or fishing licenses, permits, or stamps may be revoked or withheld for a period of up to five years. Upon conviction, (1) any fish or wildlife or flora seized shall be forfeited to the Secretary for disposal by him in such manner as he deems appropriate, and (2) any other property seized pursuant to subsection (c) of this section may, in the discretion of the court, commissioner, or magistrate, be forfeited to the United States or otherwise disposed of. If no conviction results from any such alleged violation, such property so seized in connection therewith shall be immediately returned to the owner or consignee in accordance with regulations promulgated by the Secretary, unless the Secretary, within thirty days following the final disposition of the case involving such violation, commences proceedings under subsection (a) of this section.

(c)(1) The provisions of sections 7 and 8 of this Act and any regulations or permits issued pursuant thereto, or pursuant to subsection (d) or (e) of this section, shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating or all such Secretaries. Each such Secretary may utilize, by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency,

(2) Any authorized agent of the Departments of the Interior, of Commerce, of Agriculture, or of the Treasury may, with or without a warrant, arrest any person who such agent has probable cause to believe is knowingly violating this Act, in his presence or view, or any regulation or permit issued thereunder, the penalty for which is provided under subsection (b) of this section. An agent who had made an arrest of a person in connection with any such willful violation may search such person at the time of his arrest and seize any property taken, used, or possessed in connection with any such violation.

(3) Any authorized agent of the Departments of the Interior, of Commerce, or Agriculture, or of the Treasury shall have authority to search and seize with or without a warrant, as provided by the customs laws and by the law relating to search and seizure. Any such officer or agent is authorized to execute warrants to search for and seize any property, including, for the purposes of this section, any fish, wildlife, flora, aircraft, boat, or other conveyance, weapon, business records, shipping documents, or other items which have been taken, used, or possessed in connection with the violation of any section, regulation, or permit with respect to which a civil or criminal penalty may be assessed, pursuant to subsection (a) or (b) of this section. Any property seized pursuant to this section shall be held by any agent authorized by the Secretary or the Secretary of the Treasury, or by a United States marshal, pending disposition of proceedings under subsection (a) or (b) of this section; except that either Secretary may, in lieu of holding such property, either (1) permit a bond or other satisfactory surety to be posted, or (2) place the fish or wildlife or flora in the custody of such person as he shall designate. Upon the imposition of a civil or criminal penalty, or a forfeiture, the costs to the Government of transfer, board, and handling, including the cost of investigations at a nondesignated port of entry, shall be payable to the account of the Secretary. The owner or consignee of any property so seized shall, as soon as practicable following such seizure, be notified of the fact in accordance with regulations established by the Secretary.

(d) The Secretary may request the Attorney General to bring appropriate action to prevent threatened violations of this Act, or of any regulations or orders promulgated pursuant thereto.

(e) For the purposes of facilitating enforcement of this Act and reducing the costs thereof, the Secretary, with the approval of the Secretary of the Treasury, shall, after notice and an opportunity for a public hearing, from time to time designate, by regulation, any port or ports in the United States for the importation of fish and wildlife (other than shellfish and fishery products) or flora into the United States. The importation of such fish or wildlife or flora into any port in the United States, except those so designated, shall be prohibited after the effective date of such designations; except that the Secretary, under such terms and conditions as he may prescribe, may permit importation at nondesignated ports in the interest of the health or safety of the fish or wildlife. Such regulations may provide other exceptions to such prohibition if the Secretary, in his discretion, deems it appropriate and consistent with the purposes of this subsection.

(f) The Secretary is authorized to promulgate such regulations as may be appropriate

to carry out the purposes of this Act, and the Secretaries of the Treasury and the Department in which the Coast Guard is operating are authorized to promulgate such regulations as may be appropriate to the exercise of responsibilities under subsection (c)(1) of this section.

(g)(1) Any person who engages to any extent in business as an importer of fish and wildlife must register with the Secretary of the Treasury his name and the address of each place of business at which, and all trade names under which, he conducts such business.

(2) Any person required to register with the Secretary of the Treasury under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation of fish and wildlife made by him and the subsequent disposition made by him with respect to such fish and wildlife; and

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business an opportunity to examine his inventory of imported fish and wildlife and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records.

(3) The Secretary of the Treasury shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

INTERNATIONAL AND INTERGOVERNMENTAL COOPERATION

SEC. 10. (a)(1) In carrying out the provisions of this Act, the Secretary, through the Secretary of State, shall encourage foreign countries to provide protection to species or subspecies of fish and wildlife or flora threatened with extinction, to take measures to prevent any fish or wildlife from becoming threatened with extinction, and shall cooperate with such countries in providing technical assistance in developing and carrying out programs to provide such protection, and shall, through the Secretary of State, encourage bilateral and multilateral agreements with such countries for the protection, conservation, or propagation of fish and wildlife or flora. The Secretary shall also encourage persons, taking directly or indirectly fish or wildlife or flora in foreign countries or on the high seas for importation into the United States for commercial or other purposes, to develop and carry out with such assistance as he may provide under any authority available to him, conservation practices designed to enhance such fish or wildlife or flora and their habitat or range. The Secretary of State, in consultation with the Secretary, shall take appropriate measures to encourage the development of adequate measures, including, if appropriate, international agreements, to prevent such fish or wildlife or flora from becoming threatened with extinction.

(2) To assure the worldwide conservation of endangered species and to avoid unnecessary harm to affected United States industries, the Secretary, through the Secretary of State, shall seek the convening of an international ministerial meeting on fish and wildlife prior to November 1, 1972, and included in the business of that meeting shall be the signing of a binding international convention on the conservation of endangered species.

(b) The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act and amendments made by this Act, with the administration of the animal quarantine laws (19 U.S.C. 1306; 21 U.S.C. 101–105, 111–135b, and 612–614). Nothing in this Act, or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations of animals and other articles and no proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture.

(c) Whenever the Secretary determines pursuant to this Act or any other authority vested in him, that a species of fish or wildlife is an endangered species, and publishes regulations pertaining to the protection, control, management or enhancement of such endangered species, the Secretary of Agriculture may use all authorities available to him with respect to research, investigations, conservation, development, protection, management, and enhancement of fish and wildlife, including, but not limited to, the conservation operation program, watershed protection and flood prevention programs, Rural Environmental Assistance Program, Great Plains Conservation Program, Resource Conservation and Development Program, forestry programs, and Water Bank Program, in the protection, control, management, or enhancement of such endangered species. Recognizing the national and international interest in the protection and enhancement of such endangered species, the Secretary of Agriculture is authorized, notwithstanding the provisions of any other law, to bear the full cost or any lesser amount that he, in consultation with the Secretary may determine desirable to accomplish the objectives of the Act, of the cost of installing any practice, measure, work of improvement, facility, or other developmental, protective, or management systems on private land, the primary purpose of which is for the purpose of enabling the landowner to comply with the regulations, or other recommendations, of the Secretary pertaining to the protection, control, management, or enhancement of such endangered species. The Secretary of Agriculture, in carrying out the purposes of this section, shall utilize his authorities to conduct research and investigations into vegetative and structural methods and other methods and practices, measures, works of improvement, and facilities most appropriate or effective in the protection, control, management, or enhancement of such endangered species. If determined desirable, the Secretary and the Secretary of Agriculture shall be authorized to jointly carry out research, surveys, and investigations. The Secretary is authorized to transfer to the Secretary of Agriculture such funds as may be necessary to carry out the purposes of this subsection.

(d) Nothing in this Act, or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, as amended, including, without limitation, section 527 of such Act relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

CONFORMING AMENDMENTS

SEC. 11. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928), as amended (16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered species listed by the Secretary pursuant to section 4 of the Endangered Species Conservation Act of 1972, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system."

(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224), as amended (16 U.S.C. 715i(a)), is further amended by inserting "or likely within the foreseeable future to become threatened with" between the words "with" and "extinction".

(c) Subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383), as amended (16 U.S.C. 715s(a)), is further amended by inserting "or likely within the foreseeable future to become threatened with" between the words "with" and "extinction" in the last sentence thereof.

(d) Subsection 6(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903), as amended (16 U.S.C. 4601 9(a)(1)), is further amended by inserting "or likely within the foreseeable future to become threatened with" between the words "with" and "extinction".

REPEALS

SEC. 12. (a) Sections 1 through 3 of the Act of October 15, 1966 (80 Stat. 926, 927), as amended (16 U.S.C. 668aa-668cc), are hereby repealed in their entirety.

(b) Sections 1 through 6 of the Act of December 5, 1969 (83 Stat. 275–279; 16 U.S.C. 668cc–1 through 668c–6) are hereby repealed in their entirety.

By Mr. BAYH:

S. 3819. A bill to amend the Controlled Substances Act to establish effective controls against diversion of particular controlled substances and to assist law enforcement agencies in the investigation of the diversion of controlled substances into other than legitimate medical, scientific, and industrial channels, by requiring manufacturers to incorporate inert, innocuous tracer elements in all Schedule II and III depressant and stimulant substances, and for other purposes. Referred to the Committee on the Judiciary.

DANGEROUS DRUG CONTROL ACT OF 1972

Mr. BAYH. Mr. President, the Subcommittee to Investigate Juvenile Delinquency, of which I am chairman, has been conducting an intensive investigation into the abuse of psychotropic drugs. We have been particularly concerned by the increasing abuse of amphetamines and barbiturates which many medical experts believe has reached crisis proportions. Last summer, we conducted hearings on amphetamine abuse in which we heard the tragic experiences of many young people who had been hooked on "speed" or "uppers," as these drugs are known in the street culture. We also heard from leading doctors and criminologists that amphetamines were widely abused at all levels of our society. Shortly after the conclusion of these hearings, the Bureau of Narcotics and Dangerous Drugs announced the administrative rescheduling of two amphetamine-like substances, with which we had been particularly concerned—phenmetrazine—"Preludin"—and methylphenidate—"Ritalin"—from schedule III to schedule II of the Controlled Substances Act of 1970. Under schedule II these drugs are subject to stricter production and distribution controls, including the establishment of annual production quotas. Although industry requested production quotas of more than twice the 1971 production, the amphetamine quotas established for 1972 amount to an 80 percent reduction from 1971 production levels.

The subcommittee has pursued its investigation of the abuse of psychotropic drugs with particular emphasis on the problem of barbiturate abuse. During the past 6 months, we have heard testimony

from 40 witnesses, including representatives of the medical community; experts in the dynamics and emerging patterns of drug abuse; Federal, State, and local law enforcement officials; representatives of major barbiturate manufacturers and wholesalers; as well as individuals who have experienced the horrors of barbiturate dependency and addiction.

The investigation and hearings conducted by the subcommittee have revealed barbiturate abuse to be both a significant public health problem and an ever increasing concern of law enforcement agencies. Barbiturate dependency and addiction have been described as more dangerous than amphetamine dependency and more widespread and physically destructive than heroin addiction. Barbiturate abuse is not a phenomenon restricted to the street culture of multiple drug abusers. It reaches into many areas of American life, affecting such diverse groups as grammar school, high school and college students, industrial workers, middle-class party goers and residents of our ghettos and barrios.

Barbiturates are the best known of the drugs which are used medically to relax the central nervous system. On the street these sedatives are known as "downers" or "goofballs." They are also known as reds, red devils, yellow jackets, blue angels, rainbows, and Christmas trees. All are synthetically derived from barbituric acid. They vary, however, in the onset and duration of their action.

Barbiturates are highly dangerous when taken without proper medical supervision. Increasing use of these pills quickly produces tolerance. Once tolerance is achieved, the user experiences a euphoric effect from taking "downers." Rather than feeling merely drowsy and sluggish, he actually feels high and completely insulated from reality. A regular abuser will suffer severe withdrawal symptoms when the drug is suddenly terminated. Severe withdrawal may be brought on even by a moderate reduction of the accustomed dose. After 12 hours off the drug, the abuser experiences nervousness, headache, tremors, insomnia, fever, and nausea. After 3 days, he may go into convulsions and delirium. Visual hallucinations, usually of a persecutory nature, are common. Barbiturate withdrawal is a serious medical emergency and requires hospitalization. It is more dangerous than heroin withdrawal and can be deadly. Indeed, certain kinds of barbiturate addiction are regarded by many medical authorities as more difficult to cure than narcotic addiction.

Barbiturates are used by millions of Americans in every stratum of society. Unfortunately, in many homes some degree of psychotropic drug abuse is common, and usually unrecognized. Most Americans simply do not realize the terrible consequences of abusing these drugs. Barbiturates and amphetamines are not viewed with the alarm that we view heroin and morphine, although we know that when used improperly, the effects of these drugs may be even more devastating. Children grow up watching their parents take these pills, and they develop an acceptance of drug taking. Thus, casual attitudes toward these potentially destructive drugs, coupled with a readily available supply in the family medicine cabinet, appear intimately connected with the current trend in youthful barbiturate abuse.

Last December, the subcommittee conducted hearings on the nature and extent of barbiturate abuse. We heard representatives of the medical community describe the enormous abuse potential of these drugs. Dr. Sidney Cohen, former Director, Division of Narcotic Addiction and Drug Abuse, National Institute of Mental Health, characterized 1972 as "the year of the downer." We heard young people who had experienced the horrors of barbiturate dependency relate how easy it is to obtain these dangerous drugs. In fact, many of the young witnesses had started down the terrible road to barbiturate addiction with pills taken from the family medicine cabinet. We learned from criminologists and sociologists the dynamics of abuse and emerging nationwide patterns of barbiturate dependency and addiction.

The subcommittee hearings on May 2, 3, and 17 focused on the problem of illicit barbiturate traffic. We heard testimony from a New York reporter who obtained barbiturates with prescription blanks he had printed at a nominal cost, bearing the name of "Dr. D. M. Sugob" which, spelled backwards, reads "Bogus, M. D." These prescriptions showed no BNDD number as required by law. The senior officer of the Norfolk, Va., Narcotics Squad told the subcommittee that his city is experiencing a steady increase in the illegal use and distribution of barbiturates. In fact, he predicted no less than a 100-percent increase in arrests for possession and distribution of barbiturates during the coming year.

Mr. Joseph P. Busch, district attorney of Los Angeles County, told the subcommittee that—

> Barbiturates have always played a major role in the illegal drug traffic in Los Angeles and in recent years they have become the growth drug.

He cited a recent survey of Los Angeles city schools showing barbiturates to be the No. 1 school drug problem. Mr. Busch described some of the typical barbiturate cases encountered by juvenile officers in Los Angeles County:

> An eight year-old child. Dropped a red every day after school. His parents eventually brought him to police. He said he enjoyed the feeling that the pills gave him.
>
> A sixteen year-old juvenile. Habit of eight or nine capsules a day. Booked under the influence. Began to convulse. Taken to General Hospital. Released the next day. Picked up the same night, overdosed on street. Not arrested. Taken to Daniel Freeman Hospital. Released.
>
> Picked up on the next day under the influence in a public park. Booked again.
>
> A rourteen year-old juvenile. Selling hash and pills in jars of 1,000. Using pills. Convulsed in juvenile hall going through withdrawal.
>
> A seventeen year-old juvenile. 30 cap a day habit. He was taking eight caps a day before bed. Underwent medical withdrawal.

Mr. Bryan Finkle, forensic toxicologist, department of district attorney, County of Santa Clara, San Jose, Calif., reported that his county was experiencing a secobarbital epidemic. He presented alarming data indicating that during the year July 1, 1969 to June 30, 1970, 45 percent of the 2,295 drug cases analyzed, or 75 percent of the 1,377 cases yielding positive results, involving the drug secobarbital; that 80 percent of these individuals were less than 26 years old; that 50 percent of the individuals involved in vehicle code offenses over a 2-year period resulting in accidents involved the drug secobarbital; and that the average blood concentration of secobarbital of those involved in these accidents was three times the maximum concentration found in persons taking secobarbital therapeutically under medical supervision.

A special assistant attorney general from New Mexico testified that every few weeks, 40,000 illegal barbiturates arrive in Santa Fe, a city with a population of 40,000. These dangerous drugs are sold on the streets, in school corridors, and even on playgrounds adjoining elementary schools. We learned that Santa Fe is averaging close to one barbiturate death every 3 days. The youngest fatality, a 30-day-old infant, born a secobarbital addict, failed to survive the violent convulsive consequences of its tragic entry into the world.

Many witnesses, including former barbiturate addicts and law enforcement officials, have told the subcommittee that barbiturates are obtained illicitly from friends, street dealers, physicians, pharmacies, or by pilfering abundantly supplied family medicine cabinets. Others have suggested that a significant percentage of the persons abusing barbiturates obtain them originally through legitimate channels and then resort to self-medication, nonmedical use, or illicit traffic. One youngster, age 16, remarked that it is less of a "hassle" to obtain "downers" than it is to purchase cigarettes.

I have learned how readily available and inexpensive these drugs are from personal experience. Several months ago I visited a number of barbiturate treatment programs in California. During the course of a "rap session" with several barbiturate addicts, one young counselor at the Haight-Ashbury Free Clinic in San Francisco, himself a former barbiturate addict, slipped out of the session unnoticed. In a matter of minutes he returned with the fruits of several minutes efforts: A handful of legitimately produced "yellow jackets," purchased for 25 cents a capsule from a local street dealer.

Although the specific numerical estimates differ, there is a consensus among those testifying to date, except for representatives of the drug industry, that a significant proportion of legitimately produced barbiturates find their way into the illicit market. Mr. John Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs, recently told the subcommittee that "unlike the case of all other major drugs of abuse, it appears that barbiturates are supplied exclusively from what begins as legitimate production."

In order to bring a clearer focus on the issues of barbiturate abuse and illicit barbiturate traffic, I recently introduced

two pieces of legislation relating to the production, distribution, and control of barbiturates. S. 3539 would provide for the rescheduling of several commonly abused shorter acting barbiturates from schedule III to schedule II of the Controlled Substances Act. This change would subject these particular barbiturates to stricter production and distribution controls. S. 3538 would require all manufacturers of solid oral form schedule II barbiturates to place identifying marks or symbols on their products. This bill would facilitate law enforcement efforts to determine the sources of diverted barbiturates. I appreciate the support of my 26 colleagues who have cosponsored these two measures.

Today, I am introducing the "Dangerous Drug Control Act of 1972" which will further assist law enforcement agencies in their investigations of the diversion of controlled substances. This measure also provides for the Attorney General to conduct a comprehensive study and analysis of the diversion of controlled substances.

My bill will require manufacturers to incorporate an inert tracer ingredient in all schedule II and schedule III stimulants and depressants, including the widely abused amphetamines and barbiturates. The presence of these tracers will assist law enforcement agencies in the identification of diverted controlled substances, whether seized in bulk form or in the form of illicitly manufactured or illicitly capsulized pills.

Such a tracer system has been recommended by numerous witnesses who have appeared before the subcommittee. Mr. Joseph P. Busch, district attorney of Los Angeles County, recommended that tracer materials be placed in all domestically produced barbiturate substances. Mr. Busch illustrated the usefulness of tracers in a recent heroin investigation, in which his office placed a tracer in chemicals being shipped to a Mexican laboratory believed to be producing heroin. When the tracer appeared in heroin sold in California, Mr. Busch was able to verify the origin of the heroin.

Tracers in stimulant and depressant substances would provide similar assistance in source identification. Considerable evidence supports the hypothesis that legitimately produced domestic drugs, in bulk and dosage unit form, are shipped to Mexico and eventually imported to illicit markets in this country. The Bureau of Narcotics and Dangerous Drugs and the Customs Bureau have seized 7,600,000 unmarked red secobarbital units in the past 24 months. In one case, an individual was arrested in possession of 2 million unmarked red secobarbital units and large quantities of amphetamines. The presence of a tracer would assist law enforcement officers in identifying the source of these drugs, even if the substances have been repackaged or recapsulized for illegal trade. Tracers would in no way impair the quality or the therapeutic value of these drugs.

Although "California reds"—also known as "'Mexican reds"—have been found in Denver, New Orleans, and New York City, it is important to emphasize that this is a special situation superimposed on a broader barbiturate abuse pattern affecting the entire Nation. The barbiturates seized in nearly all communities are legitimately produced domestic barbiturates in dosage unit form.

My bill authorizes the Attorney General to require the incorporation of tracer ingredients in other controlled substances as may be necessary to control the diversion and abuse of these substances.

My bill requires the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and others knowledgeable in the manufacture, distribution, and monitoring of controlled substances, to determine appropriate methods for incorporating tracer ingredients in depressants and stimulants. The Attorney General is required to conduct research and educational programs to implement the tracer program; to develop rapid field and laboratory identification techniques; to train local, State, and Federal law enforcement personnel regarding the identification of tracer elements and investigation of diversion; and to establish standards to evaluate diversion and tracer control of other controlled substances.

There is an urgent need for a comprehensive information system for use in detecting and preventing drug diversion and in measuring the impact of enforcement and regulatory efforts. The Comptroller General in the April 17, 1972 report of the General Accounting Office entitled "Efforts to Prevent Dangerous Drugs from Illicitly Reaching The Public", made the following conclusions relative to reporting and identification of seized drugs by law enforcement agencies:

DRUGS SEIZED BY STATE AND LOCAL ENFORCEMENT GROUPS NOT EXAMINED

BNDD, the Bureau of Customs, and State and local enforcement agencies seize large quantities of drugs. BNDD strives to identify the manufacturer of drugs seized by its agents and the Bureau of Customs, since the manufacturers' identity can be valuable in BNDD's investigation to determine the source and significance of the diversion. We found however that, although it had made some efforts to identify manufacturers of drugs seized by State and local enforcement agencies, BNDD had no formal procedures for obtaining such information and that informal requests for samples of seized drugs had produced few results.

Manufacturers of legally produced amphetamines and barbiturates can be identified by marking, such as trade names and trademarks, or by pillistics. Pillistics, a procedure similar to ballistics, identifies pills with the machines which produced them. BNDD has obtained samples (authentics) of pills from manufacturers which have been identified to specific machines. When the origin of seized pills is unknown, the pills can be compared with the authentics in an attempt to identify the manufacturers that produced them.

BNDD officials expressed the view that more complete information on the origin of drugs seized by State and local groups would be a valuable aid in their investigation. The value of this information is illustrated in a case involving amphetamine pills seized in California. Through its examination BNDD identified pills smuggled in from Mexico as being manufactured by a drug firm in the Midwest. Subsequent investigations at this firm revealed that large quantities of amphetamines were en route to a fictitious address in Mexico. This shipment was seized.

In our visit to 13 State and local enforcement groups in California, New Jersey, and New York, we learned that a number of large seizures had been made in the past year but that little attempt had been made to determine the origin of the drugs. Most officials were not aware of BNDD's efforts to identify manufacturers but were willing to cooperate with BNDD in establishing such a system.

In one large metropolitan police department, we found that over 1,358,000 pills were seized during 1970. Three of the seizures consisted of about 270,000, 95,000, and 68,000 pills and accounted for over 30 percent of the total seized. No attempt has been made by the police department to determine the origin of these drugs nor had BNDD obtained samples for this purpose.

In other enforcement agencies, we found also that no attempt had been made to determine the origin of many drug seizures ranging from 5,000 to over 100,000 pills. In addition, we found that none of the enforcement agencies had uniform procedures for recording statistics on drug seizures and in several cases, no data was maintained.

We believe that BNDD should establish a procedure to obtain information on drugs seized by State and local enforcement groups. BNDD also should obtain samples of large drug seizures for its examination when the origin of the drugs is unknown. In addition, a uniform reporting format should be suggested to State and local enforcement groups so that data could be gathered systematically and uniformly and could be reported to BNDD.

The GAO report concludes that—

Much more needs to be done by the Bureau of Narcotics and Dangerous Drugs, the States, local agencies, and the industry to reduce the diversion of legitimately manufactured drugs into illicit channels where they become easily available to young people and adults.

My bill provides for the systematic collection of data relevant to drug diversion and requires a thorough assessment of law enforcement efforts in this area. It requires the Attorney General to obtain comprehensive data from State and local agencies; to assess law enforcement efforts to control diversion; and to insure that State and local information systems are compatible with the Attorney General's diversion program.

Manufacturers, wholesalers and retailers registered under the Controlled Substances Act of 1970 have expressed concern that reports they have made to BNDD regarding possible diversion have not been systematically investigated and that when investigations are conducted they are infrequently informed of the outcome. My bill requires the Attorney General to establish uniform procedures to monitor and investigate all reports of dangerous drug purchases and orders of an unusual or suspicious nature and to systematically inform the reporting parties regarding the results of BNDD investigations.

To date there has been no systematic gathering of available data on the nature and extent of diversion. My bill requires the Attorney General to obtain from State and local law enforcement agencies all available information, including reports of thefts, seizures, and arrests involving controlled substances.

The military services purchase substantial amounts of dangerous drugs

each year. The Defense Personnel Support Center in Philadelphia, Pa., purchased about 131 million pills and capsules of dangerous drugs during fiscal years 1970 and 1971. The possibility of diversion within the military supply system is considerable. Many witnesses testifying before the subcommittee have indicated that military bases, depots, and hospitals are common points of diversion for amphetamines, barbitarurates, and other dangerous drugs. The GAO report found that procedures for the military services to provide information to BNDD on thefts and other shortages of dangerous drugs are not adequate.

My bill requires the Attorney General to obtain information on thefts and shortages within the military supply system and to establish procedures for regular meetings with appropriate military officials on mutual problems concerning the diversion of controlled substances.

To assure that information regarding the diversion of controlled substances receives appropriate attention, my bill provides that the Attorney General shall submit a comprehensive annual report to the Congress on the diversion of controlled substances. The report will include an assessment of the nature and extent of diversion; an appraisal of the effectiveness of law enforcement efforts to curb diversion; and an evaluation of the tracer system provided in my bill in the investigation and prevention of diversion.

The Controlled Substances Act of 1970 requires that persons manufacturing, distributing, and dispensing controlled substances register with the Attorney General. In determining whether to register an applicant, the Attorney General is required to determine whether a registrant has failed to maintain effective controls against the diversion of any controlled substance, and whether he has failed to provide a standard of control consistent with public health and safety. Yet, under the 1970 act, the Attorney General is not authorized to revoke or suspend the registration of persons who abandon controlled substances.

My bill authorizes the Attorney General to revoke or suspend the registration of manufacturers, wholesalers, retailers, and others who abandon controlled substances, such as amphetamines and barbiturates, or who fail to provide controls consistent with public health and safety. Criminal penalties are provided for registrants who abandon controlled substances. Thus, the Attorney General can insure not only that prospective registrants meet standards necessary to curb the diversion of controlled substances into illicit channels, but also that those currently registered to manufacture, distribute, or dispense controlled substances continue to meet these same standards.

The abuse and diversion of legitimately produced dangerous drugs into channels other than legitimate medical, scientific, and industrial channels should be a primary concern for all citizens. The subcommittee, the Congress, and the public at large are all too familiar with the horrors of drug dependency and addiction and their attendant destructiveness and tragedy. While the current focus of concern today is on heroin addiction, it would be folly to overlook the present and prospective role of legitimately produced dangerous drugs.

My bills S. 3539, S. 3538, and the Dangerous Drug Control Act of 1972 which I am introducing today, provide the assistance necessary to aid the law enforcement agencies of this country in their efforts to deal more effectively with the diversion of controlled dangerous drugs.

We have learned from the experience of major urban areas, especially those on the west coast, that barbiturate abuse and addiction is a natural outgrowth of the abuse of psychedelic drugs and amphetamines and that many heroin addicts and methadone users are abusing or are addicted to barbiturates. Patterns of abuse experienced in California are emerging in cities and towns throughout our country. This "ripple effect" should clearly alert us to the need to control and monitor more adequately the production and distribution of dangerous drugs. I urge my colleagues to support the Dangerous Drug Control Act of 1972.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill, together with the bill itself, be printed at this point in my remarks.

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

S. 3819

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 "Dangerous Drug Control Act of 1972."

SEC. 2. Section 305 of the Controlled Substances Act (Public Law 91-513, 84 Stat. 1250) is amended by adding at the end thereof the following new paragraph:

"(e) (1) It shall be unlawful to manufacture or distribute Schedule II or Schedule III depressant and stimulant controlled substances, including immediate precursors, unless such substances contain an inert, innocuous tracer ingredient identifying the manufacturer or manufacturers, as required by regulation of the Attorney General. (2) The Attorney General is authorized to require the incorporation of tracer ingredients in any controlled substance as necessary to maintain effective control against diversion into other than legitimate medical, scientific, and industrial channels."

SEC. 3. Section 502 of the Controlled Substances Act is amended by redesignating paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), respectively, and by adding after (a) the following new paragraph:

"(b) The Attorney General, after consultation with the Secretary of Health, Education, and Welfare and with national organizations representative of persons with knowledge and experience in the manufacture, distribution and monitoring of controlled substances, shall determine appropriate methods for incorporating tracer ingredients in Schedule II and III depressant and stimulant substances in a manner that will facilitate the investigation of the illegal diversion of these substances. To carry out the purposes of section 305(e) and of this section the Attorney General shall conduct research and educational programs. Such programs shall include—

"(1) studies or special research projects designed to develop and implement a network of tracer elements to be incorporated in Schedule II and III depressant and stimulant substances so as to facilitate law enforcement efforts to identify the channels of illegal diversion of these substances.

"(2) studies or special research projects to develop rapid field and laboratory methods for identification of the tracer elements and manufacturers of Schedule II and III depressant and stimulant substances.

"(3) training programs for local, State, and Federal law enforcement personnel on the identification of tracer elements and the investigation of diversion of Schedule II and III depressant and stimulant substances.

designed to establish standards to evaluate diversion of controlled substances other than depressants and stimulants in schedule II or schedule III and the necessity for incorporating tracer ingredients in such substances pursuant to section 305(e)(2)."

SEC. 4. (a) Part E of the Controlled Substances Act is amended by adding immediately after section 503 thereof the following new sections:

"INFORMATION ON DIVERSION OF DEPRESSANTS AND STIMULANTS

"SEC. 504. In order to meet the need for comprehensive information required to measure the extent of controlled substance diversion and the impact of efforts to curb such diversion the Attorney General shall—

"(1) Establish regulations to obtain from State and local law enforcement agencies information necessary to evaluate the diversion of controlled substances; to assess law enforcement efforts to control such diversion; and to insure that new State and local information systems are consistent with the Attorney General's diversion control efforts.

"(2) Establish a uniform information system for each region that will provide control over all reports of dangerous drug purchases and orders of an unusual or suspicious nature received from registrants and over the disposition of such reports.

"(3) Direct regional offices to obtain from State and local law enforcement agencies available information on the diversion of controlled substances, including reports of thefts, seizures, and arrests involving such substances.

"(4) Obtain information on thefts and shortages of controlled substances within the military supply system and establish a procedure for meeting with appropriate military officials on a regular basis to exchange information on mutual problems concerning the diversion of controlled substances.

"REPORT TO CONGRESS

"SEC. 505. Within one year after the effective date of section 305(e), and annually thereafter, the Attorney General shall submit to the Congress a comprehensive report on the diversion of controlled substances including, but not limited to, the following:

"(1) The nature and extent of controlled substances diversion;

"(2) The effectiveness of law enforcement efforts to curb diversion;

"(3) The operation of the tracer system provided for in this Act, and its effectiveness in the investigation and prevention of diversion of controlled substances into illegal channels.

(b) Sections 504 through 516 of Part E of such Act are hereby redesignated as sections 506 through 518, respectively."

SEC. 5. (a) Section 102 of the Controlled Substances Act is amended by adding immediately after clause (1) thereof the following new clause:

"(12) The term 'abandon' means to relinquish voluntarily possession or control of a controlled substance without vesting possession or control in another person authorized under this Act to have such possession or control."

(b) Clauses (12) through (26) of section 102 of such Act are hereby redesignated as clauses (13) through (27) respectively.

(c) Section 304(a) of the Controlled Substances Act is amended (1) by striking out "or" after the semicolon in clause (2); (2) by striking out the period at the end of

clause (3) and inserting in lieu thereof a semicolon and the word "or"; and (3) by adding after clause (3) the following new clauses:

"(4) has abandoned or otherwise failed to maintain effective controls against the diversion of any controlled substance into other than legitimate medical, scientific, research, or industrial channels; or

"(5) has failed to provide a standard of control consistent with the public health or safety."

(d) That part of section 401(b) of the Controlled Substances Act which precedes paragraph (1)(A) thereof is amended by inserting immediately before the word "shall", a comma and the following: "or any person subject to the requirements of part C who violates subsection (d) of this section,".

(e) Section 401 is amended by adding at the end thereof the following:

"(d) It shall be unlawful for any person who is subject to the requirements of part C of this title to abandon a controlled substance.".

SEC. 6. (a) Except as otherwise provided in this section, all sections in this Act including this section shall become effective upon enactment.

(b) Section 305(e) shall become effective on the first day of the twelfth calendar month that begins after the day immediately preceding the date of enactment.

SEC. 7. There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the next five years, such sums as may be necessary for carrying out this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section contains a short title to reflect the amending of the Controlled Substances Act of 1970.

SECTION 2

This section amends section 305 of the Act making it unlawful to manufacture or distribute Schedule II or Schedule III depressant and stimulant substances unless they contain tracer ingredients. It also authorizes the Attorney General to require tracers in other substances as may be necessary.

SECTION 3

This section amends sections 502 of the Act by requiring the Attorney General, after consultation with the Secretary of Health, Education and Welfare and others knowledgeable in the manufacture, distribution and monitoring of controlled substances, to determine appropriate methods for incorporating tracers in depressants and stimulant controlled substances. This amendment of section 502 requires the Attorney General to conduct programs to implement the tracer program; to develop rapid field and laboratory tracer identification techniques; to train local, State and Federal law enforcement personnel regarding the identification of tracer elements and investiagtion of diversion; and to establish standards to evaluate diversion and tracer control of other controlled substances.

SECTION 4(A)

This subsection amends Part E of the Act by adding two new sections. The new section 504 requires the Attorney General to establish regulations to obtain comprehensive information from State and local law enforcement agencies in order to assess the nature and extent of diversion and the impact of efforts to curb diversion; to establish a uniform system for investigating and reporting the disposition of investigations regarding dangerous drug purchases and orders of an unusual or suspicious nature reported by registrants under the Act; to obtain from State and local law enforcement agencies all currently available information on the diversion of controlled substances, including reports of thefts, seizures and arrests involving such substances; and to obtain information on thefts and shortages of controlled substances within the military supply system and establish regular meetings with the military services regarding diversion of such substances.

The new section 505 requires the Attorney General to submit an annual report to the Congress on the nature and extent of controlled substances diversion; the effectiveness of law enforcement efforts to curb diversion of controlled substances; and the effectiveness of the tracer system.

SECTION 4(B)

This subsection redesignates sections 504 through 516 of the Act.

SECTION 5(A)

This subsection defines "abandon" as a voluntary relinquishment of possession or control of a controlled substance without vesting possession or control in another authorized person.

SECTION 5(B)

This subsection redesignates clauses 12 through 26 of section 102 of the Act.

SECTION 5(C)

This subsection amends section 304(a) of the Act by providing that abandonment or failure to maintain effective controls against diversion or failure to provide a standard of control consistent with the public health or safety are grounds for suspension or revocation of the registration required to manufacture, distribute or dispense controlled substances under the Act.

SECTION 5(D)

This subsection amends section 401(b) of the Act by providing criminal penalties for registrants who abandon controlled substances.

SECTION 6(A)

This subsection provides that all sections except section 305(e) shall become effective upon enactment.

SECTION 6(B)

This subsection provides that section 305(e) of this Act, requiring the incorporation of tracer ingredients in certain controlled substances, shall become effective one year after the date of enactment.

SECTION 7

This section authorizes such sums as may be necessary to carry out the purposes of this Act for fiscal year 1973 and for each of the following five fiscal years.

By Mr. McGOVERN:

S. 3820. A bill to provide for payment of costs of pending litigation out of funds appropriated to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332–A. Referred to the Committee on Interior and Insular Affairs.

Mr. McGOVERN. Mr. President, the Yankton Sioux Tribe of South Dakota is one of the smaller, poorer tribes of the United States. Pursuant to the Indian Claims Commission Act, the tribe filed claims against the United States—a land claim for lands once owned by the tribe in Iowa, generally described as the Royce 151 claim, a claim for lands ceded by an 1858 treaty, generally described as the Royce 410 and Sioux Fort Laramie claims, and a suit for an accounting of funds and properties of the tribe by the United States. The Royce 151 claim was litigated as docket No. 332–A in the Indian Claims Commission. It resulted in a judgment for the Yankton Sioux Tribe in the amount of $1,250,000. Funds to satisfy the judgment were appropriated by the Congress by the act of July 22, 1969 (83 Stat. 49). Those funds, less attorney fees, expenses, and planning funds have been invested but are not available for use by the tribe until Congress approves their distribution.

Funds were borrowed by the Yankton Sioux Tribe from the "Expert Assistance Loan Fund" established by the act of November 4, 1963 (77 Stat. 301) with which to retain expert anthropologists to aid them in establishing their claim to aboriginal title of the Royce 410 area and to recognized title along with the Teton Sioux in the Sioux Fort Laramie lands. Those funds were repaid to the loan fund out of the award in docket No. 332–A.

In the land case still pending, which is Indian Claims Commission docket numbered 332–C, the Yankton Tribe alleged that it was paid an unconscionably low compensation for the lands which they gave up pursuant to treaty in 1858, ratified in 1859. To prove this, the tribe must establish the market value of those lands as of 1859 and further prove that the consideration which the Government actually paid for the lands was considerably less than the true value of the lands at that time. The experts will also have to study whether the consideration moneys appropriated by Congress actually were used for the benefit of the Yankton Tribe. The area involved covers at least 72 million acres, most of it in the Sioux-Fort Laramie area. Although the Commission determined that the Yankton Tribe owned only a 17-percent interest in the vast Sioux-Fort Laramie area, the entire tract must be appraised in order to determine the worth of a 17-percent interest therein.

This proof requires the assistance of expert appraisers experienced in the field of historical appraisal, a mineral appraiser to determine the value as of 1859 of then-known minerals in the area, and historians to receive the times. In the accounting phase of the case which is Indian Claims Commission docket No. 332–B, the tribe will need the aid of historians, anthropologists and accountants. When the claims have been determined, the tribe will need the aid of historians and accountants to defend against the Government's claim of offsets.

The valuation phase of the Yankton land claim has been set for hearing in November of this year and the Yankton Tribe's attorneys are making every effort to be prepared for trial on that date. As early as March 3, 1971, the General Council of the Yankton Tribe passed a resolution earmarking $150,000 of the funds due the tribe from their docket No. 332–A award to cover these necessary litigation expenses. No attorney fees will be paid from this litigation fund. The attorneys work on a contingent fee basis and will be paid if the pending claims are successfully concluded. The attorneys had earlier advised the tribe to file an application for additional funds from the expert witness loan fund. The application was granted—subject to availability of funds. To date, no additional funds are available for the Yankton Tribe's use. Appraisers, historians, and accountants undertook to do the work

expecting funds to be available long before today either from the loan fund or from the tribe's own funds to pay their fees and expenses. The loan fund is exhausted and the tribe's funds are held up here in Congress because of a disagreement over how much of the funds may be distributed per capita.

The bill introduced today would release the $150,000 of Yankton funds, or as much as shall be necessary to pay fees and expenses of expert witnesses to avoid further delay in the litigation of claims before the Indian Claims Commission. Use of the balance of the award arising from docket 332–A can then be determined at a later time.

There is no disagreement concerning the establishment of this litigation fund to finance the tribe's remaining claims. If these funds are not made available for use in the litigation now, the November 16, 1972, trial date for docket No. 332–C—which is the Yankton's largest claim—will have to be postponed. No interest is generally paid to the tribe on judgment awards for lands taken where unconscionable consideration was paid. Therefore, if the Yankton Tribe is deprived of the use of its money at this time to prosecute its pending claims, there will be several hundreds of thousands of dollars lost to the tribe solely because of the delay in obtaining its judgment

In addition, the necessary experts have been retained and have commenced their work with the trial date of November 16, 1972, scheduled in their workload. If the litigation fund from docket No. 332–A is not made available, these experts will be forced to discontinue their work. Resumption of activity by these experts at a later date will only result in more required work, more compensation to be paid by the tribe and a rescheduling of a trial date in the future which must be mutually acceptable to the Indian Claims Commission and the experts—for both the tribe and the Government.

Therefore, denial of the use of this litigation fund at this time will result in delayed justice to the Yankton Tribe for claims now over 100 years old and, more important, definite loss of substantial moneys to the tribe.

Mr. President, I ask unanimous consent that the full text of he bill I am now introducing be printed at this point in the RECORD.

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

S. 3820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Yankton Sioux Tribal Business and Claims Committee is hereby authorized and directed, pursuant to a resolution adopted by the Yankton Genera. Indian Tribal Council at a meeting held March 3, 1971, to use not to exceed $150,000 of the tribal funds appropriated by the Act of July 22, 1969 (83 Stat. 49), and standing to the credit of the Yankton Sioux Tribe of Indians in the State of South Dakota arising from the judgment award on docket numbered 332–A, known as the Royce 151 claim and that this fund or so much thereof as may be needed shall be used to pay the expenses and compensation of the competent experts whose services are necessary in the completion of their litigation in the Indian Claims Commission, dockets numbered 332–B and 332–C.

By Mr. MILLER (for himself and Mr. HUGHES):

S. 3822. A bill authorizing the City of Clinton Bridge Commission to convey its bridge structures and other assets to the State of Iowa and to provide for the completion of a partially constructed bridge across the Mississippi River at or near Clinton, Iowa, by the State Highway Commission of the State of Iowa. Referred to the Committee on Public Works.

Mr. MILLER. Mr. President, I introduce, for myself and my colleague from Iowa, a bill to authorize the city of Clinton Bridge Commission to convey its bridge structures and other assets to the State of Iowa and to provide for the completion of a partially constructed bridge across the Mississippi River at Clinton, Iowa, by the Iowa State Highway Commission.

The Clinton Bridge Commission was originally created under Federal law in 1944 to construct and operate bridges across the Mississippi River at Clinton, Iowa. The commission presently owns and operates two bridges, and in recent years has undertaken the construction of another bridge to replace one of the existing bridges which is inadequate. As a result of a limitation in the enabling legislation on allowable interest that could be charged on bonds to finance construction of bridges, and because of an unfavorable ruling on the tax exempt status of any bonds, the commission has been unable to raise funds to complete the new bridge.

Recently the Iowa State Highway Commission and the bridge commission agreed that construction of the bridge could best be completed by turning over the project to the highway commission. In order to facilitate this transfer and to insure the tax exempt status of the bonds, the highway commission has requested that Federal legislation be passed. Therefore, I am introducing this bill to authorize the transfer of the current bridges and assets of the Clinton Bridge Commission to the highway commission and to authorize the latter to complete construction of the new bridge. It is my understanding that the Iowa and Illinois Highway Commissions, and the Clinton Bridge Commission are all in favor of this legislation.

It is hoped that the Public Works Committee will act expeditiously on this matter and, if necessary to facilitate passage, will add the provisions of the bill to the Highway Act of 1972 or other legislation which will be acted upon this year.

A similar bill has been introduced in the House.

I ask unanimous consent that a copy of the bill and a background memorandum prepared by the attorneys for the Iowa State Highway Commission be printed in the RECORD at this point.

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

S. 3822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to facilitate interstate commerce by expediting the completion of interstate bridge facilities across the Mississippi River in the vicinity of the City of Clinton, Iowa, the City of Clinton Bridge Commission (hereafter referred to as the "Commission"), created and operating under the Act approved December 21, 1944, as revived, amended and re-enacted, is hereby authorized to sell, convey and transfer to the State of Iowa all of its real and personal property, books, records, money and other assets, including all existing bridges for vehicular traffic crossing the Mississippi River at or near the City of Clinton, Iowa, and the substructure constituting the partially constructed new bridge which has been designed to replace the older of the two existing vehicular bridges, together with all easements, approaches and approach highways appurtenant to said bridge structures, and to enter into such agreements with the State Highway Commission of the State of Iowa (hereafter referred to as the "Highway Commission"), and The Department of Transportation of the State of Illinois as may be necessary to accomplish the foregoing: *Provided, however,* That at or before the time of delivery of the deeds and other instruments of conveyance, all outstanding indebtedness or other liabilities of said Commission must either have been paid in full as to both principal and interest or sufficient funds must have been set aside in a special fund pledged to retire said outstanding indebtedness or other liabilities and interest thereon at or prior to maturity, together with any premium which may be required to be paid in the event of payment of the indebtedness prior to maturity. The cost to the Highway Commission of acquiring the existing bridge structures by the State of Iowa shall include all engineering, legal, financing, architectural, traffic surveying and other expenses as may be necessary to accomplish the conveyance and transfer of the properties, together with such amount as may be necessary to provide for the payment of the outstanding indebtedness or other liabilities of the Commission as hereinbefore referred to, and permit the dissolution of the Commission as hereinafter provided, less the amount of cash on hand which is turned over to the Highway Commission by the Commission.

SEC. 2. The Highway Commission is hereby authorized to accept the conveyance and transfer of the above mentioned bridge structures, property and assets of the City of Clinton Bridge Commission on behalf of the State of Iowa, to complete the construction of the new replacement bridge, to repair, reconstruct, maintain and operate as toll bridges the existing bridges so acquired until the new replacement bridge has been completed, to dismantle the older of the two existing bridges upon completion of the new replacement bridge, and to thereafter repair, reconstruct, maintain and operate the two remaining bridges as toll bridges. There is hereby conferred upon the Highway Commission the right and power to enter upon such lands and to acquire, condemn, occupy, possess, and use such privately owned real estate and other property in the State of Iowa and the State of Illinois as may be needed for the location, construction, reconstruction or completion of any such bridges and for the operation and maintenance of any bridge and the approaches, upon making just compensation therefor to be ascertained and paid according to the laws of the State in which such real estate or other property is situated, and the proceedings therefor shall be the same as in the condemnation of private property for public purposes by

said State. The Highway Commission is further authorized to enter into agreements with the State of Illinois and any agency or subdivision thereof, and with any agency or subdivision of the State of Iowa, for the acquisition, lease, or use of any lands or property owned by such state or political subdivision.

The cost of acquiring the existing bridge structures, of completing the replacement bridge and of dismantling the bridge to be replaced and paying expenses incidental thereto as referred to in Section 1 of this General Assembly of the State of Iowa, or through the use of any other funds available for the purpose, or both. The above described toll bridge structures shall be repaired, reconstructed, maintained and operated by the Highway Commission in accordance with the provisions of the General Bridge Act of 1946, approved August 2, 1946, and the location and plans for the replacement bridge shall be approved by the Secretary of Transportation in accordance with the provisions of said Act, as well as by The Department of Transportation of the State of Illinois. The rates and schedule of tolls for said bridges shall be charged and collected in accordance with said General Bridge Act of 1946 and applicable Iowa legislation and shall be continuously adjusted and maintained so as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing and operating the bridges and approaches under economical management, to provide a fund sufficient to pay the principal of and interest on such bonds as may be issued by the Highway Commission as the same shall fall due and the redemption or repurchase price of all or any thereof redeemed or repurchased before maturity, and to repay any money borrowed by any other means in connection with the acquisition, construction, reconstruction, completion, repair, operation or maintenance of any of said bridge structures. All tolls and other revenues from said bridges are hereby pledged to such uses. No obligation created pursuant to any provision of this Act shall constitute an indebtedness of the United States.

SEC. 3. After all bonds or other obligations issued or indebtedness incurred by the Highway Commission or loans of funds for the account of said bridges and interest and premium, if any, have been paid, or after a sinking fund sufficient for such payment shall have been provided and shall be held solely for that purpose, the State of Iowa shall deliver deeds or other suitable instruments of conveyance of the interest of the State of Iowa in and to those parts lying within Illinois of said bridges to the State of Illinois or any municipality or agency thereof as may be authorized by or pursuant to law to accept the same, and thereafter the bridges shall be properly repaired, reconstructed, maintained and operated, free of tolls by the State of Iowa and by the State of Illinois, or any municipality or agency thereof, as may be agreed upon.

SEC. 4. The interstate bridge or bridges purchased, constructed or completed under the authority of this Act and the income derived therefrom shall, on and after the effective date of this Act, be exempt from all Federal, State, municipal, and local property and income taxation.

SEC. 5. After all of the property, books, records, money and other assets of the City of Clinton Bridge Commission have been conveyed and transferred to the State of Iowa as contemplated by this Act, such Commission shall cease to exist, without the necessity for any hearing, order or other official action.

SEC. 6. The right to alter, amend, or repeal this Act is hereby expressly reserved.

MEMORANDUM MARCH 15, 1972

1. The City of Clinton Bridge Commission (the "Bridge Commission") was created under the provisions of Public Law 526—78th Congress, Chapter 633—2d Session, approved December 21, 1944, and pursuant to this legislation (as revived, re-enacted and amended from time to time) this Bridge Commission has constructed, owns and operates as a toll bridge the main vehicular bridge crossing the Mississippi River at Clinton, Iowa (commonly referred to as the "Gateway Bridge") and in more recent years has undertaken the construction of a second bridge (the "New North Bridge") lying north of the Gateway Bridge to replace an old and inadequate bridge structure (the "Old North Bridge") which also is presently owned and operated as a toll bridge by the Bridge Commission.

2. It is our understanding that at one time the Bridge Commission attempted to obtain a ruling from the Internal Revenue Service that interest on its bonds was exempt from federal income taxes, but that the Internal Revenue Service refused to issue such a ruling. Accordingly, bonds which have been issued by the Bridge Commission since its creation have been treated as bearing interest subject to federal income taxation. When the Bridge Commission undertook to finance the construction of the New North Bridge, it found itself unable to borrow enough money through the issuance of bonds bearing taxable interest to pay the whole cost of the new bridge within the applicable interest rate limitations and based upon revenues produced by its bridge operations. It therefore borrowed enough money to build the substructure for the New North Bridge with the plan that, after payment of this loan, it would try to borrow more money to pay for completing the bridge or for at least completing another portion of the bridge. The substructure was finished several years ago and the local people are understandably anxious to get this bridge completed.

3. The Bridge Commission has explored numerous avenues of approach to attempt to come up with a feasible financing plan for completing the New North Bridge, but has been unable to do so within its interest rate and bridge revenue limitations and it has now requested the State Highway Commission of the State of Iowa (the "Highway Commission") to take over the ownership and operation of its existing bridge structures, complete the New North Bridge, dismantle the Old North Bridge and operate the two surviving bridges as toll bridges until such time as the cost of carrying out this project has been paid.

4. It is feasible for the Highway Commission to finance the cost of carrying out this project because interest on its bonds will be exempt from federal income taxes and it will be able to sell its bonds at a lower interest cost than could the Bridge Commission. It is therefore important that the tax exempt status of the Highway Commission bonds be preserved, and the Highway Commission must operate in this area independently of federal legislation creating the Bridge Commission and not as a "successor" or as an "assign" of the Bridge Commission under that legislation.

5. Both the Bridge Act of 1906 and the General Bridge Act of 1946 contemplate the "construction" of bridges, as compared with the acquisition of existing bridges or the acquisition of partially constructed bridge structures, and do not contemplate the "completion" of a partially built structure. For example, paragraph (a) of Section 525, Title 33, USCA, provides that "the consent of Congress is granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States * * *". Section 527, Title 33, USCA, authorizes either of the states in which an interstate toll bridge is located, or any agency or political subdivision thereof, to acquire and take over such an interstate bridge and its approaches. However, this Section applies only to the acquisition of privately owned bridges "constructed by an individual, firm or corporation" and only after the "completion" of any such interstate toll bridge.

It is apparent that the Clinton situation is unique in that it involves the acquisition and operation of existing bridges constructed by a federal bridge commission, the completion of a partially built bridge structure and the dismantling of the old bridge which is to be replaced. Through the enactment of Chapter 172 of the Laws of the Sixty-fourth General Assembly, First Session, the General Assembly of the State of Iowa has amended the interstate bridge law of that State to specifically permit the Highway Commission to carry out a project of this type. It appears that the only way this project can be financed is by having the Highway Commission take over the assets of the Bridge Commission and complete the new bridge through the issuance of its bonds, the interest on which is not subject to federal income taxation. The existing general federal bridge legislation does not contemplate either the acquisition of the existing bridge structures by the State of Iowa or the completion of partially built structures. Since the consent of Congress is necessary for the completion of this interstate bridge project over navigable waters, the proposed Bill has been prepared which specifically covers the various phases of the problem and authorizes the Bridge Commission, the Highway Commission and The Department of Transportation of the State of Illinois to work out the solution. Every attempt has been made to keep the new legislation as brief as possible and it is hoped that because of the involved nature of this transaction the legislation can be enacted without change.

CHAPMAN & CUTLER.

By Mr. MAGNUSON (by request):

S. 3823. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

S. 3823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end thereof a new subsection (1) to read as follows:

"(1) (1) the Secretary may by order specify a series of effective dates for a Federal motor vehicle safety standard, on or after which a specified percentage of motor vehicles, to which the standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to that standard. Each order specifying a series of effective dates should include a statement of the reasons for which the series of effective dates is found to be in the public interest.

"(2) The effective dates within any series specified by the Secretary shall be at one-

year intervals. During each six-month period after an effective date the specified percentage of motor vehicles, to which a standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to the standard. The final effective date in a series shall in all cases be not more than two years after the initial effective date, and all motor vehicles, to which the standard applies, manufactured on or after the final effective date for purposes of sale in the United States shall conform to the standard.

"(3) In the case where one or more manufacturers are wholly owned by another person or corporation, those manufacturers together with the owning person or corporation shall be considered as one manufacturer for purposes of this subsection. In all other cases each person or corporation that is a manufacturer shall be considered a separate manufacturer for purposes of this subsection."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 20, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation has prepared as part of the legislative program for the 92nd Congress, 2nd Session, the enclosed proposed bill:

"To authorize the Secretary to phase-in motor vehicle safety standards by specified percentages over a period of time, and for other purposes."

The relevant provisions of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.) by which the Secretary of Transportation or his delegate is authorized to set effective dates for motor vehicle safety standards are as follows:

Sec. 103(c): *"Each order establishing a Federal motor vehicle safety standard shall specify the date such standard is to take effect* which shall not be sooner than one-hundred and eighty days or later than one yeear from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reason for such finding." (Emphasis supplied.)

Sec. 103(f)(3): "In prescribing standards under this section, the Secretary shall . . . consider whether any such proposed standard is reasonable, practicable and *appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed* . . ." (Emphasis supplied.)

Sec. 108(a)(1): *"No person shall manufacture* for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States *any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect* under this title unless it is in conformity with such standard . . ." (Emphasis supplied.)

These provisions thus establish that motor vehicle safety standards shall set minimum performance standards for "particular types" of vehicles, that each standard shall specify an effective date, and that no nonconforming vehicles shall be produced after the effective date. There appears no reasonable construction of the language of the statute, and nothing in its legislative history, that would provide authority to require manufacturers to "phase-in" a percentage of their production of a particular type of vehicle to conformity with a standard. We therefore conclude that an amendment of the statute would be necessary to provide authority for such a regulatory action.

Therefore, under its present authority the Department has no choice, when imposing a new safety requirement on manufacturers of motor vehicles, but to order that requirement into effect for all of a particular type of car made on or after a specified date. Frequently, this creates an undesirable situation since many manufacturers change the body designs of various different car lines in successive years over a cycle of three or more years. Thus, the single effective date often either does not achieve the degree of safety improvement that is possible with part of the industry's production, or impose severe burdens with respect to a portion of production that has special problems.

The proposed bill would amend the National Traffic and Motor Vehicle Safety Act, so as to grant the Department phase-in authority whereby more realistic effective dates for safety standards could be established. Such authority would allow the Secretary, in his discretion, to specify a series of dates by which all motor vehicle manufacturers would have to bring into compliance with a standard specified percentages of their production manufactured for purposes of sale in the United States. For example, he could require a standard to be phased-in over a two-year period, so that after September 1, 1973, 25 percent of the manufacturer's production would meet the standard, after September 1, 1974, 50 percent, and after September 1, 1975, all of its production would conform to the standard.

We do not envision phase-in every safety standard. However, the phase-in approach could be used with respect to those standards which were determined to entail substantial start-up problems for the industry.

The desirability of this authority can be demonstrated by viewing it in connection with our rulemaking on direct fields of view. A notice of proposed rulemaking was issued this year for a standard that would require all passenger cars, multipurpose passenger vehicles, trucks, and buses to provide drivers with specified amounts of unobstructed view of the driving environment. The standard would accomplish this by limiting the size of vehicle structures, such as roof pillars that obscure the driver's view of other vehicles and the road. It appears likely that many of the manufacturers will experience difficulty in achieving compliance with the standard since they will need to do substantial redesigning and retooling. It may be practicable, therefore, for some of these manufacturers to achieve compliance only in accordance with their normal model changeover cycle. Under present authority, we would have to set the single effective date at a time when it was practicable for all manufacturers to achieve full compliance. Phase-in authority, however, would permit the Department to phase-in the standard over a several-year period. We thereby could require some portion of the manufacturers' production to meet this standard at the beginning, rather than the end, of the period. This approach would assure some improvement in motor vehicle safety at the earliest possible moment. Of course, the percentage of production selected would be applicable to all manufacturers.

In conclusion, we believe, as a general matter, that the gradual phase-in of an increasing percentage of a manufacturer's production to the requirements of a standard requiring major design changes would be beneficial to both manufacturers and the public. It would minimize a manufacturer's cost by permitting him to make the necessary changes in accordance with his normal model changeover, and the public would be afforded added vehicle safety earlier than otherwise possible.

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

Sincerely,

JOHN VOLPE.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. HARTKE) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 32, the Conversion Research, Education, and Assistance Act.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Indiana (Mr. BAYH), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 2994, to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 2995

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2995, the Victims of Crime Act of 1972.

S. 3449

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON) the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors 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. 3644

At the request of Mr. HUGHES, the Senator from Nevada (Mr. CANNON), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Georgia (Mr. GAMBRELL), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Missouri (Mr. EAGLETON), the Senator from Nevada (Mr. BIBLE), the Senator from Maryland (Mr. BEALL), the Senator from Arizona (Mr. FANNIN), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 3644, a bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and other related acts, to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism.

SENATE JOINT RESOLUTION 228

At the request of Mr. HOLLINGS, the Senator from New York (Mr. JAVITS), the Senator from Georgia (Mr. TALMADGE), the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr.

BURDICK), the Senator from Kentucky (Mr. COOK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arizona (Mr. FANNIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. GRIFFIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of Senate Joint Resolution 228, to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973.

DISASTER RELIEF—AMENDMENTS

AMENDMENT NO. 1329 (H.R. 15692)

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

AMENDMENT NO. 1331 (S. 3795)

(Ordered to be printed and referred jointly to the Committee on Banking, Housing and Urban Affairs, and the Committee on Agriculture and Forestry.)

AMENDMENT TO THE DISASTER ASSISTANCE LEGISLATION, H.R. 15692, AND THE AGNES RECOVERY ACT, S. 3795

Mr. JAVITS. Mr. President, in offering the Agnes Recovery Act, President Nixon has come to the Congress to request our approval of an enormous legislative effort unprecedented in our Nation's history. I am pleased to be a cosponsor of this legislation, S. 3795, and I believe it represents the highest and best combined effort of every Federal agency.

As President Nixon stated in his July 12 statement regarding his proposals for additional disaster relief:

> Confronted with so massive a disaster emergency, our response as a Nation must also be massive. Conscience commands it; humanity impels it.

Certainly the progress made to date has been impressive, and this legislation will respond to the challenge of rebuilding which the massive damage requires.

Although this legislation covers nearly every contingency, one serious problem has been brought to my attention which I feel deserves the most sympathetic consideration of the members of the Banking and Currency Committee. This problem concerns those aged and infirm victims of a disaster who are living on social security or other fixed incomes. What is to become of the aged and infirm who have poured the fruits of their life's labor into a home to provide for their retirement years. These are people who, living on fixed incomes or pensions of one sort or another cannot at this stage in their life borrow heavily to restore their homes, who will probably not live to see that debt repaid, and for whom attempted repayment during their lifetime would constitute an extreme hardship. They, indeed, will suffer the most.

My amendment would take these elderly or infirm into consideration. This proposal would amend the Small Business Act to provide that the Administrator may suspend the payment of principal on a disaster relief loan for the lifetime of any such borrower when such payments would constitute a substantial hardship.

Such loans made by the Small Business Administration will, of course, be subject to its security provisions to protect its investment, so that the SBA will recover the principal after the death of the recipient or his or her spouse.

Surely, such a special effort responds to the conscience and humanity which this situation demands. I hope that the committee will consider this amendment to both H.R. 15692, the permanent disaster relief legislation, as well as the President's proposal for the one-time Agnes Recovery Act, S. 3795, to assure help for the victims of Agnes as well as future victims of future disasters.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point in my remarks.

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

On page 3, between lines 22 and 23, insert the following:

"(C) may, in the case of a loan made under subparagraph (A) or a mortgage or other lien refinanced under subparagraph (B) in connection with the destruction of, or substantial damage to, property owned and used as a residence by an individual who by reason of retirement, disability or other similar circumstances relies for support on survivor, disability or retirement benefits under a pension, insurance, or other program, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the Administration determines that making such payments would constitute a substantial hardship."

On page 3, line 23, strike "(C)" and insert "(D)".

MARINE MAMMAL PROTECTION ACT OF 1972—AMENDMENT

AMENDMENT NO. 1330

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

Mr. SPONG submitted an amendment intended to be proposed by him to the bill (S. 2871) to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes.

FOREIGN ASSISTANCE ACT OF 1972—AMENDMENT

AMENDMENT NO. 1332

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

Mr. SCOTT (for himself and Mr. MCGEE) submitted an amendment intended to be proposed by them jointly to the bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1240

At the request of Mr. GRAVEL, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. EAGLETON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Montana (Mr. METCALF), and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of amendment No. 1240 intended to be proposed to the bill (S. 3410) to revise the special pay structure relating to members of the uniformed services, and for other purposes.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert E. Curran, of Pennsylvania, to be U.S. attorney, eastern district of Pennsylvania, vice Louis C. Bechtle, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, July 27, 1972, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON SENATE RESOLUTION 281

Mr. PELL. Mr. President, I wish to announce that the Subcommittee on Oceans and International Environment of the Committee on Foreign Relations has scheduled public hearings on Senate Resolution 281 on July 26–27. The hearings will be held in room 4221 in the New Senate Office Building beginning at 10 a.m. each day of the hearings. At the outset of the hearings the subcommittee will hear representatives of the administration; the subcommittee will then receive testimony from public witnesses. Persons wishing to testify should communicate with Arthur M. Kuhl, chief clerk of the committee.

NOTICE OF HEARING ON MUNICIPAL MINE DEMONSTRATION PLANT

Mr. MOSS. Mr. President, I announce for the information of the Senate that a hearing has been set on S. 2556, a bill to establish a municipal mine demonstration plant, for 11 a.m. on Wednesday, July 26, in room 3110, New Senate Office Building, before the Subcommittee on Minerals, Materials, and Fuels. The original hearing date of May 12 was postponed due to an emergency situation involving a witness.

This matter has been cleared with the majority leader and the minority leader in keeping with our present procedural policy to permit public hearings during the time the Senate is in session, only with acquiescence of the joint leadership.

ADDITIONAL STATEMENTS

VICTIMS OF CRIME

Mr. MCCLELLAN. Mr. President, on December 11, 1971, I introduced on behalf of myself and a score of other Senators, S. 2994, the Victims of Crime Act of

1972. At present, the Subcommittee on Criminal Laws and Procedures, of which I am privileged to be chairman, is completing action on this measure, which I hope to bring to the floor sometime during the coming month.

Title I of S. 2994 which had its genesis in S. 750, introduced by our distinguished majority leader, would establish a two-level program to compensate the innocent victims of violent crime. On one level, a Federal board would directly compensate individuals who are victimized within Federal territorial jurisdiction. On the other, block-grant money would be made available through the mechanism of the Law Enforcement Assistance Administration to fund similar programs operating within the territorial confines of the States.

The first American jurisdiction to adopt the compensation principle was California—1965. Similar or related programs have also been established in New York, 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1967; and New Jersey, 1971.

I am pleased to report, now, that during the 1972 General Assembly of the State of Rhode Island, a bill relating to the compensation of victims of crime was enacted and became chapter 254 of the Public Laws of Rhode Island. The law is to take effect 120 days following the enactment of Federal legislation entitled "The Victims of Crime Act of 1972."

This legislation indicates that there is a real interest in S. 2994 on the part of responsible State governments and makes our responsibility in this regard even clearer.

I ask unanimous consent to have printed in the RECORD the text of the recently enacted Rhode Island statute.

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

STATE OF RHODE ISLAND STATUTE

An act to provide for the compensation of persons injured by certain criminal acts

It is enacted by the General Assembly as follows:

TITLE I—SHORT TITLE AND DEFINITIONS

Short title

Section 1. This act may be cited as the "Criminal injuries compensation act of 1972."

Sec. 2. Definitions as used in this act—

(1) The term "Child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child;

(2) The term "Court" means a special session of the superior court called at least once a year, after the enactment of this act, by the presiding justice of the superior court.

(3) The term "Dependent" means a person wholly or partially dependent upon the income of the victim at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and shall include a child of such victim born after the death of such victim.

(4) The term "Personal Injury" means actual bodily harm, mental or nervous shock, and a pregnancy resulting from a sexual attack.

(5) The term "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, and a spouse's parents;

(6) The term "Victim" means a person who is injured or killed by any act of a person or persons which is within the description of any of the offenses specified in title II section 2.

(7) The term "Pecuniary Loss" includes:

(A) for personal injury—

(1) medical expenses (including psychiatric care);

(2) hospital expenses;

(3) loss of past earnings; and

(4) loss of future earnings because of a disability resulting from the personal injury; and

(B) for death—

(1) funeral and burial expenses; and

(2) loss of support to the dependents of the victim. Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

TITLE II—AWARD AND PAYMENT OF COMPENSATION

Section 1. Awarding compensation—(a) In any case in which a person is injured or killed by any act of a person or persons which is within the description of the offenses listed in title II section 2 of this act, the court may upon application by the victim, his guardian, or in the case of his death, by a dependent relative or a legal representative, and after notice to the attorney general and the person or persons accused of committing said offense, order the payment of compensation in accordance with the provisions of this act, if such act occurs;

(1) within the physical confines of the state of Rhode Island; or

(2) within the maritime jurisdiction of the state of Rhode Island.

(b) The court may order the payment of compensation;

(1) to or on behalf of the injured person, or his guardian; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents or to the legal representative of the victim.

(c) For the purposes of this act, a person shall be deemed to have intended an act notwithstanding that by reason of age, insanity, drunkeness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the court may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the court, supported by substantial evidence, finds that—

(1) such an act did occur; and

(2) the injury or death resulted from such act.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act, or if such act is the subject of any other legal action. Upon application from the attorney general or the person or persons alleged to have caused the injury or death, the court shall suspend proceedings under this act until such application is withdrawn or until a prosecution for an offense arising out of such act is no longer pending or imminent. The court may suspend proceedings in the interest of justice if a civil action arising from such act is pending or imminent.

(g) Upon certification by the court, the treasurer of the state of Rhode Island shall pay to the person named in such order the amounts specified therein and said payments shall be made from the Violent Crimes Indemnity Fund and from any federal monies available.

Sec. 2. Offenses to which this act applies. The court may order the payment of compensation in accordance with the provisions of this act for personal injury or death which resulted from offenses in the following categories:

(1) assault with intent to commit murder, robbery or rape;

(2) assault with a dangerous weapon;

(3) assault and battery;

(4) mayhem;

(5) indecent assault and battery on a child under thirteen years of age;

(6) arson, or statutory burning;

(7) kidnapping;

(8) robbery, or larceny from the person;

(9) murder;

(10) manslaughter;

(11) rape;

(12) the abominable and detestable crime against nature, or assault with intent to commit the same;

(13) and any other crime, excluding motor vehicle offenses, which results in personal injury or death.

Sec. 3. Nature of the compensation.—The court may order the payment of compensation under this act for—

(a) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) pecuniary loss to the dependents of the deceased victim;

(c) pain and suffering of the victim; and

(d) any other pecuniary loss resulting from the personal injury or death of the victim, the amount of which the court finds upon the evidence to be reasonable and necessary.

Sec. 4. Limitations upon awarding compensation—(a) No order for the payment of compensation shall be made under title II, section 1 of this act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this act to the victim, or in the case of death to dependent relatives or to the legal representative, in a total amount in excess of $25,000.00.

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death of the victim living with the offender as his wife or her husband or in the situations when the court at its discretion feels unjust enrichment to or on behalf of the offender would result. Compensation under this act shall not be awarded to any victim or dependent relative or legal representative if such an award would directly or indirectly inure to the benefit of the offender.

Sec. 5. Terms of the order.—(a) Except as otherwise provided in this section, any order for the payment of compensation under this act may be made on such terms as the court deems appropriate.

(b) The court shall deduct from any payments awarded under section 1 of this act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this act), the state of Rhode Island or any state or any of its subdivisions, for personal injury or death compensable under this act, but only to the extent that the sum of such payments and any award under this act are in excess of the total compensable injuries suffered by the victim as determined by the court.

Sec. 6. Attorneys' fees.—(a) The court shall publish regulations providing for the compensation of attorneys for appearances and efforts connected with application etc., and shall use the minimum fee schedule of the state of Rhode Island as a guide. At the

conclusion of proceedings under this act, the attorney representing the applicant shall file a statement with the court setting forth the amount of fee charged in connection with his efforts and services rendered in such proceedings.

(b) After the fee information is filed by an attorney under (a) above, the court may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the court and the attorney fail to agree upon a fee, the court may, within ninety days after the receipt of the information required by (a) above, petition the Bar Association of the state of Rhode Island, and the Bar Association shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this act any amount in excess of that allowed under this section, if any compensation is paid, shall be subject to disciplinary action and other appropriate action to be taken by the Bar Association of the state of Rhode Island.

(d) Upon certification by the court to the effect that the fee has been established, the Treasurer of the state of Rhode Island shall pay to the attorney named in the certification the amount of the counsel fee which shall be paid from the Violent Crimes Indemnity Fund.

Sec. 7. Finality of decision. The orders and decisions of the court shall be final. However, the court may at any time, on its own motion or on the application of the attorney general, or of the victim or his dependents, or of the offender, vary any order for the payment of compensation made under this act in such manner as the court thinks fit, whether as to terms of the order or by increasing or decreasing the amount of the award or otherwise.

TITLE III—RECOVERY OF COMPENSATION

Section 1. Recovery from offender. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this act for a personal injury or death resulting from the act constituting such offense, the state of Rhode Island may institute an action against such person for the recovery of the whole or any specified part of the compensation in the superior court of the state of Rhode Island in any county, or in the state or federal court of any other state or district in which such person resides or is found.

(b) Process of the superior court for any county in any action under this section may be served by the sheriff of the county thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned.

(c) An order for the payment of compensation under this act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE IV—MISCELLANEOUS

Section 1. Reports to the senate. The administrator of the superior court shall transmit to the governor and to the legislature annually a report of the activities of the court under this act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded.

Sec. 2. Appropriations. There are hereby authorized to be appropriated out of any money in the Violent Crimes Indemnity Fund not otherwise appropriated such sums as may be necessary to carry out the provisions of this act.

Sec. 3. This act shall take effect one hundred twenty (120) days following the enactment of federal legislation entitled "The Victims of Crime Act of 1972."

INTERNATIONAL VERIFICATION OF PRISONERS OF WAR

Mr. DOLE. Mr. President, one of the most important issues involved in winding down the war in Southeast Asia and the eventual end of U.S. involvement, concerns the fate of some 1,600 American servicemen who are missing in action and held as prisoners of war throughout Indochina. While a cessation of the fighting and withdrawal of U.S. forces is highly important, the overall goal involves much more. It is not simply a matter of "out now," or promising an end to the war in 30 or 60 or 90—or however many days. It is not a matter of one group or ideology attempting to atone for what it sees as past policy errors or actions, nor is it a matter of fixing blame.

What is at stake—in addition to the future of South Vietnam and its neighboring states, in addition to the position of the United States as a world power—is the fate of 1,600 U.S. servicemen.

Of course, it would be a simple matter for a President, whoever he might be, to say as Commander in Chief, "Withdraw everyone—lock, stock, and barrel. Bug out." The office clearly carries with it that authority, and by such action a President could, surely, end our involvement in Vietnam—or in Europe or the Mediterranean or anywhere else in the world.

But it is not simply a matter of physically removing troops, and anyone who urges this simplistic slogan is not only doing a disservice to the American people but jeopardizing the possibilities for the safe return of the men who are captured or missing.

Experience should be sufficiently persuasive to all but the most naive or self-deluding. When undertaking the safe return of its captured and missing military personnel, the United States cannot rely upon vague assurances or implied agreements or fuzzy understandings. It cannot give the enemy the slightest benefit of any doubt. It must have iron-clad, absolute, and fully verified guarantees as to identities, deaths, disappearances, and escapes. Our experience after the Korean conflict shows clearly that international supervision of all exchanges and lists of detainees is essential. The French experience after Dienbienphu proves that the same North Vietnamese are totally untrustworthy when making exchanges of their captives. Our own experience with them to date in attempting to assure their compliance with the Geneva Conventions on prisoners of war shows them to be completely hostile to this code of civilized conduct. And their ruthless exploitation of our men for propaganda purposes—in flagrant violation of the Geneva agreements—clearly exemplifies their cold cynicism and disdain for these men and for the undertakings by which they are formally bound in international law.

The warning and the requirement is absolutely clear. We cannot take the enemy's word for anything. We cannot take their word that they will "discuss" the release of prisoners after our withdrawal. We cannot begin to accept even at this point their so-called lists of captives; the discrepancies are already so numerous as to raise the strongest warnings against dealing with the enemy on the basis of these lists.

On the point of these discrepancies I invite the Senate's attention to a brief list drawn up by Concern for POW's, Inc., of San Diego, Calif. It cites a half dozen instances where Hanoi's official list of prisoners is flatly contradicted by their own propaganda efforts and independent sources of information. These are only six examples, and they should give pause to anyone who thinks Hanoi can be trusted in these matters. As the statement points out, the Vietcong and Pathet Lao refuse to publish any prisoner lists. I ask unanimous consent to have this list of discrepancies printed at this point in the RECORD.

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

SOME APPARENT DISCREPANCIES CONCERNING THE OFFICIAL HANOI LIST OF AMERICAN POW'S, NOVEMBER 1970

NAVY LT. RONALD DODGE OF CALIFORNIA

Shot down, May 17, 1967, over North Vietnam. When on ground, Dodge talked to Wingman on radio. As he was being surrounded by North Vietnamese, he said, "I am breaking up my radio." In September 9, 1967, issue of the *PARIS MATCH*, a photo of Dodge appears. He is between two North Vietnamese guards. Photo identified to be taken in Hanoi by Dutch free lance photographer. Much later the Defense Department obtained a movie of the same scene. In spite of this evidence, North Vietnam claims to have never heard of Lt. Dodge. Mrs. Jan Dodge, San Diego, wife.

NAVY LT. COMDR. MILTON VESCELIUS OF CALIFORNIA

Parachuted to ground after being shot down September 21, 1967. His Wingman saw him wave as being surrounded by North Vietnamese. Wingman says he had clear view of Vescelius waving him off. North Vietnam claims to have never heard of Lt. Cmdr. Vescelius. Mrs. Jean Vescelius, San Diego, wife.

AIR FORCE MAJ. WILMER N. GRUBB OF VIRGINIA

Shot down, captured January 26, 1966, over North Vietnam. Next day, New China News Agency reports U.S. jet pilot shot down, captured alive. February 3, Radio Hanoi broadcast statement attributed to Grubb. February 7, another broadcast, this time in Grubb's voice. Beginning February 10, photos of Grubb began appearing in newspapers and magazines in nations including Algeria, Cuba, Hanoi, France, Russia, and Japan. Photos used for more than a year. In ten photos collected, Grubb looks healthy, alert, with apparent slight wound in lower leg. Four years after capture, Hanoi says Grubb died nine days after capture, "as a result of injuries in crash." No proof, death certificate. Mrs. Evelyn Grubb, Virginia, wife.

AIR FORCE MAJ. DONOVAN LYON OF CALIFORNIA

Shot down with co-pilot, March 22, 1968, over Laos. Lyon co-captain football at Hollywood High and Occidental. Co-pilot, absent from official list, was twice sighted in a POW camp near Hanoi, by other prisoners. Lyon still unheard from. Mrs. Janice Lyon, Irvine, wife.

AIR FORCE CAPT. RICHARD H. VAN DYKE OF UTAH

Van Dyke was shot down in North Vietnam, September 11, 1968. When plane hit, he ejected safely from rear seat, pilot flew

crippled plane to sea, ejected and was rescued. Observers saw Van Dyke's properly deployed chute, was seen to land in a rice paddy. Three days later in Hanoi, newspaper *NEAN DAN*, a story appeared, citing the downing of an American plane in the same area Van Dyke was lost—the only American plane shot down near there that day. The article says the "air pirate" from the plane came down slowly in a parachute and was captured as soon as he landed. Hanoi claims to have never heard of Captain Van Dyke. Unmarried. Mr. and Mrs. M. W. Van Dyke, Utah, parents.

NAVY LTS. WALTER ESTES OF MICHIGAN AND JAMES TEAGUE OF ARKANSAS

Shot down over Haiphong in single plane, November 19, 1967. A.P. monitored a Warsaw wirephoto three days later in which the I.D. card photos of Teague and Estes were printed and Hanoi claimed them captured. They've never been heard from since. Both unmarried. Mr. and Mrs. Walter Estes, Michigan; Mr. and Mrs. James Teague, Arkansas, parents.

These discrepancies deal with North Vietnam. Out of 469 missing in South Vietnam, and 260 missing in Laos, some have been heard from but Pathet Lao and National Liberation Front so far have refused to release any kind of list.

Mr. DOLE. Mr. President, wisely and with considerable personal courage, President Nixon has stanchly refused to risk the lives of our prisoners and missing men on Hanoi's callous propaganda and cunning exploitation of the public's war-weary desire for peace. It has not been easy or pleasant for him to follow this course, but he has made the hard choice and is sticking to it. He is determined not to jeopardize the ultimate chances for the release and return of all surviving prisoners and missing by accepting the tainted representations of Hanoi that they might discuss the return of some of the men it admits holding. The stakes are too high for any other course; the fate of these men is too important.

In the days and weeks ahead we will all look hopefully for success for the President's peace initiatives. There are some signs—some nuances, as Secretary of State Rogers has said—that Hanoi may be responding to these efforts. And certainly every Member of Congress, just as the President, hopes for the earliest possible settlement of the war.

But in the days and weeks ahead there will also be discussion of other proposals for ending the war—Hanoi's proposals, the proposals of public figures, and proposals by various groups and organizations. The Senator from Kansas would only hope that throughout these discussions everyone will keep foremost in his thoughts the responsibility we as a nation and as individuals have to the 1,600 prisoners of war and missing in action. Our responsibility demands that we deal with the enemy firmly and seriously and that we leave no question in their minds that under no circumstances will we accept anything but a full, verified and supervised accounting for the men who are under their dominion.

In an effort to bring this responsibility to the full attention of the American people the group I mentioned earlier, Concern for Prisoners of War, Inc., is sponsoring a cross-country "POW Mobile Museum." This museum is touring the Nation on a 4,000-mile campaign to alert Americans to the accountability issue and see to it that—regardless of individual views on the war itself—everyone understands the existence and importance of this issue.

I believe this is an outstanding nonpartisan, humanitarian effort. It deserves widespread recognition and support; for while we can and do disagree as Senators and citizens over the war, we must assure unified and strong support for the brave men who are missing and captured in the service of their country.

To provide a more detailed explanation of the POW Mobile Museum, I ask unanimous consent that a press release from Concern for Prisoners of War, Inc., be printed in the RECORD.

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

CONCERN FOR PRISONERS OF WAR, INC.,
PRESS RELEASE

SAN DIEGO.—A unique "POW Mobile Museum" will start a bold 4,000-mile trek across the United States from San Diego, California, to the Congress of the U.S. in Washington, D.C., on Monday, June 26.

The "curator" of the museum is a lean, lanky Navy fighter pilot, Robert F. Frishman, who left 683 days of his life, his right elbow and 65 pounds behind him when he was released from a Hanoi prison camp in August 1969.

The POW Mobile Museum, a 25-foot, self-contained motorhome, donated by Amigo Motor Homes of San Marcos, California, will display proof of discrepancies in the official list of less than 400 American Prisoners of War that Hanoi released a year and a half ago and one million signed letters addressed to the Congress of the United States demanding positive assurance that *all* POWs and MIAs will be an integral part of any peace plan.

The POW Mobile Museum will make major stops, throughout the nation, at other POW/MIA offices. These organizations of concerned citizens and families of POWs/MIAs will add to the Museum's collection of letters, and "evidences": photographs, newspaper clippings, telegrams—which pinpoint discrepancies in the so-called official Hanoi list of captured men. This evidence proves that there were men alive in those prisoner of war camps which Hanoi now says they never heard of. Regardless of how one feels about the war, it must be considered intolerable that a nation would abandon men who may be alive. War guilt or fatigue will not be excuses to those prisoners who return alive when others they saw or heard of do not.

This single factor, the discrepancies in the list, will become one of the key issues of the wrap-up of the war.

A spokesman for Concern for Prisoners of War, Inc., in San Diego, sponsor of the trek, said the discrepancy element is the most crucial of the entire POW issue.

The arrival of the POW Mobile Museum at the nation's capitol will coincide with the delivery of some 30 million pieces of mail being shipped back from Paris. Mail from American citizens that was refused by the Hanoi Legation and has since been gathering dust in an obscure Paris warehouse.

Concern for POWs, Inc., will present these countless truckloads of mail to the Congress and ask them to change this expression of concern into tangible and meaningful action to insure the identification and return of all POWs and MIAs. Private citizens may only express concern. Only Congress has the power to act.

When the Korean War ended, our government left 389 known POWs behind. Since then, these men have been written off as dead.

Thirty million signatures scream out that this must not happen again. I guess that's what all the fuss is about. The return of 1700 men—not 400.

THE IRONIES OF MORE WEAPONS FOR PEACE—PENTAGON SOUNDS LIKE ORWELLIAN CHARACTERS

Mr. PROXMIRE. Mr. President, Erwin Knoll, the distinguished Washington correspondent for the Progressive magazine has written an article for the August issue entitled "More Weapons for the Generation of Peace," a commentary on the Pentagon demands following the SALT agreements.

Mr. Knoll points out that a few months ago the Secretary of Defense was demanding funds from Congress for the new weapons as "essential to national security in the event that the SALT talks collapsed."

Now that the SALT agreements have been signed by this country, the Pentagon is demanding the same new weapons on grounds that the successful SALT talks make them necessary.

This is a reminder of George Orwell's "double-think" in his "1984" and is reminiscent of the kind of double standard Orwell developed in "Animal Farm" that some animals are more equal than others. In our case, in its claims for the limited resources of the U.S. Government, the Pentagon is far more equal than others.

President Nixon's budget for fiscal year 1973 calls for new obligations authority—NOA—for the Department of Defnese—military—which is the Pentagon—of $83.4 billion. This is almost $7 billion more than the fiscal 1972 estimated outlays of $76.5 billion for the Pentagon.

In view of the vast increase in spending for the Pentagon now being asked for by the President and which will shortly be debated by Congress, I ask unanimous consent that Mr. Knoll's excellent article be printed in the RECORD.

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

MORE WEAPONS FOR THE "GENERATION OF PEACE"

(By Erwin Knoll)

"Three fifths of all the people alive in the world today have spent their whole lifetimes under the shadow of a nuclear war which could be touched off by the arms race among the great powers. Last Friday in Moscow we witnessed the beginning of the end of that era which began in 1945. We took the first step toward a new era of mutually agreed restraint and arms limitations between the two principal nuclear powers. With this step we have enhanced the security of both nations. We have begun to check the dangerous and wasteful spiral of nuclear arms. . . ."—President Nixon to a joint session of Congress, June 1

"This is no time for complacency. This is no time to cut back on those programs which are designed to maintain and preserve essential U.S. strength. We must continue such existing deployment programs as MIRV and SRAM, and those development programs we have in our fiscal 1973 budget such as Trident and the B–1 bomber. . . ."—Defense Secretary Melvin R. Laird to the House Appropriations Committee, June 5

President Nixon, meet Secretary Laird. Secretary Laird, meet President Nixon.

They tell a story in the mountains about the fellow who was walking down a dark, deserted road one moonless night when suddenly a huge and awful monster leaped at him out of the shrubbery. He started running, with the monster hot on his heels, and ran for miles and miles until his wind gave out. As he sank to the ground, the monster loomed over him, grinned a hideous grin, and said, "We've had quite a run, haven't we?" "You bet," gasped the mountaineer, "and as soon as I've caught my breath we'll have another."

It took Defense Secretary Laird no time at all to catch his breath; in fact, he hardly broke his stride. While his boss, the President of the United States, was still in Moscow, proclaiming the beginning of the end of "a wasteful and dangerous arms race," Laird was off again and running, announcing to all who would listen that the race was still on and the monster was gaining.

Three years ago, in a symposium that *The Progressive* published as a special issue on "The Power of the Pentagon," economist John Kenneth Galbraith commented on the Defense Secretary's remarkable propensity for scaring the hell out of everybody. It is a gift that will face its greatest challenge in the coming months, for while President Nixon accepts the applause of the nation and the world for slowing the mad momentum of the arms race, Secretary Laird has the mission of accelerating it. His task is to persuade his countrymen—and especially their representatives in Congress—that the Strategic Arms Limitation Treaty (SALT) agreements do not mean what they seem to mean; that arms limitation is really arms escalation; that peace is war. Some of us might have trouble with those formulations, but Laird won't. A man who can blandly assure Congress that the policy of "Vietnamizing" the Indochina war has been "astonishingly successful" should find it easy to prove that the way to disarm is to spend billions more for armaments. Indeed, testifying before the Senate Armed Services Committee, Laird went to the Orwellian length of threatening to torpedo the strategic arms limitation agreement negotiated by his chief if Congress did not agree to his new strategic arms expansion program—estimated to cost an additional $25 billion over the next decade.

In proper military terminology, Laird's approach might be called "flexible response." For years, while the SALT negotiators nodded through interminable bargaining sessions, the Secretary maintained that such major weapons systems as the Safeguard ABM, the Poseidon nuclear submarine, and the Minuteman III missile were indispensable as "bargaining chips" in the negotiations. The rationale was that the more we had, the less we would be compelled to "give away." What's more, Laird insisted, in Congressional testimony only a few months ago, that the advanced weaponry would be essential to the national security in the event that the SALT talks collapsed.

Under the doctrine of "flexible response," a new rationale was ready as soon as the SALT agreements were signed. It went this way in Laird's June 5 testimony to the House Appropriations Committee:

"Just as the Moscow agreements were made possible by our successful action in such programs as Safeguard, Poseidon, and Minuteman III, the future negotiations to which we are pledged can only succeed if we are equally successful in implementing such programs as the Trident system, the B–1 bomber, NCA defense, Site Defense, SLCM, and accelerated satellite basing of strategic bombers. We must also initiate certain other measures in areas such as intelligence, verification, and command, control, and communications."

Presumably, a second-stage SALT agreement would require still another round of arms to be stockpiled as "bargaining chips" for a third round, and so on well into the Twenty-first Century.

Even the veteran hawk who presides over the House Appropriations Committee, Representative George Mahon of Texas, was shocked to hear from Laird that there would be no military savings resulting from the SALT agreements. What the Secretary was saying, Mahon suggested, was that "if we don't continue the arms race, we are going to be greatly disadvantaged in the next five years." Such reasoning, Mahon feared, could only "encourage full speed ahead in Moscow" on development of more Soviet weaponry. Precisely.

Still, the House Armed Services Committee was persuaded on June 14 to grant the Administration an additional $1.3 billion for strategic arms, including $942 million to accelerate development of the Trident missile-launching submarine and $445 million for development of the B–1 supersonic strategic bomber. The vote in the Committee was an overwhelming thirty-seven to four.

Most members of Congress stand in awe of military "expertise." Even those who are not automatically disposed to rubber-stamp every spending request submitted by the Pentagon feel that they lack the facts to exercise independent judgment on matters of defense, and fear that by saying no to the military they may be condemning their constituents to the ultimate holocaust. Secretary Laird is not above fueling such Congressional ignorance, insecurity, and apprehension with an occasional bit of obfuscation or outright deception.

On June 8, Laird told a closed session of the Senate Armed Services Committee that the Soviet Union had begun flight-testing a multiple independently targetable missile—MIRV. The "disclosure" came as news to Ambassador Gerard C. Smith, the chief U.S. SALT negotiator and director of the Arms Control and Disarmament Agency, who on the same day was telling a group of businessmen that the Soviets were lagging so far behind the United States that they had not yet even tested the multiple warhead system. Lard's claim came as news to the State Department, too, and elicited a rather curt denial the next day from the Department's official spokesman:

"It is clear that the Soviet Union from all available evidence is carrying on a program to develop MIRV technology, although they are a long way behind the United States in this area. We know of no evidence that they have tested MIRV. That's what Ambassador Smith said yesterday. There is a difference between testing a missile that can carry a MIRV and testing MIRVs."

Such intramural squabbles are bound to occur in an Administration that is deliberately disseminating two contradictory propaganda lines. The President, traveling the high road, is presenting himself to a war-weary electorate as a man who has taken a long step toward peace. The Secretary of Defense and his associates at the Pentagon, traveling the low road, are assuring the patrioteers who fear any relaxation in the Cold War (and the contractors who fear any loss of war profits) that the arms race will continue.

"No power on earth is stronger than the United States of America today," Mr. Nixon told Congress and the nation on June 1. "None will be stronger than the United States in the future." Only five days later, Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff, was telling a Senate Appropriations Subcommittee: "I feel that our relative military power throughout the world has peaked and is now declining. We no longer possess that substantial strategic superiority which in the past provided us with such a significant margin of overall power that we could, with confidence, protect our interests worldwide."

Admiral Moorer, have you met President Nixon?

Two basis arms limitation agreements between the United States and the Soviet Union were signed in Moscow. The first, a *defensive* treaty subject to ratification by the Senate, limits each nation to two anti-ballistic missile sites—one around its capital and one to protect a field of intercontinental ballistic missiles. Each ABM site may be equipped with no more than 10 missile interceptors. The effect of the treaty is to leave both superpowers quite vulnerable to massive nuclear attack—and therefore to preclude the possibility that either side will attempt to launch a first-strike against the other. This is a momentous achievement, for it means, first, that both nations will be spared the formidable costs of blanketing their territories with complex (but probably worthless) ABM defenses, and, second, that neither side must pursue the lunatic project of developing a preemptive first-strike nuclear force.

That, at least, is what the ABM treaty *ought* to mean, but Secretary Laird's scare tactics indicate it will mean quite the opposite. To begin with, the price tag on the two ABM sites permitted by the treaty has suddenly undergone mysterious but massive inflation. The Pentagon now estimates that it will cost $8.5 billion to complete the ABM site at Grand Forks, North Dakota, and build one to "protect" Washington, D.C. This is slightly higher than the $8 billion estimate issued by the Pentagon only four months ago for a four-site ABM system. No one has tried to explain why two ABM installations should cost more than four—and, considering the Pentagon's customary contracting procedures, perhaps no one needs to.

Much more worrisome than the cost of ABM, however, is Laird's campaign for the development of new nuclear weaponry. The second agreement signed at Moscow, covering *offensive* weapons and subject to approval by both houses of Congress, leaves ample room for such development. For the next five years, it would limit both the United States and the Soviet Union to the number of land-based and sea-based missile launchers now available or under construction—but it imposes no curbs whatsoever on the development of more powerful warheads, the installation of multiple warheads on existing launchers, or the procurement of new nuclear bombers. The objective of Laird's campaign is to take full advantage of every one of these openings.

The Soviet Union now has a total of 2,359 land-based and sea-based missiles, against the U.S. total of 1,710. When heavy bombers are added to these figures—140 for the Soviet Union and 457 for the United States—the Soviets still lead in "total delivery vehicles" by 2,499 to 2,167. These are the figures being used to arouse alarm over a Soviet nuclear "advantage"—but they are virtually meaningless.

MIRV is the key. With the multiple warheads now installed on U.S. missiles, the United States now leads the Soviet Union by 5,700 nuclear warheads to 2,500. The authoritative International Institute for Strategic Studies of London estimates that by mid-1977, when the offensive arms limitation treaty is due to expire, the United States will have 11,000 warheads and the Soviet Union 2,600. Even the Russians' lower number is quite sufficient to annihilate the planet. The United States, heading for what Laird calls "continued technological superiority," will soon be ready to devastate the entire solar system.

Laird is not only pressing for more MIRV's for B–1 bombers (which will cost almost $50 million per plane), and for Trident submarines (each of which will cost about $1 billion). The armed services have a full panoply of new weapons systems on their shopping

lists—all of them exempt from the SALT agreements. The Army is seeking Congressional approval for a new attack helicopter, a new transport helicopter, a new heavy tank, and the complex gear to create "automated battlefields." The Navy wants a new, $1 billion nuclear-powered aircraft carrier, more than 300 carrier-based F–14 fighters, additional destroyers (cost: $90 million each), and more nuclear attack submarines. The Air Force eagerly awaits the F–15 "air superiority" fighter, the A–X attack planes for close support of ground operations, and a new short-takeoff-and-landing transport plane.

It shapes up as quite an arsenal for the "generation of peace" that will be a dominant pledge in Mr. Nixon's re-election campaign. As the new and ever lengthening shopping list for the Pentagon unfolds, it turns out that Mr. Nixon's "new era of arms limitation" plus the "peace dividend" resulting from "winding down" the war in Vietnam plus the "astonishingly successful" program of Vietnamization—that all these will add up to greater, rather than smaller, appropriations for the arms program. If he wins a second term, he will surely fulfill a pledge left over from 1968, one he hasn't mentioned much recently: a $100 billion annual military budget.

Now *there's* a monster to make a man head for the hills.

BASIC EDUCATIONAL OPPORTUNITY GRANTS

Mr. PELL. Mr. President, many people have written and called my office seeking information about the so-called Pell Grants, or to use the official name, the Basic Educational Opportunity Grants. This is the new Federal grant program for eligible postsecondary students of $1,400 minus a family contribution which is to be determined by the Office of Education.

Implementation of this grant program now depends on Presidential action, involving the request of money from the Appropriations Committee. Unfortunately, once a bill becomes law, it is up to the President working through the executive agency to implement it. I can assure the citizens of Rhode Island that all of us in Congress are urging the Department of Health, Education, and Welfare to expedite action on this legislation, so that the students' assistance will be forthcoming immediately.

It should also be remembered that after the President and the Department of Health, Education, and Welfare Act, the Appropriations Committees of both Houses of Congress must also take action. I hope that between now and the time of the August recess, both Appropriations Committees will make funds available for the grant program. But even then, I am deeply disappointed to say that Department of Health, Education, and Welfare has informed me that it will not be able to develop the guidelines and work out the necessary financing arrangements in time for implementation this coming fall semester. I am urging the Secretary to see if some way can be found to expedite the Department's procedures so that the program can become operable by the second semester of this academic year.

In any event, the Federal programs of student assistance all operate through the student financial aid officer at the college or university the student attends or plans to attend, and I would urge all students to contact that individual when they return to school.

I ask unanimous consent that a letter to me from the Secretary of Health, Education, and Welfare be printed in the RECORD.

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

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 14, 1972.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Education, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: Since the President signed the Education Amendments of 1972 into public law on June 23, we have been examining all the provisions of the measure in terms of a possible timetable for implementation of each.

The most significant portion of P.L. 92–318, as far as millions of students are concerned, is that which authorizes Basic Educational Opportunity Grants. Your office has undoubtedly already received numerous requests for information concerning this program. In order to aid you in your responses, I should like to share with you our current thinking on this matter.

Section 411(a)(3)(A)(i) of the Higher Education Act of 1965, as amended, requires that the Commissioner of Education publish in the Federal Register a schedule of expected family contributions for the succeeding academic year not later than February 1. Thus, in order to operate the program this fall we would have to have published the schedule five months ago.

Besides publishing the schedule in the Federal Register, the Commissioner is also required to submit it to both houses of Congress. The Congress then has until May 1 to approve or disapprove the schedule.

In addition to the family contribution schedule, the Office of Education will, of course, be faced with an extremely difficult task of establishing new administrative procedures, putting a payment mechanism into place, educating financial aid officers, and conducting a public information effort before the Basic Grant program can begin operation.

Because of the magnitude of these tasks, as well as the fact that P.L. 92–318 was enacted too late in the year to allow us to meet the statutory requirement that the family contribution schedule be published by February 1, we will be unable to begin operation of the Basic Grant program before the 1973–1974 academic year.

During the 1972–73 academic year, students will continue to receive assistance under the Supplemental Grant, College-Work Study, and Direct Student Loan (formerly NDEA) programs. Institutions have already been notified of their 1972–1973 funds from these programs.

I trust that you will understand the necessity for this decision on our part and that this explanation will aid you in your responses to constituent inquiries.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

ILL-CONSIDERED PROPOSALS AND IRRESPONSIBLE STATEMENTS AID COMMUNIST NORTH VIETNAM

Mr. GOLDWATER. Mr. President, I am becoming more and more concerned every day over the amount of attention and importance the Communist enemy in Hanoi is paying to occurrences in the Senate and in American politics generally. I do not believe that some of our officials and political candidates actually understand how much they are doing to prevent a quick and honorable end to the war in Vietnam and the return of American POW's to this country.

Mr. President, only yesterday the newspapers carried a story from Hong Kong quoting the North Vietnam's Communist Party newspaper as stating that the nomination of Senator GEORGE MCGOVERN "reflects, above all else, the strong and deep feelings of the American the Vietnam war."

The Hanoi newspaper went on to say that the selection of Senator MCGOVERN reflects bitter discontent over what it termed "the continuous deceptions by so many past Presidents in conducting the Vitnam war."

The newspaper Nhan Dan said in an editorial broadcast by Hanoi radio that Senator MCGOVERN favors a policy of seeking peace "without preconditions against the Vietnamese people." It further said MCGOVERN's nomination demonstrated the discontent of the American people with the "economic failures of the Nixon administration. * * *"

Another Hanoi broadcast reported yesterday said that the Vietcong will not soften its peace terms, and that the United States must take the initiative if it wants progress at the Paris peace talks.

Mr. President, it is no wonder that the Communists will not soften their peace terms so long as Members of Congress continue to propose legislation that would accomplish what the enemy would like done. In this connection I should like to point out that the United Press International is calling Senator COOPER'S proposal for a total withdrawal from Indochina if negotiations fail to end the war in 4 months "the most far-reaching antiwar legislation yet offered." The UPI pointed out that the Cooper amendment would, for the first time, eliminate the release of American prisoners as a condition for withdrawal. Senator COOPER has voiced the opinion:

> If negotiations are not possible . . . I see no possibility for the release of our prisoners or the end of the war without withdrawal.

Mr. President, every Senator has a right to propose legislation incorporating his views on the conduct of the war, and I do not suggest that this is not the case. However, I believe it is time for us to understand that the more legislation introduced, the tougher it is for our national leaders to bring about a cease-fire and a return of American prisoners. To put it bluntly, I think it is time for all of us to stop meddling in affairs which are better left to our President, his advisers, and our representatives at the Paris peace talks.

Mr. President, in driving to work this morning, I heard on the radio that movie actress Jane Fonda had reportedly gone on the radio in North Vietnam and urged American soldiers not to cooperate in the war effort. I also heard that some Members of the House have asked the Justice Department to take action against Miss Fonda if the reports of her activities are correct. However, I wonder if some of us right here in this Chamber are not doing more damage to the American

cause in Vietnam by offering ill-considered proposals and making irresponsible statements.

PRESIDENT JOHNSON—A RECORD TO REMEMBER

Mr. HUMPHREY. Mr. President, I invite the attention of the Senate to a perceptive and revealing article by Mr. Jack Valenti, former assistant to President Johnson and now the president of the Motion Picture Association of America.

Mr. Valenti has properly noted the absence of any reference to President Johnson during the recent Democratic Convention. Also, he has factually documented the remarkable record of the Johnson administration on the domestic front, particularly in the fields of education, human rights, voting rights, medical care for the elderly, housing, and other areas that affect the human condition.

The years of the Presidency of Lyndon Johnson will be remembered for landmark achievements. Mr. Valenti's brief article states the case in a simple but eloquent manner. The Democratic Party in convention did not do honor to itself by ignoring the achievements of one of its leaders and a former President. Any fair and reasonable judgment of the Johnson administration will include not only the agony and the pain of Vietnam but also the hope and vision of a more just and humane America.

I ask unanimous consent that Mr. Valenti's article be printed in the RECORD.

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

. . . BUT "DEJOHNSONIZATION" MADE L.B.J. A NONPERSON

(By Jack Valenti)

As I watched the Democratic telethon, and then the convention that followed I kept waiting for someone to acknowledge that Lyndon Johnson was a Democratic President. But as the week ended it became clear that as far as the telethon and the convention were concerned (except for a late Thursday night speech by Senator Kennedy) President Johnson was a non-person, expunged from the Democratic Party with the same kind of scouring effectivness that Marxist revisionists use to rewrite Communist history. As a final petty insult, the managers of the convention made sure LBJ's picture was absent among the portraits of FDR, Truman, Stevenson and JFK.

It seemed odd that the party, so firmly fixed in its zeal to bring justice and hope to all Americans, turned its back on President Johnson, who more than any President in all U.S. history accomplished what had eluded all his predecessors in the area of human rights, education, health care, aid to the poor, conservation, and just plain caring about the powerless, the forgotten, and the uninvited.

It was an act of discourtesy, not to mention memory gone sour.

I cannot but believe that black people throughout this land understand with a fervor born of too much neglect that it was a President from the Southwest, of all places, who did more to lift the level of their living and to secure their pride than any other man. The first black on the Supreme Court, the first black in the Cabinet, the first black Assistant Attorney General. Have we forgotten? The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Equal Housing Act of 1968 have fastened in conscience and legislation rights that belong to all U.S. citizens. But before Johnson these rights existed only in rhetoric. Lyndon Johnson gave human rights the covenant of national law.

Ever since Lincoln, Presidents have made the motions and gone through the ritual of putting human rights on the agenda. But not until Johnson came to command did aspirations transform into achievement. Charles Evers and every black elected official in the South know better than any of us that it was the Johnson human rights action that gave the vote to the black man, and with that vote he could now govern.

But in the convention no one wanted to remember, and no one seemed to care.

For years the Democratic Party talked and talked about bringing education to the masses, but federal aid to this educational advance always foundered and faltered and never happened. It was the Elementary and Secondary Education Act in the Johnson administration that burst the carapace of opposition and for the first time the poorest child in the bleakest ghetto or on the most remote rural farm now has a chance to get an adequate education. That Johnson legislation achievement was the beginning, the essential beginning, and all that now has taken place owes its life to that source-bed of educational aid. But in the convention, they all forgot.

To the aged and the sick, this blotting out of Johnson must have produced a peculiar torment. How long has the Democratic Party put Medicare in its platform But that is where it always stayed, in the platform, words without substance, promises undelivered, pledges without redemption. Medicare and all that it has meant to those to whom lingering sickness was a family financial disaster didn't just happen. It was the result of the Johnson determination that help for the poor sick aged was a right that had to be fulfilled and it was. This was an achievement worthy of hall-bursting applause. But in the convention, there was only a shameless silence.

The list of advances in human justice is endless, almost a hundred landmark pieces of legislation that aimed at caring about those who had many partisans and shouters but few achievers.

It was all very strange, a dimly lit Orwellian adventure in which nonspeak and nonmemory paraded the telethon and the convention like some ravaged ghosts.

There is an old French maxim which declares that if we were without faults we would not take so much pleasure in finding them in others. Perhaps it is possible, for those who suddenly found hindsight a splendid luxury, to erase their Vietnam guilts by devouring their former leader. Perhaps.

It was written of Lord Burleigh, adviser to English monarchs, that "he never deserted his friends till it was very inconvenient to stand by them."

There was a lot of inconvenience on display over TV last week.

THE CASE FOR GUN CONTROLS AS REPORTED IN THE CHICAGO TRIBUNE

Mr. KENNEDY. Mr. President, the debate on the subject of gun control has been carried on within this body and among the private citizens of our country for many years. The Senate will soon be called upon once again to vote on this issue, perhaps to decide the fate of thousands of unknown potential victims of gun violence. In order to make such a decision, Senators will want to have access to all information on firearms control and the effects of the present lack of control.

The Chicago Tribune recently published an excellent series of articles, examining into the role of firearms in the Unted States. I ask unanimous consent that this informative series be printed in the RECORD.

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

THIRTY MURDERS A DAY—HANDGUNS TO SLAY 10,000 THIS YEAR

Gerald Carlisle tried to win the hand but lost his life.

The 30-year-old South Sider was playing poker at 6438 S. Drexel Blvd. He and another player began quarreling over who had won a pot.

Carlisle pulled a .32 caliber revolver he carried for his protection and fired a shot into the floor.

REACHES FOR CHANGE

"Be cool, man. Take the money," someone said.

Carlisle reached for the pile of change. It was the last thing he would ever do. The other player opened fire with a .38 caliber handgun killing Carlisle and another man, Joseph Guster, 52.

The murder of the two men did not make the newspaper, because 30 gun homicides occur every day in America.

Ten thousand persons are murdered yearly in the United States with handguns, shotguns, and rifles. For every American killed in Vietnam since 1970, two were killed by gunfire in this country.

Unlike those who died in war, most of the victims of this manmade plague did not die for a cause, or even a good reason.

A few died just because someone felt like killing and had a gun.

MOST SHOT IN QUARRELS

Others were slain defending their homes or shops against criminals, but the majority—7,000 out of the 10,000—were shot down in domestic spats, tavern brawls, or in disputes over a card game. Squabbles that might have ended at worst with a broken jaw ended in death for these people.

Like Carlisle, they lost their arguments to the murderous logic of the gun. That is why his death and Gusters are as important as they are commonplace.

They are flesh-and-blood examples of what gun control experts try to say with statistics: The vast number and the availability of guns, combined with the ease of their use, are escalating fights into murders and making murderers out of people who might otherwise never deliberately break the law.

NEVER BEFORE IN TROUBLE

According to the Federal Bureau of Investigation, the vast majority of gun killers are people who have never been in trouble before, ordinary people who pull a trigger in a moment of anger.

But this slaughter is producing more than the loss of life. Each death leaves a legacy of tragedy and pain that lives on in the families of the victims.

Altho the families of the victims knew better than anyone else the agony caused by the firearms plague not one of them has been invited to the gun control hearings which the House Judiciary Committee will begin Tuesday in Washington.

"NOT A SOAP OPERA"

Ben Zelinko, staff aide to Rep. Emanuel Celler [D., N.Y.], committee chairman, explained why:

"Congressional hearings are not a soap opera. Their testimony would be useful in mobilizing public opinion, but it would not be important for legislative background."

Nor will the committee hear testimony

from even one of America's walking wounded—the tens of thousands who have been scarred and crippled by gunfire.

Instead, it will listen to the same type of witnesses who have appeared at all the gun control hearings held in the last five years—senators, congressmen, mayors, governors, police chiefs, administration officials, and spokesmen for the National Rifle Association.

The committee will probably hear the oft-repeated fact that there are between 90 and 115 million firearms in the nation, 24 million of which are handguns, and that handguns account for about 80 per cent of all firearms murders.

It will not hear 10-year-old Pamela Banks tell them that she is too terrified to sleep without the light on. That fear is the emotional wound left by the .22 caliber handgun bullet that struck her in the head three months ago.

The committee, which is holding hearings in response to the shooting and paralysis of Alabama Gov. George Wallace, may also hear that in 1970 there were 9,960 murders, 139,000 robberies, and 80,000 aggravated assaults committed with firearms.

But it will not hear Peter Panas, 14, tell about the night of April 21, when a .38 caliber slug struck him in the cerebral spine, paralyzing him.

HAVE CONSTITUTIONAL RIGHT

The committee will probably hear the N. R. A. argue, as it has in the past, that Americans have a constitutional right to keep and bear arms.

But Mrs. Katherine Malone, a resident of the Cabrini-Green Homes housing projects, will not be there to describe how street gangs exercise that right by walking around her neighborhood with pistols dangling from their belts and carbines slung from their shoulders.

The Task Force interviewed numerous victims of gun crimes and their families. Miss Banks, Mrs. Malone, and Peter are three of them. If they could be at Tuesday's hearings, this would be their testimony.

The door leading to the Banks' family apartment at 1724 W. 66th St. is flanked by the names of two rival street gangs painted on the wall. Those proclamations symbolize the dilemma of the family. The Banks are the noncombatants in the urban warfare waged with guns nightly in their neighborhood. On the night of March 17, the war found them.

TAKES TARGET PRACTICE

Pamela and her mother, Mary, 29, were walking the family dog. Nearby, a group of gang members decided to start practicing with their .22 caliber revolvers.

Had they lived in the country, they might have shot at a rabbit or squirrel. But this was the city and the nearest moving animal was Pamela's dog, Uno. Mrs. Banks remembers it this way:

"I heard firecracker sounds and then I saw Pamela drop to the sidewalk. There were four or five teen-agers standing near her and Uno was running in circles with blood all over him. I ran toward Pamela screaming, 'Oh my God, my baby's hurt.' I thought she was dead."

A bullet lodged behind Pamela's right eye. She lay in the hospital for 33 days mumbling over and over, "No. No. Don't shoot my dog. Don't shoot Uno." Police theorized she was shot while trying to protect the dog from youths who had tortured the animal that summer by driving nails into its back and paws.

SHOOTING LEAVES MARK

Pamela survived the shooting without permanent injury, but the incident has left its mark on the entire family.

"We're always on edge," said Mrs. Banks. "Pamela can't sleep without a light on and she's afraid to sleep alone. I'm afraid myself. When I drive home, I get out of the car and I run into the building."

Now Uno growls at every stranger when Pamela's father, John walks him. "He'll charge at someone and I'll think 'Is that the one that did it?' "

The family also has strong views on gun control.

"It has to happen to one of your family before you really understand what these guns and shootings are all about," said John Banks. "I think the only thing they can do is stop manufacturing these small handguns and just make revolvers for the police and military. I don't think the police need small caliber guns, so why make them?"

GIVES ONE ANSWER

Ribert Meltzer, president of Criterion Die and Machine Co., a New York City firm that makes 100,000 .22 caliber handguns a year, provided at least one answer to that question:

"Because it's a profitable business," he told a Task Force reporter.

Regardless of caliber, handgun manufacturing is profitable. An estimated 2.5 million handguns are produced each year with annual sales exceeding 50 million.

Peter Pannos is one of the byproducts of that business.

Peter made the error of standing in front of a store at Evergreen Street and Washtenaw Avenue when the Latin Kings chose to terrorize their arch-rivals the Latin Disciples.

BRASS KNUCKLES OUT

Like all modern street gangs, the Kings do not use brass knuckles or chains. The availability of guns has allowed them to equip themselves with the firepower of a small army.

Peter knew about the gang rivalry, just as he knew that he was in Disciple territory and that the figure across the street was dressed in the uniform of the Kings—black coat, snap-brim hat, and maroon sweater.

He wasn't afraid, because being of Greek descent, the Puerto Rican gangs never bothered him. Then he heard the youth shout "Kings run it!" As he turned toward the sound, the figure raised a revolver and Pannos saw an orange flash.

"I guess he thought I was a Disciple," Peter said from his bed in Walther Memorial Hospital. "I heard the shot and felt a burning pain in my stomach because blood was bubbling out of my mouth. I tried to get back in the store. Then my legs crumpled and I was hanging onto the door handle with my hands.

"LEGS WOULDN'T MOVE"

"I shouted to the owner to let me in, but he was scared and locked the door on me. That's when I felt real tired like and rolled over on my back. I couldn't feel anything in my legs. My legs wouldn't move."

Peter's legs will never move. Neither will his hips, nor any part of his body below his chest. The bullet struck him in the mouth, then drilled through the lower part of his head to lodge in his upper spine. He shifts himself in bed by grasping a trapeze-like bar that hangs above him.

Peter firmly believes he will walk again and continue training to be an auto mechanic. He clings to that illusion as tightly as he clings to the reality of that bar.

However, after a costly but unsuccessful operation to restore use of his limbs, doctors say Peter will be lucky if he lives. The paralysis could creep into his lungs and bring on a fatal case of pneumonia.

PARENTS USE SAVINGS

His parents have emptied their savings for the $5,000 operation and are applying to public aid to pay for treatments at a rehabilitation center.

Mrs. Malone has become so accustomed to the daily shootings in her neighborhood that she now regards them in the way that farmers regard blizzards and droughts. She feels there is little she can do about them.

There is a bullet hole in her living room window, a reminder of the day three months ago when the Dictators shot at her son. The bullet narrowly missed striking her daughter, Linda, 13, in the head.

There is another bullet hole in her bedroom window, put there by some youths who were taking target practice one night.

FALLS OUT OF BED

"I was in bed and I'll never forget it," she recalls. "I fell right out of bed and stayed there the rest of the night. I have a high bed and lots of nights I sleep on the floor."

Firearms are so much a part of life in the projects, she said, "that kids walk around with them hanging out of their pockets. They have brand new carbines they're walking around with. I saw a 16-year-old kid walking upstairs with one like he's supposed to be carrying it. . . . It would be the best thing that could happen if they could get the guns out their hands."

With 20,000 gun control laws now on the books, how and why do guns get in the hands of the wrong people? In its investigation, Task Force reporters sought to answer this and other questions about the gun crisis. This is what they found:

The most prevalent means by which illegal firearms are obtained is thru home burglaries. As more people buy guns to protect themselves, more and more criminals become armed by stealing those guns.

SECURITY IS LAX

By a conservative estimate, the number of stolen guns in the nation is 500,000. Yet federal security regulations for the storage and transportation of firearms are so lax that amateur burglars can obtain guns with ease from shipments and sporting good stores.

A black market in firearms continues to flourish despite all the gun control laws. Gunrunners daily join with unscrupulous dealers to ship contraband weapons across state lines. To demonstrate this technique, two reporters lived the lives of interstate gunrunners in Florida, Virginia, and Iowa.

Another source is the pilferage of weapons parts from firearms manufacturers. A New York City firm lost enough parts in one year to make 10,000 handguns. The Task Force found how these stolen parts were assembled by gun "bootleggers," then sold on the streets of the Bronx and Harlem.

The nation's courts show an appallingly low conviction rate for persons charged with gun law violations. Statistics gathered from Chicago, Washington, and New York show that only about one of every eight defendants serves even a single day in jail.

Current laws are so fragmented and lacking in uniformity that weak laws in one jurisdiction often subvert strong laws in neighboring jurisdictions. For example, New York, and Chicago, which have tough gun registration laws are flooded with unregistered guns purchased in suburban areas with less stringent controls.

Contrary to popular myth, the manufacturing of the cheap handguns called Saturday Night Specials, is not a cottage industry, but big business. At least two such manufacturers are subsidiaries of prestigious firms.

STOLEN GUNS LAND IN HANDS OF KILLERS

(This article, the second in a series on the gun control issue, was compiled by The Tribune's Task Force team: George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad and Pamela Zekman.)

The Erie Lackawanna freight train rumbled out of the Westfield, Mass. railroad yard carrying a cargo that would spread a trail of bloodshed on the streets of Chicago.

It was midmorning, Sept. 26, 1969, when the train approached a curve at 61st and

Wallace Streets, just minutes from its long journey's end.

At the time, Chicago Policeman Kenneth Kaner, 33, was working a second job to earn extra money for his wife and two children. The former amateur boxer could recall some close shaves during his six years on the force. He flirted with disaster each time he climbed into his squad car alone to patrol high crime areas during the 11 p.m. to 7 a.m. shift.

As the train slowed for the curve, 20-year-old Rudolph Scott was sitting in a classroom of the Central YMCA preparing for a social worker's career. He had struggled thru the city's public schools, spurning the lure of gangs in his tough Englewood neighborhood, to realize his ambition.

CARRIES 1,000 SHOTGUNS

The fates of these two men rested with the destiny of that train. Sandwiched between cars loaded with consumer wares were 1,000 new Savage Arms Co. shotguns bound for the shelves of Faber Brothers, a Chicago sporting goods store.

Neither Scott, Kaner, nor the engineer knew that a pack of railroad car thieves were waiting at the bend of the tracks. The curve was notorious as an easy target for thievery.

The front of the train reached 63d Street before the engineer peered in his rear view mirror and saw the band of youths scramble aboard the flatbed car which bore the shotguns. Somehow they knew exactly which car to hit.

They quickly broke the flimsy seal on the "piggyback" trailer and with split second precision shoved off three cases of guns before the engineer could call for help. By the time police arrived, they had carried off their prize.

LOST IN STREAM

The 59 guns were lost in the steady stream of illegal weapons that floods the city. The story of their odyssey thru Chicago's back-alleys paints a grim picture of the country's gun crisis.

At the heart of the crisis are tens of thousands of firearms burglaries committed each year. At least half a million contraband weapons reported stolen were in circulation in April, 1972, nearly double the figure reported two years ago. But the statistics are gathered from only half the nation's police departments and law enforcement officials fear the figure is only a fraction of the number of stolen weapons that go unreported.

They complain that one of the great failures of federal gun control legislation is the total absence of laws requiring security for the shipment and storage of weapons. Unlike regulations relating to explosives, there are no laws that require even a padlock on the door of a store or trailer filled with guns.

That is why those 59 shotguns were so easily obtained. What took seconds to steal would take years to find, and they would be found the hard way—one by one as they were used in two murders, two armed robberies, three aggravated assaults, and 11 cases of unlawful use of a weapon.

SAW OFF SHOTGUNS

While Faber Brothers was making out it's $3,000 insurance claim for the stolen stock, the thieves were sawing the barrels to make them more concealable and hence more useful for urban warfare. Afterward, they distributed them into the network of illegal channels thru which criminals obtain their firearms.

Five months later, Rudolph Scott was walking along Stewart Avenue joking with a friend as they headed toward a party. He was going to celebrate his acceptance at Chicago State College. For the first time his life's goal appeared within reach.

He probably recognized the youth in the battered white car that skipped along side of him near midnight on the dark street. They had played together as children in the crumbled alleys of the westside.

But he had little chance to even nod at his boyhood friend. Without a word the youth leaned from the car, took aim and fired the stolen shotgun. Scott lay face down in the pool of blood, fatally shot in the head. "My child was not afraid to die. He would always say you are not going to die until your time," recalled his mother, Mrs. Audrey Brooks. "They buried my child on February 25 and I moved out of my house in two days. I was just so grieved. I lost my will to live. I only pray that one day in the resurrection I might meet my child again."

Scott's killer was testing the gun before launching an evening robbery spree. Minutes later he had netted $1.20 from a weary steelworker returning from the plant. A half-hour later he was shot himself fleeing from the police.

Fourteen months later, policeman Kenneth Kaner was sitting alone in his squad car at the corner of 71st Street and Union Avenue, writing a report on his fruitless search for a missing boy. It was 1:20 a.m. on June 19, 1971, and he had just asked two men a half block away if they knew of the child. As he pulled away, one of the men, Bruce Sharp, 24, suggested to his friend, "Let's off that pig."

Sharp slipped the stolen shotgun from beneath his jacket and strolled up to Kaner's car. He placed the barrel against the window and said, "Hi, officer."

As Kaner turned his head, Sharp's shotgun roared, killing Kaner instantly. Sharp's friend hit Kaner in the wrist from the passenger side of the car with a stolen pistol, the fruits of a home burglary 18 months before.

Police captured the pair three blocks away after they sped through a red light. The stolen shotguns, pistol, and Kaner's service revolver were in their car.

That ended the voyage of those two shotguns. Only 17 others have turned up in the last two years.

One found its way to the stockpile of a teenage gang leader who lent guns to his friends. In April, 1970, he lent the stolen shot gun to a youth caught entering an elevator of the Robert Taylor Homes with the weapon hidden up his coat sleeve.

Another became the final arbiter in a domestic quarrel between Roger and Evelyn Alexander. After her husband struck her several times, Mrs. Alexander ran to the kitchen, grabbed the stolen shot gun from a shelf and shot him as he burst into the door.

Still another was brandished by a youth robbing a south side dry cleaners on May 8, 1970. The robber was shot by the store owner before he completed his getaway with the $58.11 taken from the cash register.

40 of the shot guns were still missing.

Guns like these are a precious find and criminals will go to any length to get them. Gangleaders told reporters how they pay youngsters a pittance to rifle homes, sometimes their own, and bring back a gun they are not even big enough to carry.

"All the kids, they got guns," said one member of the Black Angels street gang. We get the little kids and they break into houses and we pay them $2 to $3 for the guns they bring back." I replenished the gang's arsenal when a woman, moving from her West Side home, carelessly left behind 150 pounds of .22 caliber ammunition in a trunk in her attic.

A Fagin-like leader of the Black P Stone Nation related how he entices children to steal for him and add to his personal arsenal:

"You meet them in the street and you talk to them about whether they're going to support the neighborhood . . .

"You tell a kid 'you'll be a big man if you do this.' You seek the little kids to do all the wrong because they'll get off if they get caught. And you kill them if they get caught, 'when you come out you'll be my man. You'll kill and do big things and be a big man.' A kid doesn't have a mind for himself after that. He's brainwashed. He just does it.

"They rob gas stations, and store owners, and security guards. They rob railroad passenger cars and hit freight trains. You can tell them what car has meat, flour or guns. The Main [Main 21, leadership of the gang] tells us what to hit. They know from someone in the railroad and you can tell by the markings . . . And then you tell them to burglarize homes, and you let them burglarize your own house. You tell them where to find the gun."

LINK IN SUPPLY

The National Commission on Causes and Prevention of Violence estimated that half the nation's 60 million households possessed at least one gun. Their owners may be law abiding citizens, but they frequently become the middleman, the key link in the chain, betwen the legitimate gun owner and the criminal.

As these citizens continue to arm themselves against crime, they become the targets of crime and arm those they are protecting themselves against.

"Say an addict needs some money to support his habit," explained one veteran Chicago gun trafficker. "He just breaks into a house and gets a gun. Hell, every house in the city's got at least one gun, maybe three or four. Then he takes the gun and he sells it on the street."

Large quantities of guns are obtained from interstate shipments and burglaries of gun stores that are frequently left unprotected by minimal security devices. The countless examples include:

One trucker en route to Alabama with a cargo of $1,200 cheap handguns left his trailer parked for four days in a New York City public lot. When he returned, two cases, containing 600 guns were gone.

Twenty-one guns stolen from a Manhattan, Kans., gun store that had no alarms, wound up in the Kansas City rent-a-gun operation of a drug peddler. He loaned them to addicts to commit robberies so they could buy narcotics.

Railroad security guards weapons. "They're not going to stop you if they're with you," explained one Chicago gang member.

STEALS MACHINE GUNS

One switchman stole three M–60 machine guns from armored personnel carriers while the flatbed car bearing the load was set aside for repair at the South Chicago switching yard. His accomplice solicited several gang members to buy the guns, but later sold them for $500 to an undercover policeman.

Laws designed to cope with the problem of gun thefts are a rarity.

By stubbornly refusing permits to persons who cannot show a compelling need for a gun, New York City cuts down on the number of honest citizens who become sources for contraband weapons. Thus, only one out of every 370 New Yorkers has a permit to carry a gun, compared with one out of every 11 residents of Illinois. Of the 23,000 persons holding gun permits in New York City, all but 600 are required to carry a gun for their employment.

Illinois' lenient legislation prohibits permits only to persons who have a felony conviction record or history of mental illness.

LAW CUTS THEFTS

Oakland, Cal., is one of the few Americans cities that has taken action to cope with commercial thefts of weapons. In 1964, the city enacted a burglary prevention ordinance. Security devices installed by stores to comply with the law have cut thefts by 13 per cent and thwarted 1,303 of the 1,932 burglaries attempted over the last five years, police said.

GUNRUNNING: AN EASY JOB

(Ten thousand Americans are shot to death each year. That means plenty of guns, lots of gun-racketeering. Here Tribune reporters tell of the inside of the gun traffic, in the third part of a Task Force series by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

The popular image of a gunrunner is that of a swashbuckler who flirts with danger and lives by his wits as he smuggles machine guns to a guerrilla band in some South American banana republic.

Perhaps such buccaneers exist somewhere in the world, but in the United States, a gunrunner is more likely to be a bartender, a manicurist, a machinist, or a housewife.

In other words, a gunrunner could be almost anybody. Almost anybody can become one. Thousands do every year, because it is incredibly easy to enter this lucrative racket.

NOTHING HIDDEN ABOUT IT

That is the lesson Task Force reporters William Currie and Robert Enstad learned when they became gunrunners in Florida, Virginia, and Iowa, and shipped their guns to Chicago.

Expecting to enter a sinister world of cloak-and-dagger intrigue, the reporters were shocked to find that the illegal purchase of firearms can be carried out openly and that shipping contraband weapons across state lines is no harder than doing the same with a carton of cigarets.

GETS NO BACKTALK

Their accomplices were licensed firearms dealers who, in their eagerness to make a sale, paid but token attention to the federal law that demands they sell guns only to residents of the state in which they do business.

One of the dealers Enstad encountered "seemed no different from a bartender who sees a young-looking kid come in and ask for a drink. The bartender asks the fellow if he's 21. The kid says yes, and he gets a drink without showing his identification."

Enstad was referring to the purchase he made of a .25 caliber automatic in Jay's Sales, a gun shop in the basement of the home of a Des Moines, Iowa, city councilman.

He is Russell LaVine, 61, a former radio announcer and an ultra conservative who once claimed he was "further to the right than the John Birch Society." LaVine is a federally licensed firearms dealer whose business grosses $40,000 a year.

SEES AD IN TABLOID

Enstad learned of the Shop thru Gun Week, a firearms tabloid in which LaVine was advertising concealable handguns. Altho LaVine claims he sells firearms only to police, no mention of that restriction was made in the advertisement.

Nor did the reporter have any difficulty in purchasing his palm-sized pistol for the discount price offered to police.

When Enstad entered the store, LaVine's wife, Callie, was behind the counter. The showcases were crammed with every type of handgun, ranging from tiny .22s to cannon-like .357 magnums.

The reporter mentioned that he wanted to buy the automatic for home protection. Mrs. LaVine then showed him the pistol, a wicked-looking weapon small enough to fit into a shirt pocket.

KIND USED ON WALLACE

His question prompted a conversation about the quality of guns, during which Mrs. LaVine extolled the merits of the gun used to shoot Alabama Gov. George Wallace.

"Now take that gun," she said, "that's the one Wallace got shot with. Now they say that's a 'Saturday night special'—a cheap gun. But that's made by Charter Arms. It's a good gun. It will fire off six good rounds."

Ironically the LaVines appeared to be Wallace supporters. A dollar bill bearing Wallace's face in place of President Washington's was displayed on a counter. The fact that someone had used a Charter Arms .38 revolver to shoot the Alabama governor did not seem to trouble Mrs. LaVine.

Enstad finally decided on the Colt automatic, but protested that the cost, $69, was too high. On the opposite side of the price tag was the figure $57.36.

"The lower price is what we charge law enforcement officers. I'll sell it to you for that price," she offered, altho Enstad never identified himself as a policeman.

QUESTIONS RESIDENCE

Enstad volunteered the information that he wanted the gun for protection because his home had been burglarized when he lived in Chicago.

She said:

"I can't sell you a gun if you're from out of state because that's against federal law. Are you a permanent resident of Des Moines?"

"Sure. Been here since April," Enstad replied.

"Oh, that's okay, State law says you have to be here 30 days to be a resident."

Mrs. LaVine then placed a federal firearm transfer form in front of the reporter, saying, "Fill those things out, and I will know as much about you as you do."

That statement was not entirely accurate. When Mrs. LaVine looked at the form, she knew the purchaser was Robert Enstad, that he was 33 years old, was born in Pine City, Minn., and had no criminal record.

BUT ADDRESS IS FALSE

All that information was true. She did not know that his Des Moines address was false. The reporter lives in Chicago.

Moreover, he could have falsified the entire form, because Mrs. LaVine did not ask him for one shred of identification. In the space marked "identification," she wrote SS, and instructed Enstad to fill in his Social Security number without even asking to see his card.

LaVine ran for his city council seat on a "safety on the streets" campaign, but his business practices are of the type that is making our streets more dangerous.

For all the care his wife took, the purchaser could have been an ex-convict bent on murder, an escaped mental patient, or a gunrunner planning to sell the weapon to a criminal.

TOUTS USE OF MACE

Enstad paid $60.08 and walked out of the store with the gun in its box. Mrs. LaVine told him to come back if he wanted to buy some Mace, a chemical disabling spray.

Jay's Sales was not unique in its lack of attention to federal firearms laws.

At Ted's Shooter's Supply, a saloon-cum-gun shop, which advertises firearms on a Hamm's beer sign, Enstad purchased a .22 caliber handgun for $36 using his Illinois Driver's License as identification.

"We can't sell to people from out of state," said the salesman. Enstad wrote down the same false Des Moines address. After glancing at the transfer form, the salesman asked Enstad for identification.

"Anything with your name on it," he said.

LICENSE ACCEPTED

Enstad displayed his Illinois license, expecting to be refused the sale. The salesman did not bat an eye when he looked at the out-of-state identification, as he handed Enstad a paper sack with the revolver inside.

Another contraband weapon was on the street. The next day, both weapons arrived in Chicago via parcel post.

In Florida, a licensed gun dealer gave reporter Currie his first lesson in the illegal purchase of firearms.

Currie entered Southern Gun Distributors, a huge armory-like firearms shop at 251 SW 22d Ave., Miami. Saying that he was from out of state, Currie asked the salesman how he could buy a gun in Florida.

"Why don't you get a friend's license from Florida? That's what they do," the salesman suggested.

BUYS NEW IDENTITIES

Taking the advice, Currie scoured the Miami docks in search of a new identity. For $30 he acquired a Virginia driver's license from the first mate of a charter fishing boat.

The license was issued to a Dennis G. Zimmerman, who did not resemble Currie and was nearly 40 pounds heavier.

The next day, he purchased for a few more dollars, a Florida license from a stubble-chinned derelict in Miami's seedy Bayfront Park. That one was issued to Fred Mullins, of West Palm Beach, who was 15 years older than Currie.

Returning to Southern Guns to make his purchase, Currie was told that he would have to wait 72 hours before he could pick up the weapon. He said he did not want to wait and was advised to go to Broward County, where no waiting period is required.

HITCHHIKER'S ADVICE

During the drive northward, a hitchhiker advised the reporter that Hollywood, Fla., was the best city in the country for buying guns.

"While I was driving toward Hollywood, I practiced signing the name of Fred Mullins at stop lights," Currie reported. "It was a waste of time because the gun dealer didn't even check the signature, and in fact some police officers told me I probably could have gotten away with a license issued to a black man," Currie is white.

The reporter finally arrived at Harris House Guns and Ammo, a shop located at the end of a middle-class residential street. Standing in front of a rack of carbines, second-hand shotguns, and AR–15 semiautomatic rifles was a plump, drab woman in her thirties.

TELLS OF BURGLARIES

Currie said he needed handguns because of a wave of burglaries in West Palm Beach. For $20, or less than half of what he paid for his false identification, Currie purchased two .22 caliber revolvers, a Valor and Viking.

Because of their cheapness, concealability, and frequent use in barroom quarrels, these handguns are known in Florida as "mayhem makers."

The woman copied the information from the license onto the transfer form, with no apparent reaction to the fact that it showed Currie to be 45 years old instead of his true age, 30.

Currie then deliberately called her attention to the birthdate on the license to see if he could arouse her suspicions.

"See where it says I was born in 1927," he said. "That's a mistake. I was really born in 1937."

Without a word, the saleswoman wrote 1937 on the federal form, then sprayed the guns with oil, placed them in a box, and handed them to Currie.

NO QUESTIONS ASKED

That was it. No questions asked. No comparison of signatures. No determination if this buyer was a possible criminal purchasing the tool of his trade or a gunrunner planning to sell his wares to a street gang. No concern if these guns might be used to take a life. Just take the money and give him his guns.

Later, Currie drove to Hopewell, Va. Using his false Virginia license, he purchaed a snub-nosed .22 caliber revolver from the Gun Rack firearms shop for $25. The saleswoman did not seem to notice that the photograph on the license hardly resembled the man buying the gun. The RG revolver was the same type used to kill Chicago Patrolman Robert Gallowitch last month.

Currie mailed the three weapons to Chicago.

SOUTH A MAJOR SOURCE

It is possible that Gallowitch's killer obtained his weapon in that way, or purchased it from a gunrunner. According to law enforcement officials, gunrunning is second only to firearms burglaries as a principal means by which criminals acquire guns they cannot acquire legally.

Each year, thousands of these contraband weapons, purchased mainly in the South, where gun laws are lax, pour into the streets of our cities. There are more than 160,000 licensed dealers in the nation, many of whom are willing to overlook the law, and only 1,600 federal agents to police them.

In New York, 65 per cent of the 10,158 illegal firearms seized in 1971 were traced to sources outside the city and state.

William Zapata, 25, of Flushing, New York, nearly added 240 .22 caliber revolvers to that supply when he unwittingly became a partner in a sophisticated interstate gunrunning racket. The damage that could have been done by those guns was averted when a New Jersey state trooper found the guns in the trunk of Zapata's rented car after Zapata fell asleep in a no parking zone along the turnpike.

The guns were purchased Oct. 9, 1970, in Chira's Gift Shop, Hialeah, Fla., by a Bernard Lino using a phony Florida address. Lino told the store-owner he wanted the weapons "to open a shooting gallery."

TRAPPED BY DEBT

Zapata was trapped into transporting the guns by a slickly dressed man wearing diamond rings named Sammy whom he met in a Manhattan discotheque. First Sammy bought Zapata a few drinks, then a radio and some food and even started paneling his family's kitchen. He first refused payment for all the gifts and then later informed Zapata that he owned him $800.

Not having the money, Zapata agreed to drive a car from Florida to New York's Kennedy Airport to pay off the debt. He had no idea the guns were packed in the trunk, he said. The judge who tried his case, believed the young Puerto Rican's bizarre tale and placed him on probation.

Reporters Currie and Enstad purchased only five weapons to demonstrate how easy it is to become a gunrunner. However, hundreds of ordinary citizens each year engage in the large-scale interstate trafficking of firearms.

And gunrunners can be the unlikeliest people—such as Mrs. M., a welfare mother of 12 who purchased 1,500 contraband guns over a two-year period for her son's South Side street gang. [She asked that her name not be disclosed for fear of gang retaliation].

Forced by the gang to obtain weapons, Mrs. M. made numerous trips to Milwaukee and Gary, meeting contraband gun dealers late at night in gas stations and at other prearranged locations. And she told of some bizarre methods of hiding the guns once they were in the city.

"Sometimes I'd slide them up my girdle—six at once. And I had a lot of them stashed in boxes of sanitary napkins, and sometimes I'd put them on babies. You get a kid with a snowsuit and stuff him up with guns, and you have a fat baby."

Then there was Mrs. Argentina Love, 59, a manicurist in the Monarch Barbershop, 339 E. 39th St., who boasted to an undercover police officer that she had "access to guns for black militants."

To prove it, she sold the policeman a revolver for $70, passing it under her manicurist's table. Her source was an ex-convict named Roy Williams, who later sold undercover federal agents several more guns. He obtained his supply from a Texas gun dealer, avoiding the residency requirement by having his sister, a local resident, make the purchases.

STOLEN GUNS KILL, MAIM AS SELLERS COUNT BIG PROFIT

(Guns kill 10,000 Americans a year. To study this epidemic of violence, Tribune reporters toured seven states. They found that one major source of weapons used in crime is pilferage from gun manufacturers' plants. This is the fourth in a series of Task Force reports by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

The Criterion Die and Machine Company on Manhattan's west side manufactures small engines of death called Saturday Night Specials—concealable handguns that sell for the price of a cheap pair of shoes.

It was in the dingy room where those guns are assembled that Vic "Chupa" Falcon and his band of gun bootleggers found a way to catapult their incomes from $1.65 an hour to more than $50,000 a year.

Their method had the beauty of simplicity. Falcon and his ring were employes of the firm, toiling each day in the assembly room for as low a wage as the law would allow.

THE SMUGGLING BEGINS

Noticing that the company president, Robert Meltzer, had failed to install even token security measures, they began smuggling weapons parts out of the loft building and assembling them into complete handguns in the basement of Falcon's Bronx apartment.

Cylinders, frames, handgrips, and barrels were stuffed into coat pockets, waist bands, and lunch pails until enough parts to assemble 10,000 weapons had vanished without a trace.

It was easy because Meltzer did not order his parts by a numerical accounting system, but by weight—sometimes a ton at a time.

ILLICIT PROFITS BIGGER

Unguarded, the parts lay about the plant in huge barrels and were filched easily. Because they arrived by weight, a few pieces could be lifted each day without being missed.

The bootleggers soon found that the illegal market for their lethal wares was twice as profitable as the legal market. Meltzer's guns sold for $12 each in stores, but the bootleggers peddled them for $25 to $30 apiece.

It cost Falcon and his pilferers nothing to steal the parts and only a few dollars to set up a make-shift assembly shop in his basement at 1478 Bryant Av.

That address is in the lower Bronx, one of New York City's worst slums, and the bootleggers found a thriving market among the people who lived in that neighborhood.

Drug addicts needed guns to commit robberies to support their habits; shop owners needed guns to protect themselves from robbers. Burglars needed guns to shoot startled homeowners, and homeowners needed them to defend themselves against burglars. Muggers needed them to threaten their victims, and their victims needed them to fend off muggers.

And so, out of that vicious circle of violence and fear, Falcon and his ring reaped huge profits. Men who had been subsisting on a minimum wage were now earning as much as $130 a day, thanks to Meltzer, who felt it was too expensive to install security precautions.

MELTZER'S INDIRECT AID

"It was strictly economics with him [Meltzer]," a federal agent said. "It did not make any difference to him if those stolen guns were being used to kill people. He just told us that it would cost him more to install security systems than he was losing thru pilferage. He said he could not search employes because it was a union shop."

As a result, Falcon's wing grew more brazen. Eventually almost all of the assembly room's 18 employes were involved in the racket. The bootleg weapons began selling in such wholesale quantities that "they were being sold by the sackful in Harlem," federal agents said.

Agents estimate that over a two-year period, the ring sold about half of the 10,000 weapons at a profit of about $125,000.

UNDAUNTED BY ARRESTS

The ring was so bold that it continued to operate following the arrest of three men in May, 1969, after the trio sold an undercover agent six revolvers for $195.

COUSIN IN RACKET

It was one of the arrested men, Jose Crespo, who told agents that CDM employes were pilfering the parts to supplement their meager incomes.

Using information supplied by the trio, an undercover agent, who shall be known in this account as Jose Carbone, His mission was to trace the obtained a job in the plant.

FALCON GOES FULL-TIME

By this time Falcon had been fired from his job—which suited him fine, because he could now devote full time to his prosperous enterprise.

"He couldn't afford to work anyway," commented a federal agent. "His job was interfering with his racket."

Carbone didn't have to wait long for the ring to approach him. On his first day on the job, Dec. 15, 1969, Carbone was asked by Jesus Paillo, 19, to smuggle a cylinder out of the plant. He did, noticing that Paillo and several other men were doing the same.

ENTHRALLED IN INTRIGUE

He quickly discovered the racket was the main topic of conversations among employes who discussed their daily plans while working, at lunch, and in the locker room. The racket had become a business within a business.

Three days after Carbone began work, Efrain Aponte, 17, told him he could sell Carbone a few weapons later in the month for $25 each. The undercover agent agreed to make the buy.

On Jan. 7, 1970, Carbone purchased a bootleg weapon from Aponte for $25, right in front of the CDM plant.

POSES AS REVOLUTIONARY

Posing as a member of a Santo Domingo revolutionary group, Carbone decided to make his move.

"Look," he said to Aponte, "I need more than one or two guns. The people back home are having trouble. I need at least a hundred guns."

Excited by the prospect of doing business on a large scale, Aponte and Paillo arranged a meeting between Carbone and Falcon. Alcon said he would "be glad to do business" with Carbone and then asked Carbone to smuggle out some handgrips.

COUSINS IN RACKET

On Jan. 14, Carbone purchased two more revolvers for $50 from Aponte and handed over the pilfered pistol grips. It was then that he learned the racket was a family affair—Aponte, Paillo, and Falcon were cousins.

Two days later, Carbone met with Falcon and expressed impatience with the way the ring was doing business: "My people need two hundred guns at least, not two at a time," he told Falcon.

Falcon promised to deliver a shipment of 50 guns. As a sign of good faith, he had Jose Rosario, 19, sell Carbone a revolver for $15.

"We're giving you a $10 discount because you work at the plant," Rosario said.

AGENT BUYS 26 GUNS

Thru Rosario, Aponte, Paillo, and Falcon, Carbone purchased a total of 26 handguns, in addition to dozens of weapon parts, for more than $500. However, the 50-gun shipment was never delivered.

In February, 1970, the three youths and Falcon were arrested by federal agents, and

one of the largest and most lucrative gun-bootlegging rings in New York City history had been broken.

The courts handled the case lightly. Rosario was acquitted on June 10, because the judge and jury said they did not believe Rosario was "in the business of selling guns."

FOUR YEARS FOR FALCON

Paillo received only a 3-month prison sentence and two years' probation, and Aponte was sentenced to one year in the reformatory. Falcon was sentenced to four years in federal prison.

The disclosures failed to move Meltzer to install security devices.

One year later, on June 24, 1971, CDM was burglarized. The thieves entered thru a loft in an adjoining building, chopped a hole in the plasterboard wall of the CDM factory wash room, then broke into a cage where assembled guns were stored. They made off with 454 .25 cal. automatics valued at $8,172.

It was the fourth burglary of the factory in four years.

It was only after this incident that Meltzer finally installed security measures costing $15,000. There are no laws that would compel him to install security devices in order to get his federal license to manufacture guns.

The cost of the security measures belied Meltzer's contention that such precautions were more expensive than the losses incurred thru pilferage and burglary. Between 1967 and 1971, he lost the equivalent of 11,500 weapons that would have netted him a profit of $40,000.

Pilferage is not confined to small manufacturers like CDM. Despite security measures surrounding Colt Firearms Co., Hartford, Conn., more than 60 highly dangerous M-16 rifles and 140 handguns were stolen from the plant between 1967 and 1971.

GUN CONTROLS TOO HOT FOR MOST POLITICIANS

(Guns kill 10,000 Americans a year, but political leaders remain paralyzed to act. This is the fifth in a series of Task Force reports by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

It is one of the most politically explosive issues in the country today, and that is why the Nixon administration, its predecessors, and political leaders have sat on gun control legislation for years.

That was the candid confession of a high administration official who described a "conspiracy of silence" between Congress and the White House "not to bring up the gun control issue," until at least after the election.

Pending bills, the official said, "are just window dressing to salve the national conscience," and no one has any illusions that they will pass into law. "The only solution to the nation's gun problem is total domestic disarmament, which is politically unacceptable and impossible at this time."

POLITICANS AFRAID TO ACT

So, as firearms violence stalks the country, most politicians remain in a state of paralysis, cringing at the mere mention of those two words . . . "gun control."

"The Congress is scared out of its wits because of public pressure on gun control," said Congressman Abner J. Mikva [D., Ill.], who has futilely requested hearings on his tough gun control bill for more than two years.

Political leaders see the powerful gun lobby, with its millions of supporters, flexing its muscles at the most casual suggestion of more firearms legislation.

"This is a very, very, potent political force," said Sen. William Proxmire [D., Wis.], who voted for the 1968 Gun Control Act and then said in his last campaign that he would vote to repeal it. "We have literally millions and millions of people who own guns and the intensity of their feelings runs high."

LAW USELESS: HRUSKA

"The people don't want their guns taken from them," said Sen. Roman L. Hruska [R., Neb.]. "There are 2.5 million handguns made each year. Are there 2 million criminals a year buying them? The consumer buys them, and you're not going to stop them by passing a law. This mania for passing laws and saying the problem is solved is foolishness."

Hruska has staunchly supported the position of the most powerful anti-gun-control force, the National Rifle Association [NRA]. He hopes the NRA will build its $25 million "mecca" for sportsmen in Nebraska, a Hruska aide confided.

Political leaders can also feel the stirrings of less vocal and unorganized urban dwellers who are demanding action to control gun sales.

FEAR LOSING SEATS

"Altho the big majority favors gun control, a strong and intense minority believes this issue and owning guns is all important," Proxmire said.

That is the dilemma of Washington leaders today.

Their minds are haunted by the shadow of former Sen. Joseph Tydings [D., Md.] and others whose political careers were supposedly crushed by the streamroller of the anti-gun control forces.

"The administration just doesn't want to deal with that political bru-ha-ha," said one legal adviser when asked if the White House favored bans on handguns. "Not at this time, in this administration. The political liabilities are fantastic. Let's face it. There are several former senators you can ask about that.

"Every Congresman who lost his seat in 1970 is convinced he lost because he voted for the gun control bill. The gun lobby takes credit for their defeat," Mikva said.

Some legislators like James Abourezk (D., S.D.], a freshman congressman, sit back hoping the issue will pass them by. Abourezk may have to vote on a gun bill for the first time after hearings held this week on House Judiciary Committee chairman Emanuel Celler's proposal.

CONSTITUENCY "EMOTIONAL"

"We were hoping there wouldn't be a bill to vote on," said David Voight, an aide to Abourezk who sits on the commitee. "Our constituency is very emotional about guns. Guns are a way of life and their attitude is if you take away my guns, you'll take way my wife next."

Stirring among the shadows of Tydings and the others are memories of more tragic events. More than a political career was lost when bullets killed the Kennedys and nearly took the life of Gov. George C. Wallace last month: It is events like these that periodically bolster the mounting clamor for gun control.

"But the administration reads all the polls of the rural states and ignores the cry of the urban areas," Sen. Edward Kennedy (D. Mass.) told Task Force reporters. "They think the guns are where the votes are."

There is some telling evidence to support this.

NRA, WHITE HOUSE TALK

The White House has opened its doors to the NRA and firearms proponents for at least two "mutually helpful" conferences on gun bills and enforcement problems, Treasury Department officials confirm.

"The doors are open for our views," said Gen. Maxwell Rich, NRA executive vice president and lobbyist. "I understand we weren't welcome during past administrations. Now we have been asked our opinion and we gave it. But we haven't written legislation and I don't suppose we'll be asked to."

But a comparison of positions taken by the admiinstration and the NRA belie that last disclaimer—they are one and the same on gun control.

Both oppose federal gun registration, licensing, and confiscation, contending they are unenforceable measures that should be left to the states and not the subject of federal control.

Both claim general support for the 1968 Act, but contend some provisions, like ammunition record keeping, are unenforceable and useless.

And both advocate a bill banning handguns that cannot pass a "safety and reliability" test rather than a "sporting purposes" test now applied to imported guns under the 1968 Act.

CONSPIRACY OF SILENCE

The administration promised to produce such a bill seven months ago, but it has yet to be seen. The history of this long-promised measure best reveals the administration's attitude on handgun legislation. A top administration official explained it this way:

"Before the Wallace shooting there was a conspiracy of silence between Congress and the administration. There was nothing spoken, but we got clear signals that no one wanted to bring up the gun control issues. Everyone from the top on down said 'Don't send that damn bill up here.' It wouldn't get anywhere and all it would do is result in tremendous exposure to editorial criticism before an election."

"When Wallace got shot, [Sen. Birch] Bayh [chairman of the juvenile delinquency subcommittee] and Celler broke the silence and started calling hearings and making noises about moving bills.

"They sensed the public tide turning and it became politically expedient to put up an appearance of advocating gun control. They are no more sincere now than before. They knew we were sitting on the thing and they didn't do a damn thing until Wallace got shot. Even now, no one has any illusions about those bills passing into law."

Bayh's bill would apply the same "sporting purposes" test to American-made handguns used on imported handguns. But his voting record and failure to push his own bill thru lends some credence to the accusations.

He voted for the 1968 Gun Control Act but voted to repeal it only a few months later.

"Did I vote that way?" he asked, incredulously, "Well, if I voted that way I voted wrong."

He voted against three other bills aimed at gun registration, but voted for one bill that called for licensing of firearms owners.

While a Presidential candidate last October, Bayh held hearings on his own handgun bill, leaving a tougher bill, proposed seven months earlier by Sen. Kennedy, languishing before the subcommittee.

After holding the hearings, he let his own bill sit for months, only pressing to report it out days after Wallace got shot.

IGNORE MIKVA BILL

Like Bayh, Celler refused to hold hearings on two tough gun control bills proposed by Mikva and Rep. John Murphy (D., N.Y.), claiming for years that the "climate wasn't right." The NRA's monthly magazine praised him in December, 1970, for "tieing up all major gun bills" in his committee.

After Wallace was shot, Celler announced hearings would be held on his own bill. Murphy wrote Celler that 9,000 people had been killed by handguns since he introduced his measure a year ago, and the bill would have banned the sale of the gun used to shoot Wallace.

William Dickey, deputy assistant secretary of the Treasury Department, denied the agency was deliberately stalling on the "safety and liability" proposal they promised to prepare by last November. "We just ran into extreme technical and legal problems in setting the criteria," he said.

STANDARDS RECOMMENDED

A $136,000 study of 150 handguns completed last September by the H. P. White

laboratory concluded that standards can be set, "but they don't establish them," Dickey explained.

The report recommends a safety and reliability test of 3,000 firings and a modified drop test. The problem, Dickey said, is that some cheap handguns would pass and some expensive ones would flunk. The report notes that under this test procedure one gun priced under $20 would pass and eight guns over $100 would fail.

A close look at this safety and reliability proposal reveals it is really not a gun control measure at all, but a consumer protection bill. Experts, including Dickey, agree it would put safer more reliable guns in the hands of criminals as well as consumers.

In fact, the White laboratory only agreed to conduct the test after it was assured it was for a consumer protection bill and not gun control, said Donald Dunne, manager of the laboratory.

WOULD NOT CONTROL SALES

"When we were first asked to do it we saw a thinly veiled attempt to deprive citizens of a right to own a gun and we wanted no part of it. Then they explained to us that this was in no way a gun control matter but a product evaluation done against the background of consumer protection," Dunne said.

An administration legal adviser explained the strategy of this safety and reliability proposal this way:

"It was a perfect solution. It would get the job done of getting those Saturday Night Specials off the street without hitting raw nerves. The minute you talk to a sportsman about banning guns based on size or anything else, you start getting into all kind of insolubles."

PLAYING DEVIOUS GAME

He charged the Treasury Department was incompetent for failing to produce the bill by now and lamented, "Look where we are—trying to ram something thru in the second half of an election year when you're supposed to be cleaning house and getting things together."

Congressional criticism of the Treasury Department is also aimed at what some politely describe as its lack of enthusiasm about existing as well as pending gun laws.

"They are playing a devious game. Their heart just isn't in gun laws," charged Mikva. He recalled one department official remarking to him, "I sure hope your bill doesn't pass because they'd have to kill me to get my guns."

The Treasury Department has a chartered NRA gun club entitled the U.S. Rifle and Pistol Club, records show.

Rep. Murphy has had some of his more frustrating references with the agency. In April, 1971, he wrote to the Alcohol, Tobacco, and Firearms Department (ATFD) asking its opinion on the effectiveness of the 1963 Gun Control Act. He sought to learn if the act was unenforceable and ineffective, as the administration claimed.

CITES ARREST INCREASE

Acting ATFD director Ralph H. Alkire responded May 12 crediting the act with a 234 per cent increase in illegal gun sale cases and a 409 per cent increase in arrests over the 1934 act. The letter included an interdepartment memo detailing how the 1968 act was being circumvented by some gun dealers.

On June 3, 1971, Murphy wrote a letter thanking the Secretary of the Treasury for the quick response and asking for details on these unscrupulous dealers.

The July 14 response from the head of the Internal Revenue Service disavowed the ATFD report as the "opinion of its author only," and said a review showed Alkire's letter was incomplete and inaccurate. Murphy never received a reply when he asked for specifics on the inaccuracies.

PURCHASED AMMUNITION

In October Murphy asked for an ATFD agent to accompany his aides to Maryland gun stores to ask for their ammunition sales records. He wanted to learn if the provision of the 1963 act was unenforceable and useless, as the administration claimed Congressional investigation has done this before and in 99 minutes found that 37 per cent of the 177 ammunition purchasers taken at random from records of a Washington dealer, had criminal records.

"If we could do that, why can't the Treasury Department?" commented one of the investigators, Carl Perrian, now a Murphy aide.

But when Murphy sought to repeat what had been proven successfully in the past—that the records were valuable—the Treasury Department ignored his request.

"They sympathize with the gun people," Murphy said. "It's their political interest with the gun lobby that's been delaying everything."

HOW NRA DISARMS GUN CONTROL EFFORTS

(This is the sixth in a series of Task Force reports on the gun control controversy by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

A leather-tooled western holster and gun hang on the wall beneath a picture of their owner shaking hands with the President of the United States.

On the desk sits a bronze trophy awarded to Gen. Maxwell Rich: "Dedicated to Americanism."

The memorabilia scattered about the plush, wood paneled office atop the $2.7-million headquarters of the National Rifle Association (NRA) reveals a lot about the man and the organization he helps run.

With a triumvirate of clout, money, and the mystique of guns, the century-old NRA is the most potent political force against further gun control legislation.

FIGHTS GUN CONTROL

As the self-proclaimed "foremost guardian of the right to keep and bear arms," it has fiercely and successfully fought against nearly all federal and local gun control proposals, save those that would require mandatory prison sentences for gun-wielding criminals.

Their argument is that these measures will not curb crime and will only harass honest citizens.

Organized in 1871 by a few National Guard officers interested in improving marksmanship, the NRA last year boasted a membership of 1,101,652. Its assets were $19,387,324.

"The strength of the NRA and, therefore, its ability to accomplish its purposes, depends upon the support of loyal Americans who believe in the right to keep and bear arms," said the association's 1971 annual report.

TWENTY-SIX CONGRESSMEN BELONG

Its ranks contain 26 congressmen, hundreds of state and local political leaders, the firearms and munitions industry, thousands of target shooters, hunters, conservationists, and ordinary citizens who for one reason or another own guns.

It also gathers force from outside the membership, from those thousands who buy guns for protection and from the country's 16-million licensed hunters.

"Your future hunting rights are in jeopardy," warns one NRA poster soliciting new members. "Let the NRA help you protect them."

As NRA executive vice president and lobbyist, Rich is the highest paid full-time employee of the staff of 266.

UNLIKELY LEADER

Soft-spoken and mild-mannered, the former Utah National Guard officer seems an unlikely candidate to sit at the top of this pinnacle of power.

He smiled and shook his head when asked about his organization's political influence.

"When they say the 'powerful gun lobby' they give the impression there are lots of people (lobbyists) crawling all over Congress. I'm it, and I only spent $400 of my $2,500 lobbying budget last year."

The NRA's vigorous opposition to most gun control proposals reflects the membership's attitude, he said, recalling one member writing: "You guys have to stand fast. Don't let anything thru."

FEARFUL OF RIGHTS

He explained: "Our people have a real fear—and I know they say it can't happen here—but they fear a move will come along to take all the guns away and disarm the country. I'm not worried about it personally, but I've seen too much of it where they say, 'This is as far as it goes,' and then it goes farther."

Rich claims the NRA's legislative work is secondary to its activities in conservation, organizing pistol matches, and firearms safety programs. Only $100,000 of their annual $7.7-million budget goes to legislative activities.

However, a November, 1971, editorial in the NRA's official magazine, the American Rifleman, commemorating the organization's accomplishments in its first 100 years, devotes only one paragraph to these other activities. The 18 remaining paragraphs discuss the association's past and continuing gun control fight, concluding:

"With more than a dozen antigun bills pending in Congress, there is little chance of any passing as long as NRA members and other gun owners stand firm and express themselves . . . we still face a noisy opposition that would disarm private citizens or wildlife preservation if given the chance. They must never be given the chance."

ACT AS MIDDLEMEN

The thrust of their legislative work, Rich said, is to keep Congress informed of NRA membership opinions and to keep members informed on the actions of Congress.

Thru the American Rifleman and letters to members, the NRA organizes massive mail campaigns urging people to write their congressman expressing their views against gun control measures. Congressional leaders estimate the NRA can generate 500,000 letters in 72 hours.

Some of them are venomous and are relegated to what some legislators jokingly refer to as their "commie-bastard-jew-file."

One recent writer called U.S. Rep. Abner J. Mikva [D., Ill.] a "communist admirer . . . You want to take away all American arms [his pending gun control bill does not propose confiscation] and I suppose then we would have the usual deal. We would be on a future national murder list. Well damn if we won't fight you and your kind . . . We will win or America will be lost to the free world."

As a tax-exempt organization, the NRA cannot, and does not, get actively involved in political campaigns, said Rich, but it "acts as a catalyst for grass roots organizations."

Its effectiveness as a catalyst makes the NRA one of the most feared groups in Washington today. Legislators on both sides of the gun control controversy agree with U.S. Rep. John D. Dingell [D., Mich.], an NRA board member, that "the gun control issue is the most important thing in the country today."

The American Rifleman regularly emphasizes this point with articles designed to encourage subscribers to political activism by detailing the impact made by antigun control forces on various elections.

A December, 1970, article entitled "Anti-Gun Leaders Toppled" gives the latest scorecard for firearms advocates detailing those who supposedly won or lost their last election battle because of their gun control stance.

DODD, TYDINGS LOSE

The article claims the greatest victory in the defeat of Joseph Tydings [D., Md.] and

Thomas Dodd [D., Conn.], two senators who fought vigorously for gun control. The article carefully notes that it was citizens' groups unaffiliated with the NRA who worked to defeat the two men and elect opponents of gun registration.

Three other U.S. Senate candidates reversed earlier stands favoring the 1968 Gun Control Act, and, as a result, "won with some support from firearms owners," the article claims.

These men were Senate Minority Leader Hugh Scott [R., Pa.], Sen. William Pxoxmire [D., Wis.], and Sen. Hubert Humphrey [D., Minn.].

Bob Heatherington, an aid to Scott, said Scott changed his stance after Sen. Joseph Clark [D. Pa.], a hard-line gun control advocate, was defeated. "Sports groups got together and campaigned heavily against Clark, and Scott got the readings back home. He changed his mind because he was in tune with his constituency," Heatherington said.

The article notes that former Sen. Albert Gore, a supporter of gun control, lost to Congressman William E. Brock, an opponent of the 1968 act, in their battle for a Senate seat. A Citizens for Brock Committee distributed fliers with the message "on gun registration Tennesseans said 'no' and Albert Gore voted 'yes.'" A Brock commercial pictured the aspiring senator walking with three hunters saying, "It doesn't solve crime to take guns away from decent people."

The article observes that gun owners lost one race to New York Gov. Nelson Rockefeller, "no friend of firearms," but won another with the reelection of California Gov. Ronald Reagan, a staunch opponent of gun control.

It credits Reagan with enacting the "most advanced piece of state legislation protecting firearms ownership . . . recommended as a model for other states." The legislation wiped out existing local gun control measures and preempted for state government the entire field of firearms regulation.

The NRA opposes gun registration and licensing, "because it's harassment of law-abiding citizens to get at the criminal element," Rich said. "And those laws won't curb crime."

It opposes gun confiscation because it would be impossible to take all the guns away and would stimulate a tremendous black market, he said, adding:

"Besides, I don't think anyone is naive enough to think we'll confiscate all the handguns and everyone will live happily ever after."

It claims to support a bill that would rid the market of cheap handguns commonly used in crime, but has opposed all pending proposals to deal with this problem, claiming they are too vague.

"That Saturday Night Special is a magic phrase, but I don't know what it means," complained Rich. "Is it a $9.95 gun? You ought to have a reliable firearm, but how do you define it? The proposals don't do it adequately. And if we ban unreliable guns, will that reduce crime?"

NRA BURGLARIZED

The NRA bases its antigun control stance on its oft-quoted version of the Second Amendment that "the right of the people to keep and bear arms shall not be infringed."

In rallying around this "Constitutional right," it conveniently drops the first phrase of the amendment, which explicitly states the right is associated with the need to keep "a well-regulated militia."

The United States Supreme Court has ruled several times that the amendment must be interpreted and applied with a view of "maintaining a militia." Hence there is no flat right to own and transport certain weapons, such as sawed-off shotguns, that could not be used by a well-regulated militia, the court held.

"We think the Constitution is broad enough," argued Rich. "You can analyze and analyze a statement and we think the amendment refers to the people."

"WAVE OF HYSTERIA"

Rich denies charges from gun control advocates that the NRA is systematically attempting to dismantle the 1968 Gun Control Act. But the organization's opposition to the law from beginning to end belies that claim.

Faced with what he called "a new wave of hysteria by the ragged fringe," U.S. Rep. Robert Sikes [D., Fla.], former board member and chief NRA spokesman in the House, found he could no longer fight passage of the act after Robert Kennedy's assassination.

"I have discussed this with the NRA and other organizations dedicated to the proper interests of law abiding sportsmen," he said. Because of recent events, "they interpose no objection under present circumstances to the adoption of this language by the House."

HUSBAND OR GUNS?

The American Rifleman has urged repeal of the act repeatedly, most recently calling it a "legal failure and a social indecency . . . diabolically designed to befuddle and entrap everyday citizens."

The magazine regularly includes articles by members describing how they have unjustly suffered under the act.

One of the contributors, Alicia K. Oprean, complained the law has forced her to choose between her husband and her guns. John Oprean was given probation on an illegal gun charge on the condition that he never touch guns again. In confiscating 12 weapons from the couple's home, the government took three of her guns, refusing to believe they weren't his.

"I can keep my husband or I can keep my guns. Unfortunately, I can't have both under the same roof. Is there anything in the 1968 act that says a wife must make a choice?" she asks.

CAN'T JAIL NICE PEOPLE: JUDGE—GUN FOES HIT COURTS AS LENIENT

(This is the seventh in a series of Task Force reports on the gun controversy by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

Last Feb. 26, John Averett was a patron in a neighborhood tavern at 7132 S. Racine Av. He was in one of those situations that occur thousands of times each day. Had some incident lit the flame of anger, someone in the tavern might have become a murder statistic.

Averett was brandishing a loaded gun, a .32 caliber revolver.

Two weeks ago Averett appeared in Rackets Court to answer charges of unlawful use of a weapon, and failure to register his revolver with the city. He was one of the 32,159 persons charged with unlawful use of a weapon by the Chicago police in the last four years.

GETS YEAR'S PROBATION

At a brief hearing before Judge Thomas Cawley, Averett pleaded guilty to the first charge and was sentenced to one year's probation. The registration charges were dropped.

Averett could have been sentenced to a year in jail. But he had no previous criminal record, supports five children, and has lived in Chicago for 18 years.

FIRST TIME IN TROUBLE

"Nine of ten people who come in here [on gun charges] have not been arrested before," said Judge Cawley, who may hear 30 gun cases a day. "All day long you see these nice people. I can't put these types of people in jail."

Ironically, most murders are committed by persons who have never before been in trouble. "The accessibility of guns causes murder where without a gun it might have been a good fight," said Judge Cawley.

Edward V. Hanrahan, Cook County States Attorney, agrees this statement pinpoints the gravity of having guns easily available. But he decries the concept that "nice people" carry guns and that the courts should treat them lightly.

"Was Arthur Bremer [accused of shooting Gov. George Wallace] a nice fellow?" Hanrahan asks. "Some nut judge [in Milwaukee where Bremer had previously been arrested on a firearms charge] reduced Bremer's gun charge to disorderly conduct and fined him $39.50. Here we charge a little more for such things—maybe $50."

PROBLEMS IN OTHER CITIES

It is not only in Chicago but also in New York City, Washington, D.C., and other large cities where there is a controversy over whether the courts effectively punish gun law offenders.

Court sentences on gun offenses make the penalty for carrying a handgun a "joke among people of criminal intent," said Patrick Murphy, New York City Police Commissioner, an outspoken proponent of gun control laws.

Chief Jerry Wilson, of the Washington, D.C., police said that no one in the criminal justice system realizes that "the unlawful possession of a firearm is a crime of the first magnitude." Tougher enforcement of his city's gun law, Chief Wilson asserts, would curtail gun-related crimes in Washington.

OPPOSES MORE LAWS

U.S. Rep. John D. Dingell [D., Mich.], vigorously has opposed additional gun control laws claiming the courts are not enforcing the 20,000 laws now on the books. "We apparently haven't yet passed a law that is enforceable and workable," said Dingell, a board member of the National Rifle Association. "It is high time we started enforcing the laws we have now."

Enforcing gun laws against persons who carry weapons in public is only part of the problem. Guns in cars, and homes, supposedly kept there to fend off robbers and intruders, are another factor.

Seventy per cent of the persons who kill with a gun, kill a friend, a relative, a suitor, or someone else they know, rather than a stranger. A seizure of passion can cause an otherwise rational person to kill by gun.

CITES EXAMPLE

Take the case of Bertha Dumas. In June 14, 1971, she was sitting in her living room at 121 N. Keeler, watching television and drinking beer when her boy friend, Collis Bridges, returned home unexpectedly.

"You should be at work," she yelled, then pulled an unregistered, cheap handgun from her purse and shot him in the face. He grabbed her, and in the following struggle the gun went off two more times, killing Miss Dumas.

Then there was LaFronzell Spight, 22, who shot at his sister Carolyn with his unregistered .22 caliber rifle after she became enraged with him for walking over a freshly-mopped floor. The shot struck the kitchen door, a foot down where she was standing.

STATISTICS PROVE CASE

Among the statistics to show nonenforcement of existing gun laws are the following.

During 1971, fewer than one in eight persons convicted of a gun charge in Chicago was sentenced to jail. Most were fined or placed on probation or under supervision. The majority of gun charges filed by police never came to trial.

The Washington, D.C. police department studied 361 gun cases heard in that city during a three-month period. Forty-five per cent of the cases were not tried. Of the 157 defendants who were convicted, 103—or 66 per cent—were fined, given a suspended sentence, or placed on probation. The chances

of not getting jail time were better than five out of six.

The police department of New York City reviewed 156 gun cases, of which 136 were felony arrests for criminal possession of handguns. Not one of the 136 was convicted of the original felony charge.

SERIOUS FELONY OR NOT?

"Now is it a serious felony to carry an illegal handgun or is it not, according to law?" asks Police Commissioner Murphy. "If it is a serious felony, then how do we justify a record like this?"

Reporters found indications that the criminal on the street, the man who uses his .38 to rob or kill, knows he can flout gun laws.

"As a result of the low conviction rate, the word is out on the street 'don't sweat the gun,'" said Donald E. Santarelli, deputy attorney general of the United States.

GANG MEMBER TALKS

And a 22-year-old former street gang member who said he started peddling guns in Chicago at age 15, told Task Force reporters:

"If you're clean, you can register the gun with the police and everything's legal. Now say you get busted, and even if you're registered, you don't have no permit to be carryin' it around. But you know you'll just get a fine . . . you know the gun charges will be kicked off."

Some persons, such as Judge James M. Walton, who hears gun cases in Chicago's Rackets Court, maintain the police misuse gun laws.

JUSTIFY ILLEGAL SEARCH

"The confiscation of guns is used [by police] to justify an illegal stop and frisk," said Judge Walton. "Police operate on the theory that if they confiscate guns or narcotics and get them off the street they are doing their job. There is something to be said for that, but I am not going to say it. I don't think that gun laws are not being enforced, particularly against the blacks."

Concern about gun law enforcement also extends to the handling of gun charges in the federal courts and by juries.

Steven Ostrowsky, 29, of Homewood, was tried in Federal Court in Chicago for lying when he purchased guns from the Blue Island Gun Shop in 1970. He allegedly said he was not under indictment for a felony at the time, when in fact he was. Ostrowsky testified that he thought the question on the firearms transfer form meant being convicted of a felony rather than just being charged. A jury acquitted him.

"These cases are hard to prove," said Matt Lydon, an assistant United States attorney who prosecuted the case. "Some juries don't accept these cases. People think they are technicalities and they think people should be able to have guns."

Another controversial federal case in Chicago involved three Black Panther Party members, Merrill Harvey, Michael White, and Nathaniel Junior. They were accused of attempting to purchase machine guns from an undercover agent of the Alcohol, Tobacco, and Firearms Division of the Treasury department.

The three, two of whom jumped bond before trial, pleaded guilty and were placed on three years probation by Judge Joseph Sam Perry. The prosecutor, William P. Cagney, had asked for a stiff jail sentence, arguing that "granting them probation would be giving them a license to kill." Cagney noted that six days before the attempted purchase, Junior had spoken at a rally and called for violent revolution.

NOT CASE OF VIOLENCE

"This is not a case of violence," Judge Perry replied. "The charge is attempting to buy weapons. They could have bought the same weapons at Sears Roebuck and Co., if they had given their names. Except for their Black Panther affiliations they have no criminal record of consequence."

"I don't think it is in the best interests of society to throw the book at them," Judge Perry said.

A deciding element in many gun cases can be where a gun is found, if it was accessible, and whether it was concealed. Thus, if a pistol is on a seat next to the driver it is in unlawful use because it is accessible to the driver. "If the driver gets angry he can pick it up and shoot someone," said Judge Cawley. If the gun is in the car's glove compartment or on the floor in the back, the courts don't consider it accessible.

PENALTIES ARE TARGET

The major attack on the courts' handling of gun cases concerns the penalties meted out. Chicago's gun registration laws originally called for a mandatory penalty of $500 for not registering a gun. However, the judges were reluctant to impose such a fine, so last year the City Council amended the ordinance to set fines at between $100 and $500.

"Amazing, just amazing," says Hanrahan. "The City Council watered down a good ordinance to adjust to the sentimentalities and practices of judges who won't follow the law."

Judge Walton replied: "I try to temper justice with mercy. I think this is consistent with the pholosophy of law. Law-abiding citizens in the ghettos don't register their guns out of ignorance and negligence."

SEEK 60-DAY SENTENCES

Hanrahan's office routinely asks for a minimum 60-day jail sentence of anyone convicted of unlawful use of a weapon. It seldom gets it. Judge Cawley said his typical penalty is $100 and to confiscate the gun.

"This court is like Traffic Court," he said. "I don't consider most of these people criminals and would never give them 60 days. About half of the people who are brought here have made some effort to comply with gun laws."

As Judge Cawley, a trap shooter, sees it, the only real issue in the gun controversy is the sale and manufacture of handguns. "Everything else skirts that," he said. "After sitting here and seeing the confusion on guns and how they are handled I am coming to the view of outlawing the manufacture of handguns."

TELLS TALE OF YOUTH

While some courts have a propensity to treat gun offenders lightly, the policeman consider the carrying of a gun deadly serious business.

A Chicago policeman, David Ferguson, tells the story of a 16 year old gang member who pulled a .28 cal. revolver on him. The youth was charged and when they went to court, he got supervision.

"I told his father on the steps of the courthouse that he better watch his kid," Ferguson recalled. "I told him that the kid likes guns and one of these days he's going to kill or get killed. The kid sneered at me.

Three months later, the youth was killed during an attempted armed robbery.

GUNMAKERS DISCLAIM BLAME FOR VIOLENCE

(Firearms kill 10,000 Americans a year. In this article, eighth of a series, The Tribune Task Force describes the big business of firearms manufacturing. It was compiled and written by George Bliss, Task Force director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

Robert Meltzer slapped a can of sardines on a paper plate in his small, cluttered New York City office as he asked a reporter for her opinions on his latest product—a pearl-handled derringer.

"How do you like it?" he asked reporter Pamela Zekman. "We want to see if it appeals to women."

Replying that the gun would fit into a purse, Miss Zekman handed back the weapon. Meltzer placed it in a filing cabinet, then volunteered this information:

"I hate guns."

"Then why do you manufacture them?"

"Because it's profitable," answered Meltzer, president of the Criterion Die & Machine Co. [CDM] the only firearms manufacturer left in New York City.

RELUCTANT TO TALK

Like most of the gun manufacturers interviewed by the Tribune Task Force, Meltzer was reluctant to discuss his business.

"There's been a lot of bad publicity about Saturday Night Specials," he said. "I just won't talk about it. We try to avoid publicity."

However, publicity is often thrust upon gunmakers, especially when one of their products is used to commit a violent crime.

New York City Patrolman Salvatore Morale, 29, hates guns as much as Meltzer. On July 9, 1970, while thwarting an attempted robbery of a Manhattan restaurant, Morale was shot in the stomach with a .22 caliber CDM revolver.

Tho seriously wounded, Morale pursued the gunman down the street, then tackled and arrested him. The young policeman spent 10 days in the hospital and five months convalescing at home.

"We've definitely got to get rid of these cheap handguns, but it's going to be a long haul. There are too many around now. It's gotten out of hand, but we've got to do something," he said.

Morale's assailant, Lavon Moore, said he purchased the unregistered weapon from a street trafiker in upper Manhattan.

Big firearms manufacturers avoid inquiries about their business as much as small-time operators like Meltzer.

Robert Early, public relations officer for the firearms division of Colt Industries, Hartford, Conn., told a reporter he would offer a perspective of his firm's business so long as the name of the company was not mentioned.

"It's nobody's business how much we produce," said a spokesman for Firearms International, 515 Kerby Hill Rd., Washington.

"Reporters are always asking that. They are always looking for something sensational. It's none of anybody's business how much we sell."

Determining how many guns there are in America and how many are being produced can be as trying as counting mosquitoes in a swamp. Jerry Racussen, editor of Gun Magazine, a well-known trade magazine, said even he does not know.

"You can believe this or not, but I get calls from the Commerce Commission asking me how many guns the manufacturers make," he said. "Now this is crazy. I'll bet if you call the commission right now and say you're looking for industry figures, chances are that the people over there will send you back to me."

IRS SHOWS STEADY RISE

The most accurate figures on gun production are kept by the Internal Revenue Service, which collects an excise tax on each firearm produced for private sale in the United States. IRS figures show a steady rise, beginning in 1962, in the sale of handguns, shotguns, and rifles.

In 1968, the last year for which complete figures are available, 5,299,062 domestic and foreign weapons were manufactured for private sale in the United States, a 250 per cent increase over the 2,066,368 made in 1962.

Handgun production during the period skyrocketed from 598,649 to 2,499,286. In the first 11 months of 1971, the IRS reports, domestic manufacturers alone produced 1,447,664 handguns for private sale.

Since the turn of the century, 102,386,813 firearms have been produced for private sale in America and have accounted for 750,000 deaths in murders, suicides, and accidents. By contrast, 653,000 Americans have been

killed in all the nation's wars since the Revolution.

SALES ESTIMATED AT $441.4 MILLION

In terms of revenues, the United States Bureau of the Census estimates that the sales of small arms for civilian use reached $441.4 million in 1970.

What makes these figures even more alarming is that guns produced a year ago, five years ago, and even 50 years ago can last for generations. Unless it is a cheap model that is fired frequently, a gun does not wear out like an automobile. A revolver used in a recent West Side killing was made in Spain in 1924.

It is reliability like that makes a Colt pistol superior to the cheaper Saturday Night Specials, Early said. "The gun nut and law enforcement people will not buy the Saturday Night Specials because they are interested in a gun that works, that has reliability," Early said.

One of those cheap handgun manufacturers is an hour's drive away from Colt's bustling factory. It is the General Precision Corp. in Watertown, Conn., a tranquil community better known for its fine houses than as the home town of a Saturday Night Special.

NOT ALWAYS PROFITABLE

General Precision makes the Triumph .22 caliber revolver in an inconspicuous building at 27 Depot St. The only identification is a cardboard sign bearing the company's name on the factory door. The company is controlled by Joseph D. Ubaldi, 39, and his brother, Charles F., 33, both of nearby Waterbury, Conn.

Each owns 29.4 per cent of the corporation. Joseph Ubaldi, the president, is better known in Waterbury as a politician than a manufacturer of cheap handguns. In April, he was elected assistant treasurer of the Waterbury Democratic Town Committee.

Reports to the Securities and Exchange Commission show that General Precision is not finding gun manufacturing profitable. It reported losses of $163,827 for the nine-month period ending Jan. 31.

Wages paid by the company reflect its shaky financial standing.

Richy Roskosky, the factory foreman, quoted $1.85 an hour as the starting wage, the minimum wage allowed by Connecticut law, to a Task Force reporter applying for a job as a test firer.

"It's the toughest job in the factory," said Roskosky. "Tough on the thumb and forefinger. You'd be surprised how hard it is pulling triggers all day."

The foreman failed to mention that it was a dangerous job, too. A Task Force reporter examined one confiscated General Precision handgun which shattered after only one round was fired.

IMPORT BAN LEFT LOOPHOLE

Altho the 1968 Federal Firearms Act banned importing cheap, concealable handguns, it did not ban importing their parts. Domestic manufacturers rushed into that loophole by the dozen and began assembling Saturday Night Specials out of foreign-made parts. General Precision told the SEC that its guns contain 40 moving parts that are "stamped out by subcontractors to company specifications."

The majority of the imported parts are shipped from Germany, Italy, and Spain to more than 20 domestic firms.

America's gun manufacturers are centered on the East Coast, mostly in Massachusetts, Connecticut, and Florida.

Besides Colt, the big names include Smith & Wesson, Remington, Charter Arms, Rugar, and Savage Arms, General Precision, CDM, Firearms International RG Industries, and Firearm Import and Export, both of Miami, are among the lesser-known companies.

Whether large or small, the companies have one thing in common—they claim to manufacture guns only for sporting purposes and for law enforcement officials.

General Precision told the SEC that its guns "may be used for target practice and competition, small game hunting, starters at athletic events, and self defense."

Colt reported that its line of automatic pistols, revolvers, and rifles is "sold principally to law enforcement agencies, sportsmen, and collectors." Colt also produces the M16–A1 automatic rifle, described as "the standard United States military rifle," and a semi-automatic sportsman's model.

While old, established firms look upon Saturday Night Special companies the way aristocrats look upon the nouveau riche, two big firms have found it profitable to produce these guns, which persons on both sides of the gun control issue agree are useful for nothing but crime.

Rohm Tool Co. of West Germany, owns R. G. Industries, Inc., of 2485 N.W. 20th St., Miami, which manufactures the low-priced .22 caliber and 38 caliber Rohm revolvers.

An R. G. .22 revolver was used in May to kill Chicago policeman Robert Gallowitch during an armed robbery on the South Side. Made in Germany, the revolver began its fateful journey in 1967, when it was imported by Eig Cutlery in Miami [which has been bought by R. G.], then sold to Maurice's Gun Shop, 2701 W. Armitage Av. The next purchaser was Frank Yaeger, a West Chicago gun dealer who later went out of business and moved to Texarkana, Ark.

After Yeager, the trail of the gun vanished until it turned up in the hands of Gallowitch's killer. When asked for his comments on the slaying, Dietre Haege, 33, executive vice president of R. G., replied, "The problem is the criminal, not the gun."

GUN CURBS: PENALTIES FOR THE LAW-ABIDING?

(There are an estimated 90 million guns in this country because Americans want them or feel they need them. This is the ninth in a series of Task Force reports by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

Wayne Baughman believes that gun control laws ultimately punish rural dwellers for the sins committed by those who live in the big cities.

A spokesman for the Illinois Agricultural Association, Baughman said that almost all of its 200,000 members own firearms and seldom, if ever, use them in crimes.

The Association represents three-fourths of Illinois' farmers, and it has opposed gun control proposals in the General Assembly. In the world of the farmer, a world far removed from the intense social pressures of the cities, guns have a place similar to the place they had on the American frontier—they are used in hunting and as an instrument in the rite by which a boy passes into manhood.

"There is a pride in gun ownership," Baughman said. I own three shotguns and a rifle and I have owned guns since I was a boy. Most of our people hunt. It's a generational thing, a boy and his father going out to hunt.

"Some of my fondest memories are of my Dad telling me on a fall morning, "Hey, son, let's go out rabbit hunting.' It's a father and son activity."

The rural argument against firearms legislation, Baughman said, is a philosophical one.

PENALIZED FOR CITY CRIMES

"The general feeling among rural people is that gun controls will penalize them for the crimes that are committed in the big cities. Our philosophy is that we have an inalienable right to the possession of all types of firearms. You can take the Bill of Rights and twist it around—make it read what you want. We read it [the 2d Amendment] this way: We have a right to possess and lawfully use firearms, period."

Baughman recognizes that the unlawful use of firearms is a serious problem in urban areas, and offers this solution:

"To resolve the question, you have to resolve the question of penalties. Our feeling is that the courts have not given the penalties they should have for those people who commit violent crimes."

CITIES ARE EXAMPLES

When gun control advocates argue for firearms legislation, their eyes are almost always on cities like Chicago, New York, and Detroit. They point out that guns are unnecessary in an urban, industrial environment.

Americans no longer need a Winchester rifle or Colt Peacemarker to kill game and defend themselves against hostile Indians, they say.

Marvin Dyer, 47, lives in an urban, industrial environment, and he vigorously disagrees with that contention. Dyer believes he needs a firearm as much as the pioneers of the past.

In Dyer's case, the hostile "Indians" are a tribe of teenage hoodlums called the 95th Street Black Outlaws, who have threatened his life, the life of his son, Daryl, 17, and have terrorized the South Side neighborhood where he lives.

CITES NEED OF GUNS

"Don't talk to me about gun control," Dyer said. "They say they want people to stand up to these gangs, but how can you stand up to the gangs without guns when they have guns. As far as these gun control laws are concerned, if they take those guns away from the people, 10 boys could come over here and beat you to death before the police came."

Dyer has stood up to the gangs and has used a gun to do it. His struggle began almost two years ago, when the Outlaws tried to recruit his son.

The younger Dyer, who aspires to be an attorney, resisted their offers. Consequently, gang enforcers beat him up in Euclid Park. The next day, the Dyers swore out an arrest warrant against the youth's assailants.

THEN THREATS BEGIN

That is when the threats began. Gang members began riding past the family's home shouting that they would burn down the house. Young Dyer was warned that the gang had marked him for death, and reportedly two Outlaws had been seen in the park displaying the carbine which they said they would use to kill him.

For self protection, Daryl Dyer armed himself with a .22 caliber handgun which his father had given to his sister. Hiding the gun in his jacket, Dyer carried it to classes at Harlan High School, where he knew that at least 10 of the 150-man gang were armed.

On Sept. 22, 1971, Marvin Washington, 19, a gang member, approached Dyer in the school lunchroom and gave him this warning:

"It would be disloyal of me to let you get away with fighting our chief. Don't go thru the park."

When the elder Dyer picked up his son that afternoon, Daryl told him of the incident. It was at that point, Dyer said, that he became "fed up" with hearing the threats.

Taking a .22 magnum derringer from his glove compartment, Dyer went into the school with his son to look for the security guard.

"He wasn't where he usually sat," Dyer said. "We went into the school and ran right into the gang. They were beating up a kid in the park, and Marvin [Washington] had just come back into the school after beating this kid up. The school assistant principal had his arm around his shoulder patting him like to say 'be a good boy.' Can you imagine that?"

Daryl pointed to Washington and said, "There he is, Dad."

PREPARE FOR FIGHT

Dyer then asked Washington why he was bothering his son, after which the gang member and his friends stripped off their shirts to prepare for a fight.

Daryl recalls that he thought they were going to kill his father.

"It seemed like a dream," he said. "It happened so fast. I saw the kids taking off their shirts and I shot. It was the first time I ever shot a gun."

Washington fell to the floor, wounded in the right side. His companions started screaming at the Dyers, "You're dead. You're dead."

In the aftermath, Daryl was charged with aggravated battery and unlawful use of a weapon, and his father with assault and unlawful use of a weapon. All charges, except the battery charge, were dismissed, for which Daryl Dyer received six months probation.

SURVIVES HIS WOUND

Washington, who was not charged, survived the wound. Altho the Outlaws have not relented on their death threats, the Dyers have refused to move from the neighborhood.

"We didn't move because we've lived here 13 years and where would we move to? There are gang problems everywhere," Dyer said.

Raymond Powell, 28, manages a drugstore in the tough Englewood District, and his opposition to gun controls is based on the violent realities of the neighborhood where he works.

"Guns are a necessity here," he said. "There is no police protection and a gun is the only thing that will do it. Why, 90 per cent of the people in this neighborhood carry guns."

This is why Powell feels that way:

ARRIVE, GUNS BLAZING

Two years ago three members of the Scufflers street gang burst into a drugstore Powell used to manage at 443 W. 63d St., their guns blazing in revenge for Powell's resistance to their extortion attempts.

"The bullets flew all around me," he recalls. "They went everywhere but in me."

Police later arrested the three gang members, who received only 45 days in jail after Powell made six court appearances.

Powell closed up the store and began operating a new store at 500 W. 59th St., but the gangs continued to rob his customers. It reached a climax last month when Powell kicked two of the hoodlums out of the store, breaking the arm of one of them in the scuffle.

The next day, Powell said, Charles Johnson, leader of the Scufflers, entered the store armed with a gun.

TELLS OF THREAT

I'm going to waste you," Powell quotes Johnson as saying. He called the police for help, warning them that Johnson and his friends were carrying guns. The police did not respond.

Fifteen minutes later, Mrs. Bobby Wallis, 37, left Powell's store after making a purchase. Powell heard several shots and Mrs. Wallis ran back into the store with blood streaming from her neck. Powell rushed outside with his gun and into the path of a bullet.

Wounded in the abdomen [the bullet is still there], Powell called police, but said they did not arrive for 20 minutes. An hour passed before he was taken to the hospital.

"Did I think I would die?" he responded to a question. "I've been shot so many times that I don't even worry about it anymore."

STILL AT LARGE

Johnson is still at large. According to police, the young gang leader was not even supposed to be in Chicago because a judge had ordered him out of the state as "punishment" for shooting six people a year ago.

Powell said his war with the gang is now at a savage kill-or-be-killed level. "I'm either going to have to waste Chuckie, or Chuckie will waste me," he said.

"I've just had to take it on myself to protect this place and our patrons. The police don't want to get involved because they've told me they feel they're handcuffed by the courts."

As for gun control laws, he said, "If you can assure the public that they will get the police protection they need, it would be all right. But not until then. I wouldn't turn my gun in until I felt sure of that. Otherwise, we wouldn't stand a chance."

FIRES AT TARGETS

Elwood Krueger fires several hundred rounds from his pistol every week—at paper targets.

The west suburban businessman is president of the Illinois Match Masters Pistol Club, and is the indoor and outdoor target pistol champion of four midwestern states.

Like most sportsmen, he believes that the problem with firearms control lies in the courts, not in the legislature.

"We should enforce the laws that are on the books and come down hard on people who commit crimes with guns, as they do in England."

Krueger had sharp words for the political furor that arose in Washington after the shooting of Alabama Gov. George Wallace.

"Those politicians don't care about some poor jerk on the street being shot, but they sure move when a politician is. I don't think anybody's death is more important than anyone else's."

Krueger said that he opposed measures that would ban the manufacture of all handguns, citing the distinction between a quality handgun and the cheap, concealable Saturday Night Specials.

"Target pistols can be compared with an Indianapolis racing car, and Saturday Night Specials with a 15-year-old junk automobile. They have four wheels and an internal combustion engine and that's it. Most fine target pistols cost $300 to $400.

Krueger's club is affiliated with the National Rifle Association [N. R. A.], which has 50,000 members who are competitive pistol shooters.

In 1971 there were 3,305 shooting tournaments in the United States which drew 106,821 entries, according to the N. R. A. annual report.

PENALIZE ALL PERSONS

A weapons instructor in World War II, Krueger said that strong gun control laws, such as those sponsored by Rep. Abner J. Mikva [D., Ill.] "will penalize people who use handguns for their own enjoyment and pleasure. Yes, you would reduce crimes of passion, but then they would just make a dive for a knife instead of a gun."

Mervin Olm, state President of the Citizens against Gun Confiscation [C. A. G. C.] agrees with Krueger, arguing that gun control advocates, "seem to be laboring under the idea that if you get rid of guns you will get rid of crime. They are saying half truths."

C. A. G. C. was formed in December, 1971 by a small group of Olney, Ill., residents. Olm said the organization now has more than 30,000 members in Illinois and 52 county chapters. The group wants the 1968 federal Gun Control Act and the Illinois state gun law repealed. They oppose all recent gun control proposals and want to go back to the old 1938 gun law, Ohm said.

GUN LAWS USELESS

"The gun laws we have are useless," Ohm explained. "They don't work and never will work. Only honest people are going to register their guns so why bother? They say we should register firearms like we register automobiles. What has registration of automobiles done to prevent accidents? Not a thing . . . We don't need gun laws. We need enforcement of the criminal laws we already have."

Ohm, an Olney motel owner, said he owns rifles, shotguns, and handguns. "I enjoy plinking around [shooting at cans], and I also have a few older firearms."

"Saying I don't have a right to have a gun is like saying I don't have a right to own a cat or a dog. No one has to have those things. But I don't want the federal government telling me what I can and can't own."

IDENTIFICATION INADEQUATE—GUN REGISTRATION MADE EASY

(By Pamela Zekman)

(There are an estimated 90 million guns in this country because Americans want them or feel they need them. This is the last in a series of Task Force reports by George Bliss, director, and reporters Philip Caputo, William Currie, Robert Enstad, and Pamela Zekman.)

I am a registered firearms owner in the State of Illinois—or at least my face is.

The card issued June 24, 1972, by the Illinois Department of Law Enforcement bears a picture of me wearing a blond wig, but it says my name is Sally Wagner. I am not Sally Wagner.

Because the state's licensing law does not require an applicant's fingerprints, the department has no way of knowing that I am not the person I said I was, conceded Mario Costa, administrator of the Firearms Owners Identification Department.

IDENTIFICATION DIFFICULTIES

In fact, it has no way of knowing for sure if I am an ex-convict or a former mental patient, tho the state law prohibits such persons from obtaining firearms cards.

Altho the department routinely requests the Federal Bureau of Investigation to run a name check on an applicant, the bureau cannot confirm that the person has a history free of felony convictions, a Washington FBI official said.

And the state mental health department does not give out information on former patients' backgrounds. "So we have no way of checking that," said Costa. "We usually find out after the card has been issued and a man gets in trouble and a local law enforcement officer or a relative calls to find out why in the hell the man was given a firearms permit in the first place."

SOME 3,500 CARD DENIALS

Since the state law was enacted in July, 1968, 1,140,000 Illinois residents have received firearms identification cards, Costa said. Permits have been denied to 3,500 applicants found to have a felony record when a name check was made with the FBI or the state Bureau of Identification. The cards are required for any purchase of a firearm in Illinois.

I got my card thru Howard Ehrlich, 42, who placed an advertisement in a daily newspaper recently to sell an "enforcer" carbine. Reporters responded to the ad, as any citizen could have done, and found Ehrlich ready and willing to sell his "collection" of handguns. He had some 300 to sell, he said at one point, and was unloading them to buy new parts for his yacht.

Ehrlich is not a licensed gun dealer, but the 1968 federal Gun Control Act does not prohibit private citizens from selling their own weapons.

Ehrlich, who shares offices with his brother at 2726 W. Peterson Av., runs the H. Ehrlich Construction Co.; his brother operates several amusement companies that run X-rated movie theaters.

SURROUNDED BY GUNS

On May 19 I visited Ehrlich in his office and found him surrounded by an assortment of guns, model cars, cameras, and sheriff's badges. He had been a deputy for Sheriff Richard Elrod for three months and helped run Elrod's campaign, he said.

Ehrlich refused to sell me a gun until I

got a state firearms card. I protested that it would take too long. I needed a gun soon, I said, because I was afraid of being mugged.

"We'll get you a card. It won't take long. I can take care of it," he said.

PROMISES TO USE CLOUT

He informed me that he was the 48th Ward secretary [he no longer is] and was "in heavy with the Mayor's office."

Taking care of a firearms permit meant he would have the application expedited by calling his "good friend" who is a former state official.

"I'll take the application down to him, and he'll push it thru. He's a friend of mine and he'll do it," said Ehrlich.

APPLICATION COMPLETED

With that settled, he filled out my application, using Sally Wagner's driver's license. [The firearms identification law does not even provide for revocation of a card when an applicant uses a name other than his own.]

To the questions Ehrlich read from the form, I responded: No, I wasn't an ex-mental patient, nor was I ever convicted of a crime.

LAPSES OF MEMORY

That was it. A week later Ehrlich told me his friend agreed to "expedite the matter." Three weeks later the card arrived in the mail. It usually takes four to five weeks, Costa said. The card enables me to buy any number of firearms at any gun shop in the state.

As Sally Wagner I later thanked the ex-state official for his assistance, and he responded: "You're welcome. I'm glad you got it. How long did it take?"

As Pamela Zekman, I asked the same man two hours later if he had helped expedite the permit as a favor to Ehrlich. "I can't recall," he said.

First he said he couldn't remember Ehrlich; then he said he could. Then he denied expediting the permit but admitted he had done such things in the past for deputy sheriffs and a handful of personal friends. "I can do it in three or four days," he said.

SEEKS SUITABLE WEAPON

While waiting for the card, Ehrlich and I negotiated about a gun. He pulled three handguns from his carved wood desk but then decided his supply didn't include a weapon suitable for me.

"I'll ask around and get the right kind," he said. "I have friends, and they have guns, and I'll ask them and we'll fix you up with the right thing."

Tho firearms laws are silent about a collector selling a personally owned weapon, Ehrlich now indicated his willingness to step into the role of a dealer, obtaining weapons from others to sell to a customer.

RULES OUT DERRINGERS

When I inquired if a small derringer would be best for me, he explained the disadvantages of owning such a weapon.

If assailants should come through the door, he said, "a derringer won't stop them. It'll just make them mad. But [with] one of these babies that I want for you, the bullet will jump around inside and really mess him up, and he'll know he's been hit."

Had I gone through with the transaction, I could have owned a weapon like that under an assumed name. It never could have been traced to me.

DETAILS GUN'S DRAWBACKS

Ehrlich displayed similar concern about owning the appropriate weapon when reporter Philip Caputo visited his office in response to the advertisement a week before my visit. Caputo said he wanted a good weapon for self-protection.

He should not buy a snub-nosed revolver, Ehrlich said, because "you might jam it into your belt, and you may be out with a broad some night, and some guy makes you mad and you shoot him. Then you're in trouble because you're not allowed to carry a gun. I am."

M. ELDON COLBY RETIRES

Mr. DOLE. Mr. President, it seems that often we in Congress fail to take note of the faithful and dedicated service performed by the men and women in the Government's many departments and agencies in Washington and throughout the Nation. Their work is often unsung and out of the headlines, but they are vital to the efficient operation of our Government.

On June 30, 1972, one such servant retired after 37 years of conscientious service in the Department of Agriculture. He is M. Eldon Colby, who, I am pleased to add, is a native of Smith County, Kans. Mr. Colby for the past 3 years has served as a congressional liaison officer for the Federal Crop Insurance Corporation. In his contacts with Members of Congress and their staffs he was always most cordial, cooperative, and helpful. His many years of experience in the FCIC, where he grew up, equipped him uniquely to assist Congressmen on legislation and on matters brought to them by their farmer constituents.

Eldon takes justifiable pride in having been born a Kansas farm boy and learning some of the hard lessons of farming when there were few conveniences. He gained widespread attention for being elected mayor of Falls Church, Va., more than 10 years ago; and, during the time his son and three daughters were growing to adulthood, he served in various offices. He is an active member of the Masonic Lodge and maintains his membership in Kansas.

Eldon's warmth and pleasant personality will be missed by all who have come to know him, but we wish him and Mrs. Colby a most rewarding retirement. It is my guess, however, he will turn up one day soon in some new occupation or activity to his liking, for it is not in the nature of this man to be idle for long.

I ask unanimous consent that an article from the July 6, 1972, Smith County Pioneer, concerning Eldon Colby's retirement, be printed in the RECORD.

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

ELDON COLBY RETIRES AFTER 37 YEARS WITH USDA IN DISTRICT OF COLUMBIA

Eldon Colby, who was reared and educated here, retired in June after 37 years with the USDA. He says he went to Washington, D.C. in December 1934 as a correspondent for the Pioneer and a due bill from a bus company for which he paid $12.50. He sends regards to friends here and says he hopes to be out this way one of these days.

The Manager's letter (USDA Federal Crop Insurance Corp.) carries his picture and this article:

M. Eldon Colby, 63, FCIC's first employee, is retiring this month after 37 years with the U.S. Department of Agriculture. His last day on the job, as Crop Insurance Officer on the Manager's Staff, was Friday, June 9.

When Federal Crop Insurance started in 1938 through an Act of Congress, its first Manager was Roy Green (later to become President of Colorado State University at Fort Collins), and his first employee was Eldon Colby. Only the 16 months in 1943–'44 when Colby was an economist for AAA, kept him from being FCIC's oldest employee in length of service. Colby first came to Washington to work as a staff member for U.S. Sen. Geo. McGill of Kansas.

In recent years Colby has been FCIC's liaison man, working with Congressional liaison representatives of the Secretary's Office. Always in the thick of FCIC top-level activities, Colby traveled the "field" for many years before settling down to administrative jobs in Washington.

Eldon was born at Smith Center, Kansas, where he grew up on a farm and was graduated from high school in 1926. He got his A.B. degree from the University of Nebraska in 1931. Four years later he started work as an assistant clerk with USDA's AAA, where he worked up through a couple of promotions and on April 1, 1938, he came to Federal Crop Insurance as Asst. Marketing Specialist in Washington, D.C.

He was stationed successively in Chicago two years as Assoc. Statistician; in Spokane, Wash., 19 months ('41–'42) in Actuarial; then back to D.C. as Head Actuary in the Actuarial Div.—but worked 16 months for AAA (in '43–'44) while FCIC was inoperative) before returning to FCIC as an Actuary in Dec. 1944.

He continued in underwriting and writing Division in 1950. In 1961 he was transferred to the Manager's staff. He and Mrs. Colby (a Virginian) have a son, Eldon, with the Mormon church in Montana, and three daughters—Virgie, secretary to U.S. Rep. Ancher Nelsen of Minn.; Dr. Darilyn Colby with the State University of New York at Brockport, N.Y.; and Mrs. Jeanette Ott, whose husband is asst. prof. at Rutgers University, New Brunswick, New Jersey—and two grandchildren.

Some ten years ago Eldon was mayor of Falls Church, Va. He is a member of the National Press Club, and he and Mrs. Colby are active in the Episcopal church. They will continue to make their home at 3415 Blair Rd., Falls Church, Va. 22041.

ADDRESS BY J. PAUL AUSTIN BEFORE INTERNATIONAL ASSOCIATION OF FOOD DISTRIBUTION

Mr. TALMADGE. Mr. President, recently my attention was brought to a news release about an excellent address made in Vienna, Austria, by J. Paul Austin, chairman and chief executive officer of the Coca-Cola Co.

Addressing the International Association of Food Distribution on environmental protection and ecological problems, Mr. Austin called for international standards and controls to promote environmental renewal and to insure equitable competition in the world marketplace.

He urged cooperation between governments and private business and industry to set realistic and workable standards and to provide economic and legal sanctions to enforce them. Mr. Austin pointed out that in the absence of realistic international controls and cooperation, the environmentally irresponsible in government and the private sector would continue to damage the environment and, at the same time, gain a competitive advantage.

Mr. Austin also made a point with which I wholeheartedly agree—that we can have technological advancement and increased productivity and still insure environmental protection. In other words, I do not happen to be one of those

who believe that it is necessary for our society to return to the Stone Age or to unreasonably fetter American industry in order to protect the environment. In short, in my judgment, Government and industry—working together—and I am confident will lick this problem.

Mr. President, I bring this news release to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

ENVIRONMENT AND SURVIVAL

VIENNA, AUSTRIA, June 27—In an address here today to the International Association of Food Distribution, the Board Chairman of The Coca-Cola Company proposed that international standards and controls be devised "to prevent any further violence to the ecology of our planet," and to promote both environmental renewal and the survival of equitable competition in the world marketplace.

J. Paul Austin, Chairman and Chief Executive Officer of the multinational beverage firm, said that the solution to the ecological problems can only come out of a new dimension of partnership and cooperation among governments, enterprises, and the peoples of all nations.

Governments, he said in his address on the ecology crisis, can and properly should work with the private sector to determine and establish realistic standards. "A system of incentives and rewards must be combined with economic and legal sanctions to enforce these standards."

Unless there is global cooperation, Mr. Austin told the group, not everyone is likely to manage producing systems which do not pollute. Not everyone, he added, is likely to internalize the real costs, the true environmental price of their production.

When this is not done, he pointed out, pollution pockets are certain to be created—areas, including entire countries, where manufacturers can carry on "business as usual" with no regard to the damage they may be doing. Without true international controls and cooperation, the environmentally irresponsible would gain an unconscionable competitive advantage.

Citing the recent United Nations Conference on the Human Environment, Mr. Austin called on the food distributors to help in reinforcing a Conference conclusion that a better environment and an orderly, rational continuation of man's progress are not mutually exclusive goals.

As a first step, he said, "we must begin by insuring that our own houses are in order." We must accept and adopt environmental responsible standards ourselves, policing our own operations first.

"Having done that," he said, "we have the obligation to urge, to help, even to insist that others conduct themselves and their businesses with similar environmental responsibility.

"The solution to environmental problems," Mr. Austin said, "must enhance productivity rather than limit it." Creative solutions, he said, can produce profits, and for everyone involved.

As examples, Mr. Austin pointed to several projects The Coca-Cola Company had implemented in recent years which not only eliminated prior contributions to pollution but, in many instances, did so at a profit. In one of the firm's coffee roasting plants, he said, the particulate matter put into the air above the facility has been dramatically reduced, while eliminating all objectionable fumes and odors associated with the operation.

In a citrus-processing operation, he said, the installation of pollution-controlling devices is radically reducing the airborne discharge from the plant, by using excess heat as its energy source.

Mr. Austin also noted the efforts of Bottlers of Coca-Cola directed toward achieving a better environment. He cited such projects as recycling centers in the United States for the reclamation on one-way glass packages; the collection and recycling of aluminum cans by Bottlers of Coca-Cola in Australia; and the collection for recycling of aluminum bottle caps in South America, where almost all of the Company's products are sold in returnable packages.

Mr. Austin noted also the independent funding, by his Company, of a number of major studies into the total environmental impact of all its packaging designed to seek to determine their true cost, from the mining and extraction of raw materials to the disposal of waste products. That way, he said, "we'll be able to make even more intelligent decisions in the future."

Citing his Company's concern not only for the physical environment, but for the quality of life, Mr. Austin pointed to the Company's efforts toward the development of a protein-rich, nutritional beverage which could aid the undernourished, and to the Company's efforts in a program in its Florida citrus operations to upgrade the standard of living for the migratory-type wrokers who harvest the citrus.

The protein-beverage work, in progress for more than four years, is not altogether altruistic, Mr. Austin said, "We expect to profit from this venture. But so will those whose diets and lives are improved through our efforts. Those enterprises which succeed to the fullest are the very ones which enrich everyone involved."

The Company's farm labor reform project, Mr. Austin noted, did not contain the profit motive when it was inaugurated; but today, due to the continuing success of the activity, that factor is now a possibility.

With its individual components of better housing, better pay and benefits and improved health and educational facilities, the aim of the farm labor program is to stabilize the once migratory labor force and to raise the standard of living of the workers to a parity with other Company employees.

Even though Mr. Austin called the program "at the beginning of the beginning," he noted that with steady employment and normal incentives, the individual productivity rate is going up. The cost to the Company, he said, for equipment, supervisory personnel, transportation and other support requirements, have diminished surprisingly. "This translates quickly into a more profitable operation and a better return on investment."

PROHIBITION OF GEOPHYSICAL MODIFICATION ACTIVITY AS A WEAPON OF WAR

Mr. PELL. Mr. President, as chairman of the Subcommittee on Oceans and International Environment, I have been very much concerned over the unofficial and unconfirmed reports that the United States has attempted to modify weather conditions in Southeast Asia as an instrument of warfare.

During the recent Senate recess, a number of informative articles concerning this subject appeared in the press. Among these were articles writen by Bruce De Silva, in the Providence Journal and Evening Bulletin; Seymour M. Hersh and John Noble Wilford, in the New York Times of July 3, 1972; and by Victor Cohn, in the Washington Post of July 2, 1972.

These articles reinforce my belief that we must move quickly to ban the use of all geophysical warfare. In an effort to achieve this goal, I have scheduled hearings on July 26 and 27, 1972, to receive testimony on Senate Resolution 281 which I introduced earlier this year. This resolution, which was cosponsored by Senators BAYH, CASE, COOPER, CRANSTON, HART, HUGHES, HUMPHREY, JAVITS, KENNEDY, MCGOVERN, MONDALE, NELSON, STEVENSON, TUNNEY, and WILLIAMS expresses the sense of the Senate that the United States should seek the agreement of other governments to a proposed treaty prohibiting the use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation with respect thereto.

I believe that the articles referred to above will be of great interest to a number of Senators. I therefore ask unanimous consent that they be printed in the RECORD.

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

RAINMAKING IS USED AS WEAPON BY U.S.—CLOUD SEEDING IN INDOCHINA CONFIRMED—CHEMICAL ALSO EMPLOYED TO FOIL RADAR

(By Seymour M. Hersh)

WASHINGTON, July 2.—The United States has been secretly seeding clouds over North Vietnam, Laos and South Vietnam to increase and control the rainfall for military purposes.

Government sources, both civilian and military, said during an extensive series of interviews that the Air Force cloudseeding program has been aimed most recently at hindering movement of North Vietnamese troops and equipment and suppressing enemy antiaircraft missile fire.

The disclosure confirmed growing speculation in Congressional and scientific circles about the use of weather modification in Southeast Asia. Despite years of experiments with rainmaking in the United States and elsewhere, scientists are not sure they understand its long-term effect on the ecology of a region.

SOME OPPOSED PROGRAM

The weather manipulation in Indochina, which was first tried in South Vietnam in 1963, is the first confirmed use of meteorological warfare. Although it is not prohibited by any international conventions on warfare, artificial rainmaking has been strenuously opposed by some State Department officials.

It could not be determined whether the operations were being conducted in connection with the current North Vietnamese offensive or the renewed American bombing of the North.

EFFECTIVENESS DOUBTED

Beginning in 1967, some State Department officials protested that the United States, by deliberately altering the natural rainfall in parts of Indochina, was taking environmental risks of unknown proportions. But many advocates of the operation have found little wrong with using weather modification as a military weapon.

"What's worse," one official asked, "dropping bombs or rain?"

All of the officials interviewed said that the United States did not have the capability to cause heavy flooding during the summer in the northern parts of North Vietnam, where serious flooding occurred last year.

Officially, the White House and State Department declined comment on the use of meteorological warfare. "This is one of those things where no one is going to say anything," one official said.

Most officials interviewed agreed that the seeding had accomplished one of its main

objectives—muddying roads and flooding lines of communication. But there were also many military and Government officials who expressed doubt that the project had caused any dramatic results.

The sources, without providing details, also said that a method had been developed for treating clouds with a chemical that eventually produced an acidic rainfall capable of fouling the operation of North Vietnamese radar equipment used for directing surface-to-air missiles.

In addition to hampering SAM missiles and delaying North Vietnamese infiltration, the rainmaking program had the following purposes:

¶Providing rain and cloud cover for infiltration of South Vietnamese commando and intelligence teams into North Vietnam.

¶Serving as a "spoiler" for North Vietnamese attacks and raids in South Vietnam.

¶Altering or tailoring the rain patterns over North Vietnam and Laos to aid United States bombing missions.

¶Diverting North Vietnamese men and material from military operations to keep muddied roads and other lines of communication in operation.

KEYED TO MONSOON

The cloud-seeding operations necessarily were keyed to the two main monsoon seasons that affect Laos and Vietnam. "It was just trying to add on to something that you already got," one officer said.

Military sources said that one main goal was to increase the duration of the southwest monsoon, which spawns high-rising cumulus clouds—those most susceptible to cloud seeding—over the panhandle areas of Laos and North Vietnam from May to early October. The longer rainy season thus would give the Air Force more opportunity to trigger rainstorms.

"We were trying to arrange the weather pattern to suit our convenience," said one former Government official who had detailed knowledge of the operation.

According to interviews, the Central Intelligence Agency initiated the use of cloud-seeding over Hue, in the northern part of South Vietnam. "We first used that stuff in about August of 1963," one former C.I.A. agent said, "when the Diem regime was having all that trouble with the Buddhists."

"They would just stand around during demonstrations when the police threw tear gas at them, but we noticed that when the rains came they wouldn't stay on," the former agent said.

"The agency got an Air America Beechcraft and had it rigged up with silver iodide," he said. "There was another demonstration and we seeded the area. It rained."

A similar cloud-seeding was carried out by C.I.A. aircraft in Saigon at least once during the summer of 1964, the former agent said.

EXPAND TO TRAIL

The Intelligence Agency expanded its cloud-seeding activities to the Ho Chi Minh supply trail in Laos sometime in the middle nineteen-sixties, a number of Government sources said. By 1967, the Air Force had become involved although, as one former Government official said, "the agency was calling all the shots."

"I always assumed the agency had a mandate from the White House to do it," he added.

A number of former CIA, and high-ranking Johnson Administration officials depicted the operations along the trail as experimental.

The state of the art had not yet advanced to the point where it was possible to predict the results of a seeding operation with any degree of confidence, one Government official said. "We used to go out flying around and looking for a certain cloud formation," the official said. "And we made a lot of mistakes. Once we dumped seven inches of rain in two hours on one of our Special Forces camps."

Despite the professed skepticism on the part of some members of the Johnson Administration, military men apparently took the weather modification program much more seriously.

According to a document contained in the Pentagon papers, the Defense Department's secret history of the war, weather modification was one of seven basic options for stepping up the war that were presented on request by the Joint Chiefs of Staff to the White House in late February, 1967.

The document described the weather program over Laos—officially known as Operation Pop-Eye—as an attempt "to reduce trafficability along infiltration routes."

AUTHORIZATION NEEDED

It said that Presidential authorization was "required to implement operational phase of weather modification process previously successfully tested and evaluated in same area." The brief summary concluded by stating that "risk of compromise is minimal."

A similar option was cited in another 1967 working document published in the Pentagon papers. Neither attracted any immediate public attention.

The Laos cloud-seeding operations did provoke, however, a lengthy and bitter, albeit secret, dispute inside the Johnson Administration in 1967. A team of State Department attorneys and officials protested that the use of cloud-seeding was a dangerous precedent for the United States.

"I felt that the military and agency hadn't analyzed it to determine if it was in our interest," one official who was involved in the dispute said. He also was concerned over the rigid secrecy of the project, he said, "although it might have been all right to keep it secret if you did it once and didn't want the precedent to become known."

The general feeling was summarized by one former State Department official who said he was concerned that the rainmaking "might violate what we considered the general rule of the thumb for an illegal weapon of war—something that would cause unusual suffering or dispropriate damage." There also was concern, he added, because of the unknown ecological risks.

A Nixon Administration official said that he believed the first use of weather modification over North Vietnam took place in late 1968 or early 1969 when rain was increased in an attempt to hamper the ability of antiaircraft missiles to hit American jets in the panhandle region near the Laotian border.

Over the next two years, this official added, "it seemed to get more important—the reports were coming more frequently."

It could not be learned how many specific missions were carried out in any year.

One well-informed source said that Navy scientists were responsible for developing a new kind of chemical agent effective in the warm stratus clouds that often shielded many key antiaircraft sites in northern parts of North Vietnam.

The chemical, he said, "produced a rain that had an acidic quality to it and it would foul up mechanical equipment—like radars, trucks and tanks."

"This wasn't originally in our planning," the official added, "it was a refinement."

Apparently, many Air Force cloud-seeding missions were conducted over North Vietnam and Laos simply to confuse or "attenuate"—a word used by many military men—the radar equipment that controls antiaircraft missiles. The planes used for such operations, C–130's, must fly at relatively slow speeds and at altitudes no greater than 22,000 feet to disperse the railmaking chemicals effectively.

A number of officials confirmed that cloud seeding had been widely used in South Vietnam, particularly in the north along the Laos border. "We tried to use it in connection with air and ground operations," a military officer explained.

One Government official explained more explicitly that "if you were expecting a raid from their side, you would try to control the weather to make it more difficult." This official estimated that more than half of the actual cloud-seeding operations in 1969 and 1970 took place in South Vietnam.

Much of the basic research was provided by Navy scientists, and the seeding operations were flown by the Air Weather Service of the Air Force.

By 1967, or possibly earlier, the Air Force flights were originating from a special operations group at Udorn air base in Thailand. No more than four C–130's, and usually only two, were assigned in the highly restricted section of the base. Each plane was capable of carrying out more than one mission on one flight.

One former high-ranking official said in an interview that by the end of 1971 the program, which had been given at least three different code names since the middle nineteen-sixties, was under the direct control of the White House.

Interviews determined that many usually well-informed members of the Nixon Administration had been kept in the dark.

In the last year, there have been repeated inquiries and publicly posed questions by members of Congress about the weather modification programs in Southeast Asia, but no accurate information has been provided to them by the Department of Defense.

"This kind of thing was a bomb, and Henry restricted information about it to those who had to know," said one well-placed Government official, referring to Henry A. Kissinger, the President's adviser on national security.

Nonetheless, the official said, "I understand it to be a spoiling action—that this was descriptive of what was going on north of the DMZ with the roads and the SAM sites."

Another source said that most of the weather modification activities eventually were conducted with the aid and support of the South Vietnamese. "I think we were trying to teach the South Vietnamese how to fly the cloud-seeding missions," the source said.

It was impossible to learn where the staffing and research for the secret weather operation were carried out. Sources at the Air Force Cambridge Research Laboratories at Hanscomb Field in Bedford, Mass., and at the Air Weather Service headquarters, while acknowledging that they had heard of the secret operation, said they had no information about its research center.

One Government source did say that a group was "now evaluating the program to see how much additional rain was caused." He would not elaborate.

SCIENTISTS ARE CRITICAL OF RAINMAKING IN WAR

(By John Noble Wilford)

After years of rainmaking experimentation, scientists are still not sure they understand the short-term effects of cloud-seeding, much less the possible long-term impact on the ecology of a region or the entire world.

This uncertainty has led to increasing concern among scientists over the use of weather modification as an instrument of warfare.

Dr. Matthew Meselson, professor of biology at Harvard University, was quoted in the June 16 issue of the magazine Science as saying:

"It is obvious that weather modification used as a weapon of war has the potential for causing large-scale and quite possibly uncontrollable and unpredictable destruction. Furthermore, such destruction might well have a far greater impact on civilians than on combatants. This would be especially true in areas where subsistence agriculture

is practiced, in food-deficit areas, and in areas subject to flooding."

ISSUE RAISED RECENTLY

The issue has also been raised in recent months by the National Academy of Sciences, on the floor of the United States Senate and at the international environmental meeting at Stockholm last month.

Recognizing the many potential problems, the national academy issued a statement last year urging the Nixon Administration to sponsor a United Nations resolution "dedicating all weather modification efforts to peaceful purposes and establishing, preferably within the framework of international nongovernmental scientific organizations, an advisory mechanism for consideration of weather-modification problems of potential international concern."

Senator Claiborne Pell, Democrat of Rhode Island, and 13 other Senators recently filed a resolution calling on the United States to join in a treaty outlawing "any use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation with respect thereto"

But, during the Stockholm conference, the United States delegation was instrumental in inserting a weakening clause in a recommendation calling for all governments to "carefully evaluate the likelihood and magnitude of climactic effects" from weather modification and to disseminate their findings.

U.S. SPONSORS STUDY

The weakening clause included the words, "to the maximum extent feasible." Officials later acknowledged that possible military use of weather modification was the basis for the amendment.

However, the Department of Defense's Advanced Research Projects Agency is sponsoring research to determine how much and what kind of tinkering with the atmosphere is required to disturb the climate on a global scale—an indication that the Pentagon is not sure of the ecological impact of weather warfare.

The Defense Department acknowledges that it conducted "precipitation augmentation projects" in the Philippines in 1969, in India in 1967, over Okinawa and the Mid islands in 1971 and in Texas last summer—all at the request of the governments involved.

The results were mixed—success in the Philippines and Texas, but not elsewhere. Other tests over the years have failed to increase rainfall, or else failed to convince meteorologists that the rains would not have fallen without human intervention.

But tests in Florida, in 1968 and 1970, led civilian scientists to conclude that clouds seeded with silver iodide crystals rained more than three times as much as unseeded clouds. The experiment, concluded by the National Oceanic and Atmospheric Administration, produced "explosive" growth of rain clouds.

CONTROVERSY REMAINS

While conceding that "there's still quite a bit of controversy over whether your seeding caused rain or not," Ferguson Hall of the agency's Office of Environmental Modification said yesterday in a telephone interview from his Rockville, Md., office: "We seem to be on the verge of having convinced ourselves rainmaking will work in certain cases."

Rainmaking research primarily involves experiments in seeding clouds with silver iodide, dry ice, common salt and other chemicals that can act as condensation nuclei. The Federal Government is spending about $20 million annually on weather-modification research.

There are two types of clouds, warm and cold, and thus two processes by which seeding is believed to trigger rainfall.

In 1946, the first American experiments in cloud seeding, by Vincent J. Schaefer of the General Electric Research Laboratory in Schenectady, were aimed at supercooled clouds. From an airplane, Mr. Schaefer dropped three pounds of dry ice (frozen carbon dioxide) into clouds to create billions of glistening ice crystals.

MOISTURE TO ICE

Dry ice—or silver iodide, which is more commonly used today—turns moisture in the clouds to ice crystals that grow larger and larger until they are heavy enough to fall as either rain or snow.

Silver iodide is ordinarily used as the seeding agent because its crystals are similar to those of ice and it is more effective in causing supercooled water drops to freeze.

In warm clouds, salt or silver iodide particles can cause moisture to coalesce into water droplets large enough to fall as rain. This would be the type of experiments that could be effective in tropical or semitropical areas, such as Southeast Asia.

The type of seeding agent that could cause a highly acidic rainfall, as reported in Southeast Asia, has not been disclosed. Civilian scientists are loathe to discuss the possibility, except to note that the method has a name—hygroscopic seeding.

Most cloud-seeding operations are conducted by airplane—the C–130 in Vietnam. But small rockets can also be used to deliver the seeding agent.

WEATHER WAR: A GATHERING STORM

(By Victor Cohn)

Technological America, that accomplished laser-radar-electronic warrior, has been larning to use still another remote-control weapon: control of the weather for military purposes.

Indochina—by the evidence of a long-ignored passage in the Pentagon Papers—has been a test battleground, the site of purposeful rain-making along the Ho Chi Minh trails. Some accusers, going further, hold American rain-makers responsible for the flood disasters that struck North Vietnam last year.

How much there is past a hard kernel of truth behind an array of increasingly serious accusations is unclear. Yet the very possibility that there has been serious weather war—as well as the emerging fact that the Pentagon has been systematically developing a rain-making capability—is enough to chill many scientists.

These scientists include fearful prophets who warn of future "geophysical warfare"—wars waged by adjusting, changing, modifying and ultimately despoiling the air, water and earth.

They also include a growing number of weather-modifiers, scientists interested in the the peaceful users of seeding clouds, modifying hurricanes or preventing hail to help farmers and everyone else.

OPERATION POP EYE

The term "seeding" simply means making the proper clouds yield rain, or destructive force, by bombarding them with silver iodide particles. The particles act as condensation nuclei around which moisture can form. The would-be cloud engineers want to develop such programs through international cooperation, because both weather and weather modification ignore borders.

Weather modification, these men believe, is on the verge of huge advances, and needs only a period of concentrated research, in a framework of interstate and international rules.

But "if it turns out that the U.S. has militaristic uses for weather modification," one weather scientist maintains, "international weather programs would drop dead."

A prominent White House scientist, Dr. Gordon J. F. MacDonald, geophysicist-member of the President's three-man Council on Environmental Quality, is among those who believe it is important for nations to agree not to wage weather war—"before," as he put it, "it becomes a reality."

Sen. Claiborne Pell (D-R.I.) is prominent among members of Congress who believe it has become a reality. "There is very little doubt in my mind," he says. Rep. Gilbert Gude (R-Md.) states: "There's no doubt in my mind that it's going on in Vietnam."

"I think there's no doubt rain-making was used in Laos on the trail," says a Senate committee aide well versed in defense affairs. "And I think there's little doubt that it has been used fairly recently; that is, in 1971."

Such use, in 1971 or otherwise, may have been only sporadic, several sources believe. "Otherwise," said one, "a lot more people would have known about it long ago."

It is a "successful" pre-1967 use, sometime in the years of Vietnam escalation, possibly in 1966, that is documented in the "Senator Gravel" edition of the Pentagon Papers. In late February, 1967, this document discloses the Joint Chiefs of Staff prepared a list of "alternative strategies" for President Johnson.

One, titled "Laos Operations," read:

"Continue as at present plus Operation Pop Eye to reduce trafficability along infiltration routes . . . Authorization required to implement operational phase of *weather modification process previously successfully tested and evaluated in same area.*" (Italics added.)

In 1967—according to columnist Jack Anderson, who published the first allegation of Indochina rain-making—U.S. forces started secret Project Intermediary Compatriot "to hamper enemy logistics . . . (with) claimed success in creating man-made cloudbursts . . . (and) flooding conditions" along the Ho Chi Minh trails, "making them impassable."

"CLASSIFIED" WORK

Sen. Pell, most persistently, and Rep. Gude and Sen. Alan Cranston (D-Calif.), on behalf of Members of Congress for Peace Through Law, have showered the Pentagon with inquiries since Anderson published his charges in March, 1971. Defense Secretary Melvin Laird and Director of Defense Research and Engineering John Foster have repeatedly replied (to quote Laird): "Some aspects of our work in this area have a definite relationship to national security and are classified accordingly."

In April, Senate Foreign Relations Committee Chairman J. William Fulbright (D-Ark.), pressed further, asking Laird: "Why do you decline to discuss weather control activities in North Vietnam, yet you freely discuss B–52 flights over Vietnam?" Laird replied blandly, "We have never engaged in that type of activity over North Vietnam."

Fulbright failed to go on to ask Laird about Laos or Cambodia or the Gulf of Tonkin, where some Vietnam weather originates. "He just didn't follow up on that question," one of his staff explains. "He was trying to cover a whole range of things."

The Defense Department freely reports that it has "field capabilities" for making rain. It used them in the Philippines in 1969, in a six-month "precipitation augmentation project" at the Philippines request; in India in 1967, a a similar invitation; over Okinawa and Midway islands, and in June, July and August, 1971, over drought-stricken Texas, at the urgent request of Gov. Preston Smith.

Pierre Saint-Amand, head of earth and planetary sciences for the Naval Ordnance Laboratory at China Lake, Calif., led the Philippine Project, which that government considered highly successful. The India and Midway tries failed for lack of suitable clouds. But the Texas effort, by Air Force crews, was "remarkably successful," in Saint-Amand's view.

Navy rain-makers are currently involved in

two long-range California programs—one over the Pacific off Santa Barabara, an attempt to increase rainfall over a national forest; the other over the Central Sierras to try to increase the snow-pack for electric utilities that depend on water power.

Air Force weather modifying is done by Air Weather Service, working out of Scott Field, East St. Louis, Ill., with participation by the Environmental Technology Applications Center at Suitland, Md. Operations over Indochina are flown out of Udorn Air Force Base, Thailand, says a Senate source.

"None of the weather research work in the entire DOD is classified," Saint-Amand adds—the word *research* should be noted here. "Our labs are open to anyone who wants to come and see what we're doing." Chief Scientist John N. Howard of the Air Force's Cambridge Research Laboratories at Bedford, Mass., made a similar statement. The Defense Department's Advanced Research Projects Agency (ARPA) likewise reports conducting only classified research.

An ARPA study called Nile Blue has been cited by some of the military's accusers as prime evidence of nefarious DOD rainmaking. Actually, Nile Blue is a study by computer of how purposeful or accidental man-made changes might affect the globe's year-to-year climate rather than the day-to-day conditions called weather.

Nile Blue has been funded this year at $2.5 million but will rise to $3.1 million in fiscal year 1973, with use of a new supercomputer, Illiac IV, designed at the University of Illinois and now being installed at Ames Research Center, Moffett Field, Calif.

Defending the project, ARPA Director Stephen J. Lukasik told the Senate Appropriations Committee in March: "Since it now appears highly probable that major world powers have the ability to create modifications of climate that might be seriously detrimental to the security of this country, Nile Blue . . . was established in FY 70 to achieve a U.S. capability to (1) evaluate all consequences of a variety of possible actions . . . (2) detect trends in the global circulation which foretell changes . . . and (3) determine if possible, means to counter potentially deleterious climatic changes . . ."

"What this means," Lukasik explains, "is learning how much you have to tickle the atmosphere to perturb the earth's climate. I guess we'd call it a threat assessment.

A VISION OF ECOCIDE

How might such changes be made by one country desiring to harm another?

The highly respected Dr. MacDonald, who will leave the White House soon to teach at Dartmouth, wrote a 1968 warning against geophysical warfare, titled "How to Wreck the Environment." On weather war in Indochina, he now says only, "I wouldn't know about that." But melting the Arctic cap by some means, he conjectured in 1968, might be one future way in which a land-locked equatorial country could flood the world's coastal cities while insuring itself a temperate climate with abundant rainfall.

"As economic competition among many advanced nations heightens," he warned, "it may be to a country's advantage to ensure a peaceful natural environment for itself and a disturbed environment for its competitors. Operations . . . might be carried out covertly . . . The years of drought and storm would be attributed to unkindly nature and only after a nation were thoroughly drained would an armed takeover be attempted."

Far-fetched? Short-term rain-making—which MacDonald in 1968 called only a "future" military possibility—already seems an easier, if capricious, weapon.

"When the proper meteorological conditions prevail (that is, when clouds capable of producing natural rain exist)," Laird told Sen. Pell in a November letter, "it is a relatively simple matter to increase the amount of rain which will fall. The amount of increase is frequently of the order of 30 to 50 per cent."

Laird carefully added: "Massive downpours have not been produced, and theoretical knowledge at hand indicates that this will probably always be the case." This, if oblique, seemed to quarrel with the allegations that the 1971 North Vietnam floods have been produced by the Pentagon. Pell, however, maintains that U.S. cloud-seeding produced the floods, which he says killed thousands.

"IT IS ENTIRELY POSSIBLE"

Robert M. White, the nation's chief weather man as director of the Commerce Department's National Oceanographic and Atmospheric Administration (NOAA), declined to discuss military matters in an interview. But to the question, "Could cloud seeding cause flooding?" he—unlike Laird—said, "Yes, it is entirely possible to get heavy rains out of certain clouds."

"In the past decade," White added, "there has been a considerable change of view in the scientific community on weather modification. I think most knowledgeable people would agree that we have primitive capabilities for modifying certain weather patterns. And it is reasonable now to look to possible development of more sophisticated ones."

Among patterns that can "predictably" be modified, he said, are: cold fog (which can be cleared from airfields); cumulus clouds (most common in the tropics—"In Florida," White said, "we have been able almost at will to make them grow explosively"); orographic clouds (moist air moving up over mountains—"At the right temperature you can begin thinking of milking them for water") and hailstorms (which can often be suppressed, according to recent claims by the Russians, who fire silver iodide into them from rockets and artillery).

Beyond these, there are storms like hurricanes—as Hurricane Agnes, for example—which cannot yet be reliably suppressed, "but for which we have some encouraging results," in White's view.

All in all, he sums up, "We're beginning to move from a situation where everything that happens in the atmosphere is an act of God to where some things are an act of man."

THE MORAL ISSUE

What perturbs many scientists is the morality of using such "acts of man" for military purposes.

The Navy's Saint-Amand emphatically does not see turning weather into a weapon as something inherently evil. "If you estimate the amount of damage done by impeding someone's transportation versus blowing or burning them up, I don't think it is so immoral," he told Science magazine.

Most scientists, left-wing and establishment, seem to disagree.

The Science for Vietnam, Chicago Collective—a radical anti-war group of scientists and students who first spotted the passage in the Pentagon Papers—charges: "The U.S. government has embarked on a totally new and insidious form of warfare . . . (that) could disrupt the economy and social structure of a small country; it could create famine . . ."

University of Connecticut Graduate Dean Thomas Malone, chairman of the National Academy of Sciences' Weather Modification Panel, likewise says: "I'm opposed to it." He urges a treaty that would not merely ban weather war but go on to encourage international weather modifications "in a positive way." A 1971 Academy study urged the United States to sponsor a United Nations resolution dedicating all weather modifying to peace.

Unless nations do this, Malone told Science, "we will face horrendous political problems—putting the genie back in the bottle."

Pell argues that present military activities "could very well lead to another international arms race." "The use of rain-making as a weapon of war can only lead to the development of vastly more dangerous environmental techniques," he says. "We must move quickly to place weather, climate and geophysical modification off limits."

Joined by 13 colleagues (McGovern, Humphrey, Case, Cooper, Cranston, Hart, Hughes, Javits, Kennedy, Mondale, Nelson, Tunney and Williams), he has proposed a Senate resolution urging that the United States seek a treaty to bar both weather war and research into it. As chairman of the Senate Foreign Relations Committee's international environment subcommittee, Pell will try to smoke Laird out further at upcoming hearings, perhaps this month.

LACK OF RESPONSE

The administration, too, may be considering the subject. But how seriously it is doing so is unsure.

The Pentagon's Foster told Gude that the National Security Council Under Secretaries' Committee "at the request of Dr. Kissinger is currently meeting to formulate a definitive national policy. Presumably this policy, when completed, will be announced to the nation in some appropriate fashion."

The NSC unit involved is headed by Herman Pollock, the State Department's director of international scientific affairs. He reports that it has considered only peaceful weather-making, not military.

Pell is undiscouraged by lack of administration response so far to the pleas that it support his proposed treaty, or that the President declare that the United States will never be first to wage weather war.

"I remember what happened five years ago when I first introduced a draft treaty to ban nuclear weapons from the seabed," he says. "I got rather unreal executive branch comment, just as we're getting now. But I knew very well that a strip of missiles along the Atlantic ridge and 'creepy crawlers'—tank-like underwater missile carriers—were on the drawing board at the Pentagon.

"I see the same process now. I think that given a few years, we'll get some sort of treaty here, too."

Of all fields of science, Dean Malone has said, none has produced more world cooperation than meteorology. "What a tragic reversal it would be if we started using our knowledge to beat one another over the head."

PELL FEELS U.S. WAGES WEATHER WARFARE

(By Bruce DeSilva)

WASHINGTON.—The Pentagon has the power to change the weather and already may have used that power to kill and destroy in Southeast Asia.

"I strongly believe clouds have been seeded in Southeast Asia for military reasons. There is very little doubt in my mind," Sen. Clairborne Pell said during an interview in his Washington office last week.

David Kearney, a member of the professional staff of the Senate foreign relations committee, is less cautious. "I have no doubt at all," he said.

Senator Pell said he believes the military has been seeding clouds, perhaps beginning as early as 1966, to clear them away from bombing targets in North Vietnam. He said he also believes seeding with other chemicals has produced torrential rains. The rains have washed-out portions of the Ho Chi Minh Trail impeding the infiltration of supplies and men from North to South Vietnam and caused floods which killed thousands, he said.

Defense Department spokesmen had admitted that they have the capability to drastically increase rainfall, but in a sharp exchange of letters with Senator Pell and in a sharp exchange in a Senate foreign relations committee hearing with Sen. J. William Fulbright of Arkansas, they have refused to con-

firm, but carefully avoided denying, that such activities are under way in Southeast Asia.

Beginning in June of last year and lasting well into the normally dry season in the fall, North Vietnam was devastated by heavy rains, typhoons and floods.

According to reports by Pierre Darcourt, a French journalist, the heavy rains triggered mud slides, washed away or weakened roads and breached dikes.

The Associated Press reported that flooding destroyed 10 per cent of the country's rice crop and killed thousands.

North Vietnamese Premier Pham Van Dong, the Christian Science Monitor reported, said water levels in the entire Red River and Thai Binh River system rose to "unprecedented levels." He called the flooding the "worst disaster since the beginning of the war."

An act of God? Perhaps.

But Senator Pell said he believes the disaster was merely the most successful of Pentagon rainmaking efforts in the region.

The best evidence that the Pentagon is altering the weather is provided in brief remarks in the Pentagon Papers. The significance of th remarks apparently went largely unnoticed during the furor of other sensational disclosures in the documents.

According to the Gravel edition of the papers, Volume 4, Page 421, the Joint Chiefs of Staff presented President Lyndon B. Johnson with a memo in 1967 suggesting that modifying the weather in the region might be one way of widening the war without creating dissent at home.

The memo stated in part:

"Laos Operations—Continue as at present plus Operation Pop Eye to reduce trafficability along infiltration routes. Authority/Policy Changes—Authorization required to implement operational phase of weather modification process previously successful tested and evaluated in some areas."

Later that year, the President was presented with a list of escalation proposals, the Papers indicate. The list included the following item:

"Cause interdicting rains in or near Laos."

Other evidence concerning the rainmaking efforts are circumstantial.

In March of last year, Jack Anderson, a nationally syndicated columnist, claimed in his column that the Air Force has been seeding clouds over Laos and Cambodia since 1967. He said the project went by the code name of "Intermediary-Compatriot."

Unlike other Anderson columns, such as the one on the ITT memo or the disclosure of a secret U.S. posture during the India-Pakistan war, this column went largely unnoticed nationally.

Last Sept. 23, Senator Pell sent a letter to Rady Johnson, assistant secretary of defense for legislative affairs, inquiring about "the Air Force weather modification activities against the North Vietnamese."

The letter, and all subsquent communication, was made public by the senator and was inserted in the Jan. 26 Congressional Record.

The letter asked the following questions:

"1. What are the objectives of the project known by the code name 'Intermediary-Compatriot'?

"2. How long has this project been in existence? Would you provide a rather detailed description of this project?

"3. In what specific countries is this project conducted?

"4. What amounts have been spent on this project over the last three years?

"5. Is the Department conducting any similar offense-oriented weather modification programs? If so, what are the names of these projects and where are they being conducted?"

ANOTHER LETTER

The following day, Mr. Johnson replied, saying the questions had been referred to the director of defense research and engineering.

After waiting for a response for two weeks, Senator Pell sent another letter to Mr. Johnson, again asking for a reply to his earlier questions.

On Nov. 23, Mr. Johnson sent the senator a lengthy reply.

The reply stated in part that "the possibilities inherent in weather modification techniques to support military operations have been the subject of discussion for more than 20 years. For a number of these years, the Department of Defense has been conducting several modest research and development programs relating to various forms of weather modification."

In the letter, Mr. Johnson stated that research has been undertaken for "the suppression of hail and lightning (to reduce damage to military property and equipment and to increase safety of operations) and the dissipation of fog at airports and within harbors (to enhance operations of safety of aircraft and ships.)"

"RELATIVELY SIMPLE"

The letter added that "One example of fruitful field research has been the investigation of precipitation augmentation. . . . When the proper meteorological conditions prevail (that is, when clouds capable of producing natural rain exist) it is a relatively simple matter to increase the amount of rain which will fall. The amount of increase is frequently of the order of 30 to 50 per cent."

Mr. Kearney said some scientists have told him the increase could actually be ten or 20 times that. However, he noted, a 50 per cent increase in the monsoon rains of Southeast Asia can have a tremendous impact.

Mr. Johnson's letter noted that in 1969, the Department of Defense, at the request of the Philippines, conducted a six-month rainmaking project on the Philippine Islands to relieve a drought. "The Philippine government considered the undertaking so successful that they have subsequently taken steps to acquire an independent capability," the letter added.

"I trust," the letter closed, "that the foregoing information will be helpful to you and regret the delay in responding to your inquiry."

QUESTIONS UNANSWERED

But the letter did not answer a single one of Senator Pell's questions.

Senator Pell sent a letter to Defense Secretary Melvin Laird on Dec. 3 stating his dissatisfaction with Mr. Johnson's letter and requesting "a written response to the specific questions."

Mr. Laird referred the letter to John S. Foster Jr., director of defense research and engineering, who sent a written reply to Senator Pell on Dec. 16.

"Certain aspects of our work in this area are classified," Mr. Foster's letter said. "Recognizing that the Congress is concerned with the question of the military application of weather modification technology, I have, at the direction of Secretary Laird, seen to it that the chairmen of the committees of Congress with primary responsibility for this department's operations have been completely informed regarding the details of all classified weather modification undertakings by the department.

"RESPECTFULLY DECLINE"

"However, since the information to which I refer has a definite relationship to national security and is classified as a result, I find it necessary to respectfully decline to make any further disclosures of the details of these activities at this time."

Senator Pell said he understood the letter to mean that only Sen. John Stennis, D-Miss. and Rep. F. Edward Hébert, D-La. the chairmen of the Senate and House armed services committees, had been briefed on the matter.

The briefings were confidential and make it impossible for those two legislators to discuss the matter even if they want to.

Senator Pell said he has been offered a classified briefing but has declined to accept it because it would limit his ability to ask Defense Department officials probing questions about the project at future Senate hearings and limit his freedom to speak out on the subject.

LARGELY UNNOTICED

When Mr. Laird appeared before the foreign relations committee in April to testify concerning renewed bombing of the North, Senator Pell and Senator Fulbright questioned him briefly on weather modification. The exchange went largely unnoticed in the press.

Senator Pell asked Mr. Laird if the United States had engaged in rainmaking activities "for military reasons in Southeast Asia."

Mr. Laird replied, "I don't discuss the operating authority that we go forward with as far as Southeast Asia specifically, but I would be glad to discuss with you the techniques that have been used outside the battle zone."

Senator Fulbright asked, "Why do you decline to discuss weather control activities in North Vietnam, yet you freely discuss B-52 flights over North Vietnam?"

After a brief exchange between Mr. Laird and Senator Fulbright, Mr. Laird said.

"We have never engaged in that type of activity over North Vietnam."

Senator Pell said last week that Mr. Laird carefully limited his response to "activity over North Vietnam." It would be expected that clouds would be seeded over Laos or Cambodia or over the Tonkin Gulf, depending on the time of year, rather than over North Vietnam, Senator Pell added.

The senator said the Defense Department has been "extremely sensitive" to questioning about weather modification and that information about it has been difficult to get.

Such an operation is easy to keep secret, because three men in a small plane are all that is needed to carry it out. Large numbers of men need not be involved, the senator said.

Senator Pell said one indication that the Pentagon is involved in weather modification over Vietnam is the United States' decision to torpedo a resolution on weather modification at the United Nations Environmental Conference in Stockholm earlier this month.

A resolution on the question required that before taking any action that might have an effect on the climate, a government should evaluate the change that could occur and disseminate its findings.

"IT GIVES THEM AN OUT"

The United States succeeded in amending the agreement to say that information will be disseminated "to the maximum extent feasible."

"It gives them an out. They can say that dissemination is not feasible for security reasons," Senator Pell said.

Fearful that the Pentagon's tinkering with natural phenomenon may not be limited to making rain, Senator Pell has prepared a draft of a treaty that would ban all weather and climate modification activities as weapons of war.

On March 17, he introduced a resolution in the Senate stating that it is "the sense of the Senate" that such a treaty be negotiated. Among its 14 sponsors are Senators Edward M. Kennedy of Massachusetts, George McGovern of South Dakota and Hubert H. Humphrey, Minnesota.

"When I proposed the seabed treaty (banning nuclear arms from the ocean floors), a string of ABM's along the Atlantic Ridge and creepy crawlers (tank-like weapons that would crawl along the ocean floor) were on the drawing board at the Pentagon," Senator said.

"CAN LEAD TO DISASTER"

Weather modification is also "a weapon that can lead to disaster," he said.

If the Pentagon can make rain, is it also trying to develop ways to divert typhoons to the shores of other nations or cause earthquakes? the senator wondered.

Without a treaty banning such activities, an inland nation could melt the antarctic ice (which can be easily done by sprinkling soot on it according to scientists) and raise the level of the sea by 300 feet, he said.

Senator Pell referred to an article by Gordon J. F. McDonald, a member of the Council for Environmental Quality in the Nixon administration, which was printed in 1963 in a book titled "Unless Peace Comes."

In the article, Mr. McDonald said weather and climate modification "might be carried out covertly since nature's great irregularity permits storms, flooding, earthquakes, and tidal waves to be viewed as unusual but not unexpected."

"OR EVEN KOREA"

"Such a secret war will never be declared or ever known by the affected population. It could go on for years with only the security forces involved, being aware of it," the article stated.

"These are the kinds of weapons I don't want to see developed," Senator Pell said, adding that the Soviet Union is doing research on weather and climate modifications.

Senator Pell said he plans hearings on his resolution and treaty late next month or in August.

He said he expects to have "some exciting witnesses" for the hearings and hopes the hearings will "flush out" the truth concerning Pentagon weather modification activities.

POLITICAL SPYING

Mr. GOLDWATER. Mr. President, the whole subject of political spying is one that has intrigued my for some time. As a matter of fact, the whole pursuit has struck me as an exercise in futility from the first time it was ever brought to my attention.

In recent weeks, we have heard a great amount of inflated rhetoric about an alleged attempt to bug the telephones for an eavesdropping operation aimed at the Democratic National Committee headquarters in Washington, D.C. Quite naturally the suspected culprits in this fascinating caper were—you guessed it—the Republicans. Consequently, the Democratic Committee has brought a $1 million suit against officials of the GOP because of some alleged connection between the caperees and the campaign to reelect President Nixon.

Mr. President, needless to say it brought back interesting memories to a man who was once his party's presidential candidate and had the experience of having his campaign train boarded by a pretty 23-year-old Democratic spy who posed as a reporter but who actually worked for the Democratic National Committee.

I might have forgotten this interesting bit of cloak-and-dagger work in my own campaign had it not been for an amusing and informative and well written editorial in the Arizona Republic of June 24, entitled "Spymasters at Work." The Republic notes that when the Democrats were caught at the game of spying, the press reacted with light feature stories which compared the Democratic ploy with the exploits of James Bond. It added this incisive comment:

But now that the Democratic campaign sanctuary has supposedly been breached by GOP functionaries—one of them a former CIA agent—a hue and cry against treachery and reprehensible political tactics has been echoed and reechoed by the Democrats at the expense of President Nixon and his supporters.

For the Democrats, it is an obvious attempt to get some publicity and sympathy when their political fortunes are at an all-time low. And so far as press critics are concerned, Senator Goldwater probably put things into perspective when he said the Republicans are likely being blamed only because their spies are not "well-stacked."

Mr. President, it is my personal belief that you could bug the telephone lines of the Democratic National Committee for the next 50 years and hear nothing but demands that it make good on old debts. In all events, I ask unanimous consent that the Arizona Republic's editorial entitled "Spymasters at Work" be printed in the RECORD.

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

SPYMASTERS AT WORK

Sen. Barry Goldwater is understandably amused by the inflated rhetoric and $1 million suit against Republican officials by high-ranking Democrats because some people connected with the campaign to re-elect President Nixon were caught either installing or removing wiretap equipment designed to eavesdrop on business conducted at Democratic National Committee headquarters in Washington.

Senator Goldwater would be the last person to condone such political espionage. But his amusement obtains from his own experience as a presidential candidate eight years ago, when Moira O'Conner, a pretty 23-year-old Democratic spy, boarded his campaign train as a "reporter," and used her good looks and cover as a journalist to collect juicy tid-bits for the Democrats.

Miss O'Conner, who openly admitted connections with the Democratic National Committee, was paid by California Democratic strategist Richard Tuck to spy on the Goldwater campaign operation and publish an anti-Goldwater newspaper based on information she collected before she was discovered by the senator's associates.

The Democrats also tried in 1964 to fake an espionage attempt and blame the Republicans by informing the press that Louis Flax, night teletype operator in Washington for the Democrats' nationwide communications network, was being paid large sums of money by the GOP to furnish them with copies of Democratic teletype transmissions.

A trap was arranged by the Democrats, and reporters and photographers were on hand to witness a supposed clandestine meeting between Flax and his Republican contact, at which he was to be paid for his regular delivery.

When Flax arrived with the material, prescreened by the Democrats, it was openly accepted by Republican National Committee executive director John Grenier in his office—hardly unusual under the circumstances. But there was no pay-off—indeed Grenier refused to pay for the information—and no proof that any prior arrangement existed between Flax and the Republicans to steal Democratic secrets.

Senator Goldwater knows as well as any political strategist, however, that intelligence gathering is a standard part of professional political operations. Undoubtedly, there are times when such surreptitious activities are conducted unlawfully. And they are often done without the knowledge or sanction of party leaders or those running campaign operations.

There is still much that we do not know about the alleged wiretapping of Democratic National Committee headquarters by James McCord, security chief for the Committee to Re-elect the President, and others. Former Atty. Gen. John Mitchell, head of the President's re-election campaign, has firmly denied that McCord was acting in the committee's behalf, and there is no reason to believe otherwise.

There is, however, a considerable difference in the way Democrats and the press have reacted to this latest political spy story. When Senator Goldwater and the Republicans were victims of beautiful spies and James Bond tactics of the Democrats, the stories were featured as light asides in an otherwise heated, issue-oriented campaign year.

But now that the Democratic campaign sanctuary has supposedly been breached by GOP functionaries—one of them a former CIA agent—a hue and cry against treachery and reprehensible political tactics has been echoed and re-echoed by the Democrats at the expense of President Nixon and his supporters.

For the Democrats, it is an obvious attempt to get some publicity and sympathy when their political fortunes are at an all-time low. And so far as press critics are concerned, Senator Goldwater probably put things into perspective when he said that the Republicans are likely being blamed only because their spies are not "well-stacked."

HUMAN RIGHTS AND THE CAPTIVE NATIONS

Mr. PROXMIRE. Mr. President, as we near the end of our 13th observance of Captive Nations Week, I would like to call the attention of my colleagues to the relationship between this event and the human rights legislation we have before us known as the Genocide Convention.

In 1959, Congress unanimously passed Public Law 86–90, declaring that the third week in June be observed by all Americans as Captive Nations Week. President Eisenhower enthusiastically endorsed this measure, stating at the bill's signing that the event would be marked "until such time as freedom and independence shall have been achieved for all the captive nations of the world." Since that time every President has annually issued a Captive Nations Week Proclamation, and has been joined in this action by Governors and mayors in 37 of our States. Since 1963, 17 allied countries have also joined in this observance.

Through our continuing observance of this week we are, in the words of Dr. Lev E. Dobriansky, of the National Captive Nations Committee, reflecting—

The convictions of our citizenry that although for world peace we must negotiate with the Red totalitarian regimes, as Americans we cannot ever blemish our moral conscience and principles as concerns the captive nations. . . . Despite all the shifts in our policy, the stark reality of the 27 captive nations continues to challenge our national moral conscience.

Mr. President, through our observation of Captive Nations Week the United States has for 13 years publicly proclaimed its opposition to the oppression under which one-third of the world's population exists. Yet for 23 years we have let a measure languish in these Chambers a measure which would unite us with 75 of the world's nations in condemning a far more hideous reality, the crime of genocide. Recent world

events painfully reveal that genocide does exist today. I urge Senators to speak out against this horrible crime by moving for the rapid ratification of the Genocide Convention.

EVIDENCE OF A WAR OUT OF CONTROL

Mr. SYMINGTON. Mr. President, believing that its contents would be of considerable interest to Senators, I ask unanimous consent that an article entitled "Lavelle's Strikes Are Evidence of a War Out of Control," written by the syndicated columnist Marquis Childs, be printed in the RECORD.

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

LAVELLE'S STRIKES ARE EVIDENCE OF A WAR OUT OF CONTROL

(By Marquis Childs)

WASHINGTON.—While top brass in the Pentagon wish that it would dry up and blow away, the Lavelle affair is likely to make more headlines in the future than in the recent past. It even could become a campaign issue as one aspect of a war raging out of control.

Thanks to a concerned Air Force sergeant in Thailand, it became known that Gen. John D. Lavelle, commander of the 7th Air Force in Vietnam, ordered up to 147 sorties flown against North Vietnam contrary to top command orders specifying only "protective reaction" strikes. Reports of these sorties in General Lavelle's private air war were falsified. And they coincided with the efforts last November of Henry A. Kissinger, the President's national security adviser, to get high-ranking North Vietnamese to the peace table.

Senator Harold E. Hughes (D., Iowa) is determined that this violation of civilian command not be glossed over. A member of the Senate Armed Services Committee, he called on its chairman, John C. Stennis (D., Miss.), to hold public hearings on General Lavelle's nomination for permanent rank as lieutenant general and Senator Stennis has agreed. Relieved of his command after disclosure of the unauthorized sorties, General Lavelle was given a slap on the wrist by an order demoting him to major general on retirement.

The charges against General Lavelle are tied in with the nomination of Gen. Creighton C. Abrams to be Chief of Staff of the Army. When General Lavelle appeared before the House Armed Services Committee, he indicated that General Abrams, overall commander of American forces in Vietnam, knew of the unauthorized air strikes. Both General Lavelle's promotion and General Abrams' nomination to the Joint Chiefs of Staff must be confirmed by the Senate.

In two Senate speeches, Mr. Hughes, who was a combat infantryman in World War II, compared the falsification of the records to the Gulf of Tonkin incident in 1964 when North Vietnamese torpedo boats allegedly attacked American naval vessels. That episode, challenged later as false, was the basis for a congressional resolution adopted almost unanimously giving President Lyndon B. Johnson authority to use the armed forces at his discretion in Indochina.

"Whatever tactical benefits these decisions have had," Senator Hughes said of General Lavelle's action, "they have also contributed to the erosion of presidential control over the military aspects of the war. This erosion of control led to the situation where one commander could send his pilots on unauthorized strikes at the very time that secret and delicate peace talks were under way."

Dr. Kissinger's aides have been reported persuaded that the bombing kicked over the peace attempt. A Kissinger spokesman says there is no knowledge of such a view. But as Mr. Hughes points out, when the war machine and the peace machine are moving on contrary directions, the peace surely will be lost.

That great embodiment of the freedoms we cherish, the Constitution of the United States, places the military under civilian control. Violation of that control is a cause for the gravest concern as the Lavelle affair now shows. This suggests a bit of history that led up to World War II.

In the 1930's Japanese officers in Manchuria and China, operating at the end of the line in Japan's conquest of empire, repeatedly defied civilian authority in Tokyo. Super-patriotic staff officers precipitated incidents and took unauthorized military action which left the government with no way to retreat.

John Toland, author of the Pulitzer prize-winning "The Rising Sun," and other historians writing on the basis of documents available only since the end of the war, trace a disastrous pattern of military insubordination that was to leave the civilian government a hollow shell. Real power finally was taken over by the military. Mr. Toland and other historians believe this was perhaps the decisive factor in Japan's war with China and ultimately with the United States.

In one of the first incidents, in 1928, staff officers of the Kwantung Army in Manchuria blew up a train carrying a Chinese war lord, Chang To-lin, whom they considered uncooperative. The civilian government, backed by the Emperor, demanded that they be punished, on the ground that this would damage prestige and morale. The Army refused.

No one would suggest an analogy between the defiant Japanese who ultimately usurped complete authority and the single Lavelle episode. But that episode is a warning of the perils in an undeclared war where civilian control is uncertain to say the least.

RESOLUTIONS BY NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. FANNIN. Mr. President, the National Society of the Sons of the American Revolution is one of the fine organizations dedicated to the principles of our forefathers.

Last month the society held its 82d annual congress in Indianapolis. Twelve resolutions were adopted by unanimous vote, including resolutions backing President Nixon's efforts to end the Vietnam war and opposing amnesty for draft evaders and military deserters.

Mr. President, I ask unanimous consent that the resolutions be printed in the RECORD:

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

RESOLUTIONS

RESOLUTION NO. 1

Whereas, President Richard M. Nixon's policy regarding the war in Vietnam is to continue to seek to negotiate a just and honorable settlement and a return of American prisoners held by the Communist forces, but not to participate in a surrender of the freedom of the millions of South Vietnamese citizens nor in a surrender of the honor of our nation;

Now, therefore be it resolved, that the National Society, Sons of the American Revolution in its 82nd Annual Congress assembled hereby affirms its support of these policies as stated by The President of the United States and urges that he take all necessary and responsible action to effect an end to the conflict, a prompt return of American prisoners held by the Communists and the reasonable assurance of the freedom of the South Vietnamese people whom we have befriended from future political and military aggressions.

RESOLUTION NO. 2

Whereas, the National Society, Sons of the American Revolution has noted a rapid rise in public proposals that the United States should grant amnesty to those young men who have fled their country to avoid military service and those who have deserted from military service, and

Whereas, we believe those young men who have fled or deserted have refused to fulfill one of the most essential duties of citizenship and that it would be a violation of faith with those hundreds of thousands of brave men who have honorably served their country, those who are prisoners of war and those who have given their lives, the ultimate sacrifice;

Therefore, be it resolved, that we express our strong opposition to such action; that we call upon our Senators and Representatives in the Congress and the President of the United States to resist the pressures being mounted for amnesty; and that the appropriate authorities prosecute those offenders swiftly and fully when and if they are apprehended.

RESOLUTION NO. 3

Whereas, truth constitutes the greatest weapon against communist falsehoods; and

Whereas, "Radio Free Europe" and similar agencies have done a commendable task, on a relatively modest budget, in penetrating the Iron Curtain and presenting essential and truthful news, thereby bringing a ray of hope and comfort to the enslaved masses laboring under the communist yoke;

Now, therefore be it resolved that the National Society, Sons of the American Revolution favors these programs and urges that they be continued.

RESOLUTION NO. 4

Whereas, many citizens are expressing concern for the moral decay, the spiritual dearth and the rise of destructive revolutionaries who are seeking to destroy the American way of life and undermine the principles of our Constitutional Republic; and

Whereas, every endeavor to make the fibre of our country stronger has little hope of success unless our citizens are inculcated with the need to observe the principles of love of country and our countrymen, justice and service; and

Whereas, the Chaplain General of the National Society in his report to this Congress has urged a National spiritual effort on the part of all Compatriots of the Society;

Now. therefore be it resolved that the National Society, Sons of the American Revolution at its 82nd Annual Congress assembled endorse the recommendation of the Chaplain General in said report and urgently ask all Chaplains of the State Societies and local Chapters of the Sons of the American Revolution and all Compatriots everywhere, to give earnest and active encouragement to all programs of the Society for a deepening of the spiritual motivations of our people.

RESOLUTION NO. 5

Whereas, for many years, certain agencies of the Judiciary and Executive Branches of the Federal Government have directed various local school districts to adopt courses of action which have encroached upon parental and local authority governing neighborhood schools; and

Whereas, such encroachment threatens to destroy our public schools and places in jeopardy the traditional control of Public Education by the States;

Now, therefore be it resolved that the National Society, Sons of the American Revolu-

tion in its 82nd Annual Congress assembled, urges the United States Congress to propose and the States to adopt a constitutional amendment which would assure the preservation of our neighborhood schools and promote the provision of a quality education to all children, and prohibiting any form of compulsory busing of students to achieve racial balance.

RESOLUTION NO. 6

Whereas, one of the most revered men in the United States, President Abraham Lincoln, directed that the song "Dixie" be played at events celebrating the end of the War Between the States; and

Whereas, "Dixie" is a most important part of Americana, and should be recognized as such by all patriotic citizens; and

Whereas, respect for America and its old and respected institutions and traditions, including the music which makes up a part of her history, should be displayed by all patriotic citizens;

Now, therefore be it resolved that the National Society, Sons of the American Revolution in its 82nd Annual Congress assembled endorses the right of all free citizens to freely play and sing the song "Dixie" and other music forming a part of our American heritage, and urges all civil authorities to preserve this right as one of those fundamental freedoms which are so dear to the hearts of true Americans.

RESOLUTION NO. 7

Whereas, the California Society, Sons of the American Revolution has taken appropriate action to support the establishment of the Patton family home in the City of San Marino, California as a memorial to the late, General George S. Patton, Jr.;

Now, therefore be it resolved by the National Society, Sons of the American Revolution in its 82nd Annual Congress assembled that it endorses the action of the aforesaid California Society and urges the establishment and maintenance of the Patton Home in San Marino, California as a permanent memorial to the memory of General Patton.

RESOLUTION NO. 8

Whereas, the National Society, Sons of the American Revolution and the Indiana Society, Sons of the American Revolution lost a steadfast and valiant compatriot upon the passing of Compatriot James Arthur DeWeerd, D.D.; and

Whereas, upon the occasion of the 82nd Annual Congress being convened in his beloved State of Indiana, it is deemed fitting that a special tribute to our late Compatriot DeWeerd be adopted by this Congress;

Now, therefore be it resolved by the National Society, Sons of the American Revolution in its 82nd Annual Congress assembled, that we express our deepest regret upon the passing of Compatriot James Arthur DeWeerd. We extend our sincere sympathy to his family and many friends; and we express our deep gratitude for all of the dedicated service he gave during his lifetime to the Society and to the preservation of the principles upon which our Republic was founded.

RESOLUTION NO. 9

Whereas, the National Society, Sons of the American Revolution has learned with deep regret of the recent death of F.B.I. Director J. Edgar Hoover; and

Whereas, the 81st Annual Congress by its Resolution #7 has strongly approved Mr. Hoover's policies, leadership and dedication to law and order; and

Whereas, Mr. Hoover was the first recipient of the National Society's Law Enforcement Commendation Medal being presented to him by the then President General, Walter Sterling;

Now, therefore be it resolved by the National Society of the Sons of the American Revolution at its 82nd Annual Congress assembled that we express our deepest regret upon the passing of Mr. J. Edgar Hoover and extend our sincere sympathy to his family and many friends and we express our deep gratitude to the dedicated service he gave during his lifetime to the people of the United States of America and to the preservation of the principles upon which our Republic was founded.

RESOLUTION NO. 10

Whereas, the United Nations General Assembly has expelled loyal member of the U.N. the Nationalist Republic of China, and

Whereas, this action by the U.N. violated the principles of its own Charter, and

Whereas, Nationalist China was a peaceful, dues paying member of the U.N. and a friend of the United States, and

Whereas, the U.N. has admitted Communist China, a government which has slaughtered millions of its own people, and has imposed a constant reign of oppression and slavery, and

Whereas, Communist China, having been given a seat on the Security Council, can now veto any action by the U.N. thereby making it totally impotent as a force for peace, and

Whereas, many of the United Nations proponents seek to grant a total Power of Attorney over the internal affairs of its members which would thereby deprive the United States of its Sovereign Powers and make it subservient to the will of multitudinous, foreign countries, and

Whereas, competent testimony shows that certain foreign nations are using their membership in the U.N. to bring in spies and subversion to attack the United States internally;

Now, therefore be it resolved, that the National Society, Sons of the American Revolution again goes on record as opposing continuation of our membership in the United Nations.

RESOLUTION NO. 11

Whereas, it has been the policy of the National Society of the Sons of the American Revolution to re-affirm and re-adopt all previous Resolutions;

Now, therefore be it resolved, that the National Society does re-adopt and re-affirm all previous resolutions where applicable.

RESOLUTION NO. 12

Whereas, the 82nd Annual Congress of the National Society of the Sons of the American Revolution has been successful in every respect; and

Whereas, our appreciation should be extended to the individuals and groups that contributed to the success of this Congress;

Now, therefore be it resolved, that the National Society, Sons of the American Revolution hereby expresses its grateful appreciation to President General Eugene C. McGuire and to his charming and devoted wife, Paula, for the faithful performance by him of the arduous duties of his high office and the gracious giving of their talents to his outstanding administration; and

Be it further resolved: that our appreciation be given to our Executive Secretary, Warren S. Woodward, and his lovely wife, Gisela, for their vital role in the arrangements for, and exection of, the Congress, and

Be it further resolved: that our grateful appreciation and thanks be extended to:

Compatriot Marshall E. Miller, Chairman of the Indiana Society Congress Arrangements Committee, and his attractive wife, Marilyn, and Compatriot Jack K. Carmichael, President of the Indiana Society and Co-Chairman of the Indiana Society Congress Arrangements Committee, and members of the Indiana Society and their ladies who assisted them, and in particular, Compatriot and Mrs. Cyril L. Johnson, Compatriot and Mrs. Albert T. Morris, Walter C. Bridgewater, Troy G. Thurston, Lowell C. Reed, Adam Riggin and Estel L. Allen.

The Honorable Edgar D. Whitcomb, Governor of the State of Indiana and The Honorable Richard G. Lugar, Mayor of the City of Indianapolis and The Honorable John W. Walls, Senior Assistant Mayor of the City of Indianapolis for their well-received greetings and remarks to this Annual Congress;

Compatriot Fred J. Milligen, Speaker at the Monday luncheon;

Mr. M. Stanton Evans, Speaker at the Tuesday evening banquet;

Colonel (and Compatriot) Charles M. Duke, Jr., USAF, the first member of the Sons of the American Revolution to walk on the Moon, and Speaker at the Wednesday evening banquet, and his lovely wife, Dottie, who charmed everyone;

Mrs. Donald Spicer, President General, National Society, Daughters of the American Revolution; Mrs. Roy D. Allen, Senior National President, National Society, Children of the American Revolution; Mr. Phillip F. Horne, National President, Children of the American Revolution; and to Mrs. Floyd H. Grisby, State Regent, Indiana Society, Daughters of the American Revolution, for their attendance at and greetings to this 82nd Annual Congress;

Past President General Charles A. Anderson, M.D., for arranging the display of Compatriot S. Hubbard Scott's collection of historical, State and Territorial flags belonging to the Ohio Society, Sons of the American Revolution;

The Staff of the Indianapolis Hilton for their cooperation and assistance in connection with this 82nd Annual Congress of the Society.

Be it further resolved: That the National Society, Sons of the American Revolution, in its 82nd Anuual Congress assembled, hereby expresses its sincere appreciation to all the many others whose efforts contributed to the success of this Congress.

GOLDEN ANNIVERSARY OF THE ORDER OF AHEPA

Mr. McGEE. Mr. President, the other day I received a letter from Mr. Sam Nakis, supreme president of the Order of Ahepa, a distinguished fraternal organization of Greek Americans. Mr. Nakis informed me that this year will be AHEPA's golden anniversary marking 50 years of success.

As Senators can attest, the American Hellenic Educational and Progressive Association, or AHEPA, is a respected organization in every community where they have a chapter. In Wyoming, for instance, the membership of the chapters in Cheyenne, Casper, and Green River have contributed greatly to the development of our State. The members of these groups are a living embodiment of the ideals upon which AHEPA was founded.

AHEPA's civic participation at the national level is also something for all Americans to be proud of. Their contributions range from relief for Florida hurricane victims and Mississippi flood victims to their support of the Roosevelt Memorial at Hyde Park and the Truman Memorial at Athens, Greece. The contributions to their fellow Ahepan, Dr. George Papanicolaou, at the Cancer Research Institute in Miami gave support to his development of the PAP test which today saves thousands of lives every year.

We can rest assured that the Order of Ahepa will continue its fine work and will remain one of the mainstays of American society.

GOLDEN ANNIVERSARY OF AHEPA ORDER OF AHEPA

Mr. JACKSON. Mr. President, the Order of Ahepa is celebrating its golden anniversary during the year of 1972. During the 50 years that this Hellenic educational organization has been active its membership in States throughout the country have made many contributions toward the betterment of American life.

In the State of Washington there are local Order of Ahepa chapters in Bellingham, Everett, Chehalis, Wenatchee, Port Angeles, Seattle, Tacoma, Aberdeen, and Spokane, nine in all. Thomas D. Lentgis and Gust P. Rakus, of Seattle, have both served as national officers. They have joined with other members in Washington State and throughout the country in calling attention to the contributions of this fine organization.

The Order of Ahepa was founded July 26, 1922, in Atlanta, Ga., and its jurisdiction extends to 49 States, Canada, and Australia, with 430 local chapters. The Order of Ahepa is a secret fraternal organization, which is nonpolitical and nonsectarian. The word "Ahepa" is an acrostic, and is derived from the first letters of the following: American Hellenic Educational Progressive Association.

Membership in the Order of Ahepa is open to men of good moral character who are citizens of the United States of America, or Canada, or who have declared their intention to become citizens.

The Ahepa family is composed of four separate organizations, all of which work in harmony on a local, district, and national level. They are: The Order of Ahepa; the Daughters of Penelope—senior women's auxiliary; the Sons of Pericles—junior young men's auxiliary; Maids of Athena—junior young women's auxiliary.

The objects of AHEPA include:

One. To promote and encourage loyalty to the United States of America;

Two. To instruct its members in the tenets and fundamental principles of government, and in the recognition and respect of the inalienable rights of mankind;

Three. To instill in its membership a due appreciation of the privileges of citizenship;

Four. To encourage its members to always be profoundly interested and actively participating in the political, civic, social, and commercial fields of human endeavor;

Five. To pledge its members to do their utmost to stamp out any and all political corruption; and to arouse its members to the fact that tyranny is a menace to the life, property, prosperity, honor, and integrity of every nation;

Six. To promote a better and more comprehensive understanding of the attributes and ideals of Hellenism and Hellenic culture;

Seven. To promote good fellowship, and endow its members with the perfection of the moral sense;

Eight. To endow its members with a spirit of altruism, common understanding, mutual benevolence, and helpfulness; and

Nine. To champion the cause of education, and to maintain new channels for facilitating the dissemination of culture and learning.

The Order of Ahepa has contributed financially to many worthy causes during its 50 years of existence, on a national and international level. These contributions do not take into account the many local activities of our chapters within the realm of their communities. Local AHEPA chapters have always given generously and vigorously supported local community undertakings in the fields of education, charity and civic improvement. The national and international contributions include:

Relief of Florida hurricane victims.
Relief of Mississippi flood victims.
Relief of Corinth earthquake victims.
For the war orphans of Greece.
Relief of Dodecanese earthquake victims.
For the fatherless children of refugees, through the Near East relief.
For the Hellenic Museum.
National scholarships to worthy students.
For the Theological Seminaries at Brookline and Pomfret.
AHEPA Franklin D. Roosevelt Memorial at Hyde Park.
Ypsilanti and Dilboy Memorials.
Sons of Pericles Memorial to the American Philhellenes of 1821, at Missolonghi, Greece.
Relief of Turkish earthquake victims.
For the Patriarchate of Jerusalem.
For the Patriarchate of Constantinople.
Ecuadorean relief.
Kansas City flood relief.
Greek war relief.
AHEPA hospitals in Athens and Thessaloniki, and seven health centers in Greece.
AHEPA Agriculture College in Greece.
Ionian Islands earthquake relief.
AHEPA Preventorium in Volos.
Penelopian Shelter Home in Athens.
AHEPA Hall for Boys at St. Basil's Academy.
The AHEPA School at St. Basil's Academy, Garrison, N.Y.
Sale of $500 million in U.S. War Bonds during World War II as an official issuing agency of the U.S. Treasury.
Truman Library.
Dr. George Papanicolaou Cancer Research Institute at Miami.
The AHEPA Truman Memorial, Athens, Greece.
The New Smyrna Beach, Fla., monument commemorating the first landing of Hellenes in the new world in the year 1768.
The AHEPA educational journey to Greece student program.

These are some of AHEPA's contributions to worthy causes during its 50 years of existence.

Members of AHEPA take justifiable pride in AHEPA's record of accomplishment. AHEPA has championed the cause of education—it has successfully fought for the freedom and self-respect of the minorities in its justice for Greece and justice for Cyprus programs, and AHEPA has always displayed its benevolence and generosity to the stricken victims of disaster both here and abroad.

A QUALITY EDUCATION FOR HANDICAPPED AMERICANS

Mr. PEARSON. Mr. President, last week I spent a most moving and rewarding day visiting the Kansas Cerebral Palsy Foundation Summer Camp, the Kansas Elks Job Training Center, and the Institute of Logopedics, each of which is located in the Wichita area. These facilities serve young Kansans who are physically or mentally handicapped.

This visit with courageous patients and the dedicated personnel reaffirmed my conviction that we must do more to reach each of the 40 million Americans afflicted with mental or physical handicaps. The Kansans served by these institutions are most fortunate; with their own courage and expert assistance, they can overcome some or all of their handicaps.

But too many other physically and mentally handicapped Americans are not so fortunate. Only 40 percent of the 7 million handicapped children in this Nation are receiving adequate educational services. One million of them are excluded from public schools.

Recently, Federal courts have held that if a State provides a free public education for all children, then it must, in fact, provide that education for all handicapped children. We can look, then, toward a time when physically and mentally handicapped children will receive the education from which all too many have been excluded. But we must also recognize that this requirement will place an even greater strain on the budget of our public schools.

I have often stated that we must increase Federal aid to education in order to relieve the heavy burden of property taxes and provide a quality education for all children. With these recent court decisions the need for increased Federal assistance is even more acute.

Mr. President, we have the medical knowledge and technological capability of improving the quality of the lives of most handicapped Americans. My visit last week took this problem from the abstract concepts of bill numbers and multimillion-dollar appropriations and put it into a very personal perspective. At times, handicapped Americans are forgotten, not intentionally perhaps, but the effect is the same. After my visit to Wichita last week and my year as honorary chairman of United Cerebral Palsy of Kansas, I have a very personal commitment to support legislation which will provide adequate care for each mentally and physically handicapped American.

FREEDOM IS IN SERIOUS PERIL

Mr. INOUYE. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial written by an old friend, a former resident of Hawaii, Editor Richard L. Davis, and published in the Contra Costa Times, of Walnut Creek, Calif.

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

TO THE POINT: REPORTERS' CONFIDENTIALITY—YOUR FREEDOM IS IN SERIOUS PERIL

(By Dick Davis)

A number of months back, we proposed that the United States Congress enact a shield law, similar to California's, to protect the confidentiality of working newspaper reporters' news sources.

At that time, Rep. Jerome Waldie (D-Antioch) couldn't quite go along with the validity of our extensive and what we hoped would be persuasive arguments.

In light of the U.S. Supreme Court's latest action in declaring newsmen and women must testify before grand juries, we are repeating this request of Reps. Waldie, Ron Dellums. George Miller, along with some old friends, Lionel Van Deerlin, John E. Moss, Patsy Mink, Sparky Matsunaga, B. F. Sisk and Bob Wilson, and Senators John V. Tunney, Dan Inouye, Hiram Fong.

We strongly and urgently ask our sophisticated and keenly perceptive readers to write these congressmen urging them to support Sen. Alan Cranston's bill allowing newsmen the right to refuse to disclose confidential sources.

The Cranston bill, as we urged Representative Waldie many months back, is modeled on the California law to protect news sources. California is one of 14 states having such protection.

It is imperative that this safeguard be extended nationwide, particularly in today's shrinking world which finds reporters expanding their "beats" and stories into other states and even into other nations.

Putting it bluntly, the Supreme Court's ruling, by a vote of 5 to 4, means that you can no longer expect the confidences of "leads" you give newsmen to a particularly sensitive story to be kept. A grand jury can subpoena reporters and editors, and demand that they violate this confidence.

Reflected in this ruling is the controversy between the present administration and newsmen. It has grown and accelerated as newspaper and television reporters have been called increasingly before federal and state grand juries investigating the Black Panthers, Students for a Democratic Society, political dissenters, drug pushers and a mixed bag of law enforcement targets.

Reporters have been subpoenaed, usually after doing stories on these groups and individuals, because in many instances they have better access to these sources than police have been able to establish through informers.

The effect of the court's ruling is to turn newspapermen and women into an investigative arm of government, in addition to making informers of all of us in the newspaper business. Our alternative to this ruling is jail, and many dedicated, professional newsmen and women are certain to opt for this alternative.

To say this undermines the historic independence of newspaper men and women is putting it mildly. What it would do is literally dry up our news sources and make it all but impossible to keep the public informed about the actions of the instruments the people themselves have created—government.

Would you, for instance, tip even a close friend in the newspaper business about wrongdoing you suspect in government—particularly if you are an employe of government—if you knew that the newspaperman or woman would be forced to identify the source of his or her information to a grand jury under threat of jail?

What some justices, government officials and even our elected representatives fail to realize is that protecting the confidence of all news sources is not only vital but critical to the performance of a press attempting to keep the public as thoroughly informed as humanly possible.

Newsmen and women, of course, are not a privileged class. We would expect them to be—and they are—first of all good citizens of their communities, state and nation. We ask no special privilege, and hardly need a Supreme Court decision to "enlighten" us as to what is either right or wrong for our country.

No photographer is going to focus his camera on a child going down for the third time and drowning merely to take a dramatic picture for tomorrow morning's newspaper. First he's going to rescue the kid.

Likewise, no newspaperman or woman is going to allow a policeman to be murdered, a bank to be bombed or a plane to be skyjacked just for a news beat on the opposition.

Anyone who pictures professional journalists in this distortedly dim light simply doesn't know the type of dedicated, responsible people newspapers are attracting. Above all, and sometimes even to their editor's regret, they are extremely aware and careful. (We say regret because of the inclination at times of many newspaper people to enter the never-never land of advocacy reporting rather than factually informing the American public of precisely what is happening).

Perhaps, however, this is a legacy—and it was frequently a proud and fruitful one at that—which we inherited from the old "Front Page" journalism days of the 1920s and 1930s of hiding escapees or murder suspects in rolltop desks until we phoned the story to the city desk.

Quite frankly, we've never impeded law enforcement, the courts or government from doing the job society assigns. Quite the contrary. We've helped. But never have and never will reveal a confidential source.

Neither have we become an arm of law enforcement, the courts or government. Again, never have and never will.

But, and make no mistake, not only the historic principle of a free press but the public's right to know precisely what is going on in this country are in serious jeopardy due to this Supreme Court ruling.

Let your elected Representative and Senator know that you are demanding a national shield law for American newsmen and women throughout our 50 states by mailing this column, with your comments, to them today.

This is no time to be apathetic. One of your basic freedoms is in danger of going right down the tubes.

GOLDEN ANNIVERSARY OF ORDER OF AHEPA

Mr. GOLDWATER. Mr. President, I should like to remind Congress that the famous Order of Ahepa is celebrating its golden anniversary during July of 1972. This outstanding order of Americans of Greek descent has made so many contributions to the improvement and enrichment of American life that it is impossible for me to enumerate all of them. The best I can do is to place in the RECORD a partial list of accomplishments during 50 years of service.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

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

FIFTY YEARS OF SERVICE AND ACCOMPLISHMENT

The Order of Ahepa was founded July 26, 1922, in Atlanta, Ga., and its jurisdiction extends to 49 states, Canada, and Australia, with 430 local chapters. The Order of Ahepa is a secret fraternal organization, which is non-political and non-sectarian. The word "Ahepa" is an acrostic, and is derived from the first letters of the following: American Hellenic Educational Progressive Association.

Membership in the Order of Ahepa is open to men of good moral character who are citizens of the United States of America, or Canada, or who have declared their intention to become citizens.

The "Ahepa Family" is composed of four separate organizations, all of which work in harmony on a local, district and national level. They are: The Order of Ahepa—The Daughters of Penelope (senior women's auxiliary)—The Sons of Pericles (junior young men's auxiliary)—Maids of Athena (junior young women's auxiliary).

OBJECTS OF AHEPA

1. To promote and encourage loyalty to the United States of America.

2. To instruct its members in the tenets and fundamental principles of government, and in the recognition and respect of the inalienable rights of mankind.

3. To instill in its membership a due appreciation of the privileges of citizenship.

4. To encourage its members to always be profoundly interested and actively participating in the political, civic, social and commercial fields of human endeavor.

5. To pledge its members to do their utmost to stamp out any and all political corruption; and to arouse its members to the fact that tyranny is a menace to the life, property, prosperity, honor and integrity of every nation.

6. To promote a better and more comprehensive understanding of the attributes and ideals of Hellenism and Hellenic Culture.

7. To promote good fellowship, and endow its members with the perfection of the moral sense.

8. To endow its members with a spirit of altruism, common understanding, mutual benevolence and helpfulness.

9. To champion the cause of Education, and to maintain new channels for facilitating the dissemination of culture and learning.

AHEPA'S CONTRIBUTIONS TO WORTHY CAUSES

The Order of Ahepa has contributed financially to many worthy causes during its 50 years of existence, on a national and international level. These contributions do not take into account the many local activities of our chapters within the realm of their communities. Local Ahepa chapters have always given generously and vigorously supported local community undertakings in the fields of education, charity and civic improvement. The national and international contributions include:

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Relief of Corinth Earthquake victims.
For the War Orphans of Greece.
Relief of Dodecanese Earthquake victims.
For the fatherless children of refugees, through the Near East Relief.
For the Hellenic Museum.
National Scholarships to worthy students.
For the Theological Seminaries at Brookline and Pomfret.
Ahepa Franklin D. Roosevelt Memorial at Hyde Park.
Ypsilanti and Dilboy Memorials.
Sons of Pericles Memorial to the American Philhellenes of 1821, at Missolonghi, Greece.
Relief of Turkish Earthquake victims.
For the Patriarchate of Jerusalem.
For the Patriarchate of Constantinople.
Ecuadorean Relief.
Kansas City Flood Relief.
Greek War Relief.
Ahepa Hospitals in Athens and Thessaloniki, and 7 Health Centers in Greece.
Ahepa Agricultural College in Greece.
Ionian Islands earthquake relief.
Ahepa Preventorium in Volos.
Penelopian Shelter Home in Athens.
Ahepa Hall for Boys at St. Basil's Academy.
The Ahepa School at St. Basil's Academy, Garrison, N.Y.

Sale of 500 Million Dollars in U.S. War Bonds during World War II as an official issuing agency of the U.S. Treasury.

Truman Library.

Dr. George Papanicolaou Cancer Research Institute at Miami.

The Ahepa Truman Memorial, Athens, Greece.

The New Smyrna Beach, Fla., monument commemorating the First Landing of Hellenes in the New World in the year 1768.

The Ahepa Educational Journey to Greece Student Program.

These are some of Ahepa's contributions to worthy causes during its 50 years of existence.

A CREDO BY ROBERT F. GOHEEN, RETIRING PRESIDENT OF PRINCETON UNIVERSITY

Mr. PELL. Mr. President, the retiring president of Princeton University, Robert F. Goheen, recently sent me a "Credo." I thought it the best credo that I have ever seen and for this reason believe it would be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

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

A CREDO

In the long history of civilization there are always strong pressures in favor of low-level sorts of conformity—pressures against unorthodoxy, individuality, and self-won responsibility. And all the while from left and from right aggressive voices proclaim that truth and virtue are theirs alone. But there is one place above all where it is (or should be) possible for men to think and act as their own reasoned judgment and best conscience dictate—namely, a university. Here it is that the willingness to think otherwise, to dream, to question, and to dare should flourish.

If an utter stranger to our civilization should ask: "Where in your society can a person disagree with impunity from accepted practices, dogmas, and doctrines?" the answer should be, "The universities. That is part of their being. Their role is to conserve the best of the past and to look forward from it. On both counts they are committed to freedom for the individual, the dignity of the human person, and tolerance toward dissent within broad and agreed upon limits."

RENOMINATION OF VICE PRESIDENT AGNEW ASKED

Mr. BUCKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement I issued yesterday asking that the Republican Party renominate SPIRO AGNEW for the office of Vice President.

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

STATEMENT BY SENATOR JAMES L. BUCKLEY

Spiro Agnew is a tremendous asset to the Nixon team and I am more convinced than ever that to drop him from the ticket would clearly hurt Richard Nixon's re-election chances.

The Vice President has brought many distinguished qualities to all of the offices he has held, and particularly to the high one he now holds. Two qualities, however, stand out as representative of the man: courage and character. He has the courage to say what he thinks; equally important—and even more rare—he has the kind of character that makes what he says worth saying.

Millions of forgotten Americans of every political affiliation feel that for the first time they have an effective and articulate spokesman. Mr. Agnew has talked in a common sense way about the issues that concern them most. He has had the courage to talk about subjects which have somehow come to be considered beyond the scope of honest debate. This is why he has such an enormous appeal among the growing ranks of traditional Democrats whom George Meany tells us are increasingly disenchanted with the leftward drift of their party's leadership.

Vice President Agnew has, in fact, become something of a folk hero to millions of middle Americans throughout the country. His strong popularity was seen in the New Hampshire Primary when he received more write-in votes than any candidate in that state's history and more votes than either Senators McGovern and Muskie. I know from my own extensive visits around New York State how strong his following is among New Yorkers.

I have said previously that with the support of those who supported me in 1970, Richard Nixon can and will carry New York State. I made that prediction on the assumption that the Republican Party would once again be fielding the Nixon-Agnew team. The same New Yorkers who made my election possible are the ones who most enthusiastically support the Vice President. If Spiro Agnew is not on the Republican ticket, in my judgment that ticket will be weakened nationally, Richard Nixon's chances for carrying New York would be placed in serious jeopardy.

THE MANSFIELD AMENDMENT

Mr. TUNNEY. Mr. President, little more can be said concerning the war in Indochina that has not been stated many times before. And I seriously wonder if anything more can be accomplished in the war in Vietnam, anything that has not been tried and failed before. We must extricate ourselves from the quagmire of Vietnam and the immense burden which it has placed upon our citizens.

I strongly support the distinguished majority leader (Mr. MANSFIELD) and the Senate Foreign Relations Committee in this effort to terminate U.S. involvement in the endless and winless war in Vietnam. The Senate must take the initiative. The American people wish to see our men come home—all of them. No nation can be expected to release prisoners of war when the war is still going on. One of the tragic aspects of our self-delusion is that those who talk about getting American prisoners of war back from Vietnam contravene that policy by supporting increased military activity. The continued bombing perpetuates the confinement of prisoners. As long as we have American troops stationed and fighting in Vietnam, we will not get our prisoners of war released. Yet some people persist in thinking that we can convince the North Vietnamese to release these men by stepped-up military pressure.

If we continue to pursue a policy designed to win the war for the corrupt South Vietnamese dictatorship, we are courting disaster. We are courting disaster not just for our men, but also for the people of South Vietnam. The President's "Vietnamization" plan has not succeeded. If the South Vietnamese cannot handle their own affairs, why should we continue to do it for them? Three months ago, I received a letter from an Air Force officer stationed in Taiwan, who flies missions over Vietnam. I would like to share a portion of that letter with my colleagues today, as an example of what this war is doing to the spirit of men in Vietnam as well as our citizens at home:

I felt that I needed to write to someone who cares, someone who is concerned about the deplorable situation here in Vietnam. Fortunately, I am a native-born Californian and you are a Senator from there.

Since the North Vietnamese invasion commenced a month ago, the South Vietnamese Army has done nothing but be destroyed, retreat, and then hold up wherever they can. Many of the places they are, there is no way to supply them except by airlift as the enemy controls most of the surrounding area plus the rivers and roads.

The Vietnamese Air Force will not fly supplies to their own men because they keep getting shot down.

Therefore it falls to the C130's flown by Americans to fly in all the supplies.

The major problem is that the enemy is waiting with guns aligned on the DMZ, shooting down and up our aircraft. The enemy is smart. All they need to do is be there and wait and a C130 will keep flying in to drop. Every time they damage an aircraft they have scored a victory, because that aircraft is out of commission for awhile and can't perform its major role of cargo-hauling. The thing that really makes this bad is the reason for the need for the drops. Last night a Lt. Col. who works in the Aircraft Command Center told me when I asked him why we were risking and losing men and planes in these drops, that if these particular places fell, the psychological effect would be devastating. Well, to me and almost all the other crew members psychological reasons are not enough to daily risk our all.

I surely wish you could come over here and look at the situation yourself. Don't talk to the Generals and backers. Come talk to the people who are working and hear their opinions. You'll be shocked, to say the least. I don't know why the leaders here make the statements that they do.

No one person should be blamed for the U.S. role in Indochina. But we must assess our position, realistically and honestly. We must get out of Vietnam now. Mr. President, the Mansfield amendment is one of the most important provisions of the Foreign Assistance Act. It is my sincere hope that all Senators will realize the need to retain this provision as we vote on S. 3390. The American people, whom we represent, must not be forced to accept another delay in our disengagement simply due to the hesitancy of the Congress to act on their behalf.

RAPID CITY, S. DAK., FLOOD RELIEF—STATEMENT OF ROBERT W. HIRSCH

Mr. SCOTT. Mr. President, Robert W. Hirsch, of South Dakota, yesterday testified in favor of the Disaster Relief Act of 1972, legislation which would provide additional relief to the victims of the Rapid City flood. The bill would increase the maximum amount which can be forgiven or canceled from the present $2,500 to $5,000 on loans made by the Farmers Home Administration or the Small Business Administration, and would reduce the interest rate on these loans from 5⅛ to 1 percent. Bob Hirsch

is a strong and influential voice for the people of South Dakota. If this additional flood relief for South Dakota is successful, it will be in large part due to his fine efforts.

I ask unanimous consent that the statement by Mr. Hirsch be entered in the RECORD.

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

STATEMENT OF ROBERT W. HIRSCH, REPUBLICAN CANDIDATE FOR THE U.S. SENATE FROM SOUTH DAKOTA, JULY 19, 1972

Mr. Chairman, I am pleased to offer my comments in support of the Disaster Recovery Act of 1972. On the night of June 9, 1972, the greatest natural disaster to strike the state of South Dakota occurred when flood waters pouring out of the Black Hills destroyed much of Rapid City and surrounding communities.

The loss of lives, homes and property is unequalled in the history of our state. The plight of the homeless is even more compounded by the fact that the majority of people in Rapid City had no insurance covering the peril of flood.

Businessmen also find themselves in a situation where the insurance coverage is lacking and will not repay the loss. To these people we must offer the chance to rebuild their homes and businesses.

The Disaster Recovery Act of 1972 provides for an extension of disaster relief benefits which will be necessary for the rebuilding of Rapid City and its neighboring communities. The $5,000 forgiveness clause will give to the people of the stricken Black Hills area a new incentive to return to the task of placing their businesses in operation and making their homes liveable again. The implementation of the forgiveness provision from the first dollar of the loan and the reduction of the interest rate from 5⅛% to 1% will give new hope to these flood victims—the hope that they can again prepare for normal living and business activities without living under the shadow of a large debt that will hound them for life.

Some in the State have expressed the fear that those who have already applied for relief benefits will be excluded from the new provisions. This we know is not true, as any person in the area is eligible for the new relief benefits whether he applies before or after enactment of the Disaster Recovery Act.

As a South Dakotan and more importantly as a concerned citizen I ask this committee and the Congress for favorable consideration of this legislation. I would hope that the provisions contained in the bill could serve as a new basis for relief provided to victims of natural disasters in the future wherever and whenever they may strike.

I know to the people of Rapid City and the Black Hills area this legislation will mean new hope as they begin the long job of re-establishing their shattered homes, businesses and lives. I urge your support of this bill so that the Congress may offer the flood victims the help they need as they begin their return to normalcy. In addition, I would point out that the immediacy of this legislation is of the utmost importance because the time to begin rebuilding is now and the residents of this flood-ravaged area desperately need your support.

NATIONAL DEFENSE EDUCATION ACT, TITLE III

Mr. SPARKMAN. Mr. President, we note with interest that the Departments of Labor, and Health, Education, and Welfare appropriations bill, H.R. 15417 (S. Rept. No. 92-894), passed by the Senate on June 27, contains many provisions of benefit to Alabama schools.

Among these programs is title III of the National Defense Education Act of 1958. This program last year provided $1.2 million to my State on a 50–50 matching basis helping Alabama schools purchase audiovisual, laboratory, and other equipment and materials. This program has helped hundreds of Alabama school districts acquire the most modern and up-to-date teaching tools so that in my State today we have some of the Nation's best schools.

Despite all the progress we have made, however, much still needs to be done. As I have traveled around Alabama, too often do I hear the complaint that there is just not enough money available to buy the equipment and materials that are really needed for our children. Therefore, it is very important to my State and to the Nation that the NDEA III program be continued at an increased rate wherever possible. In many cases, NDEA III matching dollars are the only ones available to a school for modernization of classroom teaching and, if this program is cutoff, many schools will be denied the equipment and materials they need to do the best job.

Mr. President, the use of audiovisual technology is by no means the only answer to our education problems today. There can be no substitute for well-trained teachers and the best of school curricula. But many studies indicate that the use of audiovisual techniques has improved learning and has stimulated the interest of the student, while helping the teacher to do a better job. For example, in the area of reading, where we have a national right-to-read program designed to help hundreds of thousands of American youngsters who have severe reading problems, the use of audiovisual equipment and materials has repeatedly met with success. NDEA III funds have been used in a majority of local right-to-read projects.

Therefore, I commend the Senate Labor-HEW Appropriations Subcommittee for including NDEA III in its bill again this year, and urge the Senate conferees to do all they can to win adoption of the Senate-passed $75 million for this program. This amount would result in a modest increase in funds for Alabama schools and, based on the need, and the willingness of our schools to match the Federal dollars, this increase would be a worthwhile investment. Far too often in these Federal programs we provide a simple grant, with no incentive for local communities to bear a share of the burden. In the case of NDEA III, these local schools do their share on a dollar-for-dollar matching basis. This is a commendable procedure. As long as the local schools are willing to do their share, and as long as the current pressing need for this program continues, then I believe the Federal Government has a responsibility to do its share.

Mr. President, NDEA III is a fine program of benefit to Alabama and to all States, and I am hopeful that it will be continued during fiscal year 1973, as proposed by the Senate version of H.R. 15417.

INACCURACIES AND MISCONCEPTIONS IN NEW YORK TIMES EDITORIAL ON PESTICIDE LEGISLATION

Mr. ALLEN. Mr. President, the Committee on Agriculture and Forestry has worked well over a year on H.R. 10729. The objective of that bill is to protect man and his environment from the misuse of pesticides. I believe that all fair minded people are united in their desire to achieve this objective. Our progress has been impeded, however, by the complexity of this legislation, which has been compounded by misinformation, misunderstandings, and the hundreds of amendments that have been offered and considered in great detail. The Committee on Commerce, which has not made such an extensive study of the bill, has also been subjected to such misinformation. While I am sure the objective of that committee is the same as that of the Committee on Agriculture and Forestry, the Committee on Commerce has reported out a number of amendments which would defeat the purpose of protecting man and his environment.

As an example of the type of misunderstanding which has impeded the enactment of this legislation, I ask unanimous consent to have printed in the RECORD an editorial published by the New York Times on July 16, 1972, together with a letter that I have written to the editor of the New York Times concerning that editorial.

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

NEW LAW FOR PESTICIDES

Soon after its return this week the Senate is scheduled to take up a revised pesticide control bill, one of the most important—and controversial—items on its agenda. If the legislation is to serve the interests of the environment, at home and abroad, the Senate bill will have to prevail over its feeble counterpart in the House of Representatives. And if it is to be a really major contribution, it will have to include the strengthening amendments added by Senators Nelson of Wisconsin and Hart of Michigan.

Even the basic Senate bill is superior to the House version, which would require pesticide manufacturers to file only minimal information and would, in effect, relieve them of having to prove that a product is both safe and necessary before it can be registered. Even worse, it would indemnify manufacturers for financial loss, should the Government feel compelled to rule a noxious chemical off the market.

Among the Senate amendments, which await only formal approval by the Commerce Committee, three are outstanding. One would require a manufacturer applying for registration of a product to report all its test data to the Environmental Protection Agency and to insure that no pertinent information be hidden from public disclosure on the ground that it is a "trade secret."

Another would permit citizen suits against both the manufacturer and the E.P.A. for alleged failure to perform a mandatory duty in connection with the registration process. And a third would require that foreign nations and international agencies be fully warned of the danger of those pesticides which the United States bans at home but allows to be exported. A terrifying example is the fungicide used to treat grain shipments intended for seed, which has caused the deaths of hundreds of Iraqis who unwittingly used the seed for bread.

These and a dozen other strengthening amendments will be treated as a block on the Senate floor. If they are approved, opponents will have to chip away at them one by one, which should be difficult. If they are voted down *en bloc*, then their proponents will have to reintroduce them one by one, which will be even harder.

Congressional environmentalists will need all the public backing they can get for the floor fight and for the conference committee battle to follow.

U.S. SENATE, COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C., July 19, 1972.

EDITOR,
New York Times,
New York, N.Y.

DEAR SIR: On July 16 the Times printed an editorial entitled "New Law for Pesticides", which contained several statements which I believe are likely to create a false impression of the facts. The statements to which I refer and the facts concerning them are set out below:

1. Statement: "One would require a manufacturer applying for registration of a product to report all its test data to the Environmental Protection Agency. . . ." In context, it appears that this refers to one of the fifteen groups of amendments approved by the Commerce Committee on June 23 and set out in the committee print published on June 30 by that Committee, a copy of which is enclosed.

Fact: The Agriculture Committee amendment does this. The Commerce Committee amendment does not. The amendment proposed by the Agriculture Committee on this point requires each applicant for registration to file, if requested by the Administrator, a full description of "the tests made" and the results thereof upon which the claims are based. The Agriculture Committee would thus give the Administrator full power to obtain all test data which he needs to determine the efficacy and safety of the pesticide, both favorable and unfavorable.

The Commerce Committee amendment would strike this provision and in lieu thereof would require a full description of "any tests offered" in support of the application and the results thereof. The Commerce Committee would thus give the applicant the discretion as to what tests he will offer. If he offers only favorable test data, the Administrator would have no authority to require him to file unfavorable test data.

The Commerce Committee amendment further limits the Administrator's consideration of test data by providing that "the Administrator shall not rely on test results submitted pursuant to this subsection unless he determines that (i) the tests were conducted in accordance with applicable Federal, state, or local law and (ii) participation in the tests was the result of a free, voluntary, and informed choice by each participant." The Commerce Committee would thus prevent the denial of registration for an extremely dangerous pesticide if the Administrator's knowledge of that danger was obtained as a result of tests conducted in violation of Sunday or other laws, or if any participant in the test was not fully informed. The principal proponent of this amendment at the Agriculture Committee hearings inserted a statement in the record at page 325 to the effect that test data should be discarded for "imagined" coercion, or if the participant did not understand "technical concepts such as cholinesterase function, depression, and regeneration," or if it was explained by a person in an employer relationship to the participant. The Commerce Committee amendment would thus deny the Administrator essential information needed to protect man and the environment.

2. Statement: "And a third would require that foreign nations and international agencies be fully warned of the danger of those pesticides which the United States bans at home but allows to be exported."

Fact: The Agriculture Committee amendment would achieve this objective. The Commerce Committee amendment would prevent its achievement. The Agriculture Committee language provides: "Whenever a cancellation of the registration of a pesticide *becomes effective*, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies." Thus the Agriculture Committee provides for notification to foreign contries as soon as any pesticide is banned in the United States. The Commerce Committee amendment would strike out this language and instead require that "the Administrator shall furnish to the government of the foreign nations to which any pesticide may be exported . . . (3) all orders of suspension and all *notices of cancellation* or change in classification issued pursuant to section 6." Cancellation notices are required by the bill to be sent out automatically each five years, to be effective only if the registrant fails to request that the registration be continued in effect. Thus, under the Commerce Committee amendment foreign countries would receive cancellation notices with respect to pesticides whose registration was never cancelled, but would never be advised when the registration of any pesticide was actually cancelled.

3. Statement: "These and a dozen other strengthening amendments . . ." (apparently relating to twelve of the fifteen Commerce Committee amendments).

Fact: Among other things, these amendments which you describe as "strengthening" would deprive the Administrator of adequate funds to carry out the Act and authorize entry of American homes as well as other places using pesticides by Federal agents without a warrant or suspicion of crime. The main objection to the Commerce Committee amendments is that they add confusing surplusage and introduce errors into the bill. Such amendments cannot reasonably be called "strengthening" amendments. There is not room to discuss them all here but I am enclosing a copy of the hearings held by my subcommittee, and if you examine EPA's comments on similar amendments beginning on page 82, you will see that many of them do nothing but add or change language which has no substantive effect, but introduces errors.

4. Statement: "Congressional environmentalists will need all the public backing they can get for the floor fight and for the conference committee battle to follow."

Fact: This statement is absolutely true, and great newspapers like yours can assist by making it absolutely clear which amendments accomplish the results you deem desirable. I hope that you will examine the material enclosed and make it clear to your readers that it is the Agriculture Committee amendments, and not the Commerce Committee amendments, that accomplish the desirable objectives described above.

The Committee on Agriculture and Forestry today ordered the preparation of a supplementary report on this bill to point out the many ways in which the Commerce Committee amendments would weaken this bill and prevent it from achieving the specific objectives mentioned above and the general objective of protecting man and his environment. I hope that as soon as it is issued you will study it along with the Commerce Committee report supporting their amendments and most particularly the actual language of the amendments proposed by the two Committees. When you have done that I hope that you will advise your readers of your conclusions. The Congressional environmentalists on the Committee on Agriculture and Forestry need all the public backing they can get and need to have the issues studied carefully and presented clearly so that the public and the Senate will know which amendment meets their objective. The objectives mentioned in the statements quoted above are my objectives. They are the objectives of the Committe on Agriculture and Forestry. I believe that they are the objectives of the Committee on Commerce. But those objectives will stand for naught unless the legislation that is adopted provides for attaining them.

Sincerely yours,

JAMES B. ALLEN.

INDIANA VOLUNTEER TUTORS HELP CHILDREN LEARN TO READ

Mr. BAYH. Mr. President, teachers estimate that 43 percent of the children in the elementary schools of this Nation are experiencing critical difficulties with learning to read.

In a concentrated effort to alleviate this problem, my State of Indiana is cooperating with the National Reading Center of Washington, D.C., in training volunteers to become reading tutors.

Recently 153 Indiana citizen-volunteers, representing 51 city and county school systems throughout the State, participated in a 2-day training workshop held at Ball State University, Muncie, Ind., under the sponsorship of the Indiana State Department of Public Instruction.

The National Reading Center trained and provided the volunteers with materials on the various methods of tutoring primary grade children. Under the supervision of classroom teachers, the volunteers are now training others in their respective communities to be reading tutors.

Mr. President, on behalf of the State of Indiana, I commend these citizens for donating their time, talents, and hearts to the principle that every child in Indiana has a right to read.

To others in the State who wish to volunteer for training as reading tutors, I recommend they contact Mrs. Jo Lanham, reading consultant, State department of public instruction, 108 State Office Building Indianapolis, Ind. 46204. She is responsible for this fine program and would be able to provide additional information.

ANALYSIS OF LAWS PROHIBITING SEX DISCRIMINATION IN HIGHER EDUCATION

Mr. BAYH. Mr. President, the Higher Education Amendments of 1972, which were signed into law by the President on June 23, contain a comprehensive series of provisions designed to end discrimination based on sex in all aspects of higher education. I personally was pleased with the final results; most of the conference report's provisions were taken directly from an amendment I offered to the Senate bill. These provisions vitally affect many of our constituents and I think it important to let everyone know exactly what the law now requires.

Therefore, I ask unanimous consent to have printed in the RECORD a fine summary of these requirements, prepared by

Bernice Sandler and her staff at the Association of American Colleges.

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

SEX DISCRIMINATION PROVISIONS CONCERNING STUDENTS AND EMPLOYEES AS CONTAINED IN THE HIGHER EDUCATION ACT OF 1972

The Higher Education Act of 1972, effective June 23, 1972, contains provisions which:

1. prohibit sex discrimination in all federally assisted education programs;

2. amend certain portions of the Civil Rights Act of 1964;

3. extend coverage of the Equal Pay Act of 1963 to executive, administrative and professional employees, including all faculty.

I. *Sex Discrimination in Federally Assisted Programs Is Prohibited:*

A. *Basic Provisions:* Title IX of the Higher Education Act states:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . ."

These sex discrimination provisions are patterned after Title VI of the Civil Rights Act which forbids discrimination on the basis of race, color, and national origin in all federally assisted programs.[1]

B. *Which Institutions Are Covered: All* institutions including public and private preschools, elementary and secondary schools, institutions of vocational, professional, undergraduate and graduate education, that receive federal monies by way of a grant, loan or contract (other than a contract of insurance or guaranty).[2]

C. *Provisions Concerning Admissions to Schools and Colleges:*

1. *Discrimination in admission is prohibited in:*

a. vocational institutions[3]

b. institutions of professional education

c. institutions of graduate higher education

d. public undergraduate co-educational institutions

This provision goes into effect on June 23, 1973.

2. *Exemptions from the admissions provision are as follows:*

a. private undergraduate institutions of higher education

b. single-sex public undergraduate institutions

c. elementary and secondary schools other than vocational schools

d. schools in transition from single-sex to coeducation. Such schools of vocational, professional or graduate education, or public undergraduate education which are about to begin or already have begun the transition to coeducation are exempt from the admissions provision, provided it is carrying out a transitional plan approved by the Commissioner of Education.

NOTE.—*These exemptions apply to admission only;* such institutions are still subject to all anti-discrimination provisions of the Act other than admission.

D. *Other Exemptions*

1. *Religious institutions:* institutions controlled by religious organizations are exempt if the application of the anti-discrimination provisions are not consistent with the religious tenets of such organizations.

2. *Military Schools:* those educational institutions whose primary purpose is the training of individuals for the military services of the United States or the Merchant Marine are exempt.

E. *Provision Relating to Living Facilities:* The Act allows institutions receiving federal funds to maintain separate living facilities for the different sexes.

F. *Who Enforces the Act?* The enforcement provisions are identical to those of Title VI of the Civil Rights Act. The federal departments empowered to extend aid to educational institutions have the enforcement responsibility. Reviews can be conducted regardless of whether or not a complaint has been filed.

G. *Who Can File Charges?* Individuals and organizations can challenge any unlawful discriminatory practice in a federal program or activity by filing with the appropriate federal agency. During the review process, names of complainants are kept confidential if possible.

H. *What Happens When a Complaint Is Filed?* An investigation is conducted, and if a violation is found, informal conciliation and persuasion are first used to eliminate the discriminatory practices.

I. *Formal Enforcement Procedures:* If persuasion fails, the Act provides for formal hearings conducted by the federal agency, which can result in the termination or withholding of federal assistance. In some instances, cases which have been terminated or withheld can seek judicial review of the final order issued by the agency.

J. *Preferential Treatment:* Institutions cannot be required to grant "preferential or disparate" treatment to members of one sex when an imbalance exists with respect to the number or percentage of persons of one sex participating in or receiving the benefits of federally assisted educational programs or activities. There are no restrictions in the Act, however, against affirmative action that is non-preferential.

K. *Provision Concerning Blind Students:* Students cannot be denied admission on the grounds of blindness or severely impaired vision to any federally assisted education program or activity. The institution, however, is not required to provide any special services for such persons.

II. *Amendments to the Civil Rights Act of 1964*

A. *Provisions Relating to Desegregation of Publicly Supported Schools* (including elementary and secondary schools and publicly supported institutions of higher education): Title IV of the Civil Rights Act, entitled "Desegregation of Public Education," and which previously applied only to race, color, religion and national origin, is amended to include sex in most of its provisions.

1. *Technical Assistance:* The Commissioner of Education is empowered to render technical assistance to public institutions preparing, adopting and implementing plans for desegregation.

2. *Training Institutes:* The Commissioner is authorized, through grants or contracts with institutions of higher learning, to operate short-term or regular session institutes for special training to improve the ability of teachers, supervisors, counselors and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation.

3. *Grants:* The Commissioner is authorized to make grants to pay, in whole or in part, for the cost of teacher and other school personnel inservice training in dealing with problems incident to desegregation and employing specialists to advise in problems incident to desegregation.

4. *Suits by the Attorney General:* Under certain circumstances, the Attorney General is empowered to *initiate legal proceedings* on behalf of individuals who allege that they have been denied admission to or not permitted to continue in attendance at a publicly supported institution by reason of sex or when the individual alleges that a public institution is depriving him or her of the equal protection of the laws under the 14th Amendment. Title IX of the Civil Rights Act is also amended to extend to cases of sex discrimination the Attorney General's power to *intervene,* on behalf of the United States, in litigation already begun by others claiming denial of the equal protection of the laws under the 14th Amendment.

III. *Extension of the Equal Pay Act of 1963*

A. *Basic Provisions:* Coverage of the Equal Pay Act is extended to executive, administrative, and professional employees.[4] The Act states that women and men performing work in the same establishment under similar conditions must receive the same pay if their jobs require equal skill, effort and responsibility. "Equal" does not mean "identical", but that jobs which are compared under the Equal Pay Act have to be *substantially similar.*

B. *Which Institutions and Employees Are Covered? All* employees in *all* private and public educational institutions at *all* levels: pre-school, elementary, secondary and institutions of higher education, regardless of whether or not the institution is receiving federal funds.

C. *Who Enforces the Act?* The Wage and Hour Division of the Employment Standards Administration of the Department of Labor.

D. *Compliance Reviews:* Reviews can be conducted regardless of whether or not a complaint has been reported. When a review is conducted the entire establishment is checked for compliance.

E. *Complaint Procedure:* There is no formal procedure for filing a complaint. Complaints may be reported to the nearest Wage and Hour Office of the Department of Labor by letter or telephone. Individuals or organizations may report violations.

F. *Anonymity of Complaints:* The identity of a complainant is kept in strict confidence by the Department of Labor. Unless court action is ultimately necessary, the name of an aggrieved employee need not be revealed. The same observance of confidentiality is extended to employers (and unions if involved unless court action is necessary.

G. *Power of Enforcement:* After investigation, if a violation has been found, the employer is asked to comply with law by raising salaries and awarding back wages to employee(s) who were underpaid. More than 95% of the equal pay investigations are settled without recourse to litigation. Should the employer fail to comply, the Officer of the Solicitor of the Department of Labor can bring suit in the appropriate District Court. Individual complainants may also file private suits under the law.

H. *Back Pay:* When a complaint is held to be valid, employers must raise the salaries of those employees who earned less by reason of their sex, and must compensate em-

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[1] Apart from admission coverage (see 1–C of this paper), the Higher Education Act differs from Title VI in that the sex discrimination prohibition is limited to federally assisted *education* programs and activities, whereas the race, color and national origin discrimination prohibitions are applicable to *all* federally assisted programs. Title VI also specifically excludes *employment* from coverage (except where the primary objective of the federal aid is to provide employment). There is no similar exemption for employment in the sex discrimination provisions relating to federally assisted education programs.

[2] Title IV of the Higher Education Act also prohibits lenders who use the Student Loan Marketing Association from discriminating against students on the basis of *sex,* color, creed or national origin.

[3] This includes vocational high schools.

[4] Coverage is also extended to outside salespersons.

ployees for the period in which they were being paid less. Generally speaking, the statute of limitations for back pay is two years.

I. *Other Provisions:* An employer cannot reduce the wage rate of any employee in order to eliminate an illegal wage differential. Labor organizations are also prohibited from causing or attempting to cause an employer to discriminate against an employee in violation of the equal pay provisions.

J. *Are Wage Differentials Allowed:* The law does *not* prohibit wage differentials based on a bona fide seniority or merit system, or a system measuring earnings by quantity or quality of production or any factor other than sex.

K. *Prevention of Harrassment:* Employers are prohibited from discharging or discriminating against any employee who has made a complaint or instituted any proceedings under the Act.

L. *Record Keeping:* All institutions must keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed. The Secreary of Labor or his designated representatives are empowered to request such information and review the records.

M. *Relationship to Other Federal Regulations and Laws Pertaining to Non-Discrimination:* Executive Order 11246, as amended, which prohibits federal contractors from discriminating, and Title VII of the Civil Rights Act which was recently amended to cover employees of educational institutions, are still in effect. Employees can file charges simultaneously under all or any of these laws and regulations.

MR. BROOKS McCORMICK SPEAKS ON U.S. INTERNATIONAL ECONOMIC POLICY AND CORPORATE RESPONSIBILITIES

Mr. PERCY. Mr. President, I invite the attention of the Senate to an article published in the Chicago Tribune on June 19, 1972. Mr. Brooks McCormick, president and chief executive officer of International Harvester Co., exemplifies the attitude of American corporate enterprise which has contributed so much to the economic strength and vitality of this Nation in international commerce.

International Harvester has shown the greatest respect for the principles of competition on which American enterprise and employment have flourished. Mr. McCormick's thoughts on the stability of the dollar, on the proposed Foreign Trade and Investment Act of 1972 and on assistance to developing countries deserve our thoughtful consideration.

I ask unanimous consent that the text of the Tribune article be printed in the RECORD.

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

U.S. NEEDS SOUND DOLLAR TO COMPETE, McCORMICK AVERS

(By Nick Poulos)

The survivial of the United States as a viable competitor in the turbulent world of international trade depends upon a sound dollar, asserts Brooks McCormick, president and chief executive officer of International Harvester Co.

"The United States can't retain its leadership position with a second-rate currency," he said. "It can't be done. The chief trading currency has been the dollar. The moment it becomes the second best currency in the world, we will be in real trouble.

"Inflation is our big problem. American industry has demonstrated its ability to survive in the competitive jungle warfare that goes on constantly. But to continue to succeed, the United States has to get its fiscal and monetary problems under control."

APPLAUD NIXON PROGRAM

McCormick, whose company is one of the largest agricultural equipment manufacturers and a leading producer of trucks and construction equipment, asserts that "any thinking man" has to applaud the economic stabilization program President Nixon put into effect last August.

"It was the first fundamental step taken by the United States to combat the sword (of inflation) which is at the throat of the industrial health of this country," he said.

"To put a restraint on wage contract increases as well as on price increases by manufacturers was necessary, as abhorent as these measures are. But when the moment of truth comes, the survival of the United States as a going concern depends upon a sound dollar."

FAITH IN U.S. INDUSTRY

The International Harvester executive said he has faith in the ability of American industry to cope with the problems of competition; that it will prove flexible enough to increase exports to the European Common Market countries, provided government efforts continue to reduce trade barriers against United States goods.

"Of course, this government effort could be dashed by the passage of legislation such as the proposed Burke-Hartke bill," he warned.

"We also think we have the ability to compete in the Japanese market and to flourish in the Southeast Asian countries unless the United States decides to repeat the errors of the 1930s and leads us back to restrictive trade practices."

PROVISIONS OF BILL

The Burke-Hartke bill proposes increased restrictions on imported goods and curbs on operations of United States companies in foreign countries.

"We at International Harvester have always been for free trade," McCormick noted. "There has never been a tariff on farm equipment coming into the United States. And we have not only managed to survive but prosper.

"International Harvester believes that free trade is a two-way street and that further imposition of trade barriers will result in trade wars as devastating as physical wars.

"BARRIER BEGETS BARRIER

"No nation today can build walls around its borders and expect to survive. However, all nations ultimately must play by the same rules if we are to have true world free trade. Barrier begets barrier.

"Business and the United States government must work as partners in a vigorous campaign to promote both exports and foreign investment.

"We must provide tax incentives for export, adequate export financing, and competitive credit and political risk insurance.

"TRADE WITH REDS

"We must encourage trade with the Communist nations, and we also must welcome imports and direct and indirect investments in the United States by foreign-based enterprises.

"And as we are the world's largest exporting nation, we must have more direct American investments abroad and continue to win a greater share of the world markets."

McCormick noted that as a mature corporation, International Harvester has learned to adapt to changing competitive conditions abroad. As other American companies mature, they also will learn to adapt, he added.

CHANGE OVERSEAS TACTICS

"Over the years, we have had to change our entire philosophy of operating overseas from operating wholly owned subsidiaries to taking part in joint ventures and making licensing arrangements as the investment policies of foreign countries became more restrictive," he said.

"The purpose of all this, of course, was to continue to make money, retain our position in these markets, and enter new markets where feasible."

McCormick said that at the same time, his company increased its exports from the United States, supplying components and materials to support the manufacturing activities of the company's overseas installations.

DIRECTION OF EFFORTS

The International Harvester president added that his company is devoting much of its energy and efforts these days toward increasing business in the developing countries.

"The challenge is stickier in a developing country because of the problems a company can encounter regarding getting its dividends out, and surviving currency devaluations and political take-over of assets," he noted.

"But the opportunities are there. In the last year, for example, we sold more farm tractors in India than we had ever before, and we are quite new there as a manufacturer."

McCormick said it is a great tribute to American companies that they have been able to compete at all while having to bear labor costs some three times higher than foreign competitors.

"And while our labor costs are the highest in the world, higher material costs have contributed to making the United States even less competitive," he added.

"The average American may not realize it, but the United States is impoverished in many natural resources. We're short on oil, for example, and we have to import such materials as nickel, chrome, and bauxite.

"But we're not dead in the international marketplace. American companies have to employ that old frontier, pioneering spirit to make their way in the world. American prosperity depends upon our ability to compete in the global marketplace."

FORT HUNT HIGH SCHOOL SYMPHONIC AND MARCHING BAND, FAIRFAX COUNTY, VA., WINS FIRST PLACE AT INTERNATIONAL BAND FESTIVAL, VIENNA, AUSTRIA

Mr. HARRY F. BYRD, JR. Mr. President, the Fort Hunt High School Symphonic and Marching Band of Fairfax County, Va., has won first place in the International Band Festival at Vienna, Austria.

The Fort Hunt Band competed in a field of 31 bands at the Vienna competition. Its victory came after a series of successful competitions in the United States which led to the opportunity to take part in the Austrian Festival.

The Fort Hunt High School group has won numerous awards in the last 2 years. The members of the band and their director, Mr. Frank B. Wickes, have richly earned the congratulations of all Virginians—of all Americans—for their outstanding performance.

On July 19, the Alexandria Gazette published an editorial saluting the Fort Hunt Band for its newest achievement. The following day, the Washington Post published an article by Richard Homan recounting some of the experiences of some of the band members during the competition in Austria.

I ask unanimous consent that the texts of the editorial from the Alexandria Gazette and the article from the Washington Post be printed in the RECORD.

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

[From the Alexandria Gazette, July 19, 1972]

BRINGING HOME NEW HONORS

From Vienna, Austria, comes word that the Fort Hunt High School Symphonic and Marching Band has been awarded the top honors in the First Annual International Band Festival sponsored by the government of Vienna. The honor was announced at the end of a week of competition. It was awarded for both music and marching in a field of 31 bands, mostly from the United States but including several from Europe and one from Israel. The award was based on a series of serenades of Austrian officials, including the president of the Austrian Republic, and a marching competition on Friday.

The Fort Hunt High School band was invited to the international competition after a series of successful appearances in the United States and awards in a half dozen or more competitive performances. In 1971 it won the top honor in the George Washington Birthday Celebration parade, which, incidentally, was the last time the parade has been held. It has also given concerts at Fort Ward Park and at Market Square Plaza, so it is not unfamiliar to this city. Undoubtedly, after the European success it will be in even greater demand than in the past.

The distinction given the high school band, it must be noted, is only one of the accomplishments of this school. It has a record of public service. One of the most notable was the institution of a mineral waste reclamation program last spring that pioneered in that field in these parts.

The band members left the United States on July 7 by air from Dulles International Airport. They are due to give several other concerts in Europe before returning home. Although the summer vacation has dispersed the high school's student body, we trust that on the band's return, the members will be given the sort of warm welcome they deserve. They bring added honors to the community.

A NOSE GETS WHACKED, BUT FORT HUNT TRIUMPHS

(By Richard Homan)

The program said simply that the bands would have to play in concert and marching competition. It turned out that they had to play in cold, slashing rain, in humid, stifling sunshine, in baroque reception salons barely large enough for a string quartet and in concert halls unaccustomed to the booming percussion of an American marching band.

When it all ended last week, the judges of Vienna's first annual international youth orchestra festival decided that the Fort Hunt High School Band from Fairfax County had done all of this better than any of the other 30 participating orchestras.

"We did it, we did it, good God, we did it," the band chanted as it waited to board its buses after the presentation of the award Saturday night by the mayor of Vienna, and the usually stolid Viennese who shortly before were calling for encores from the Fort Hunt musicians at an impromptu street-corner concert cheered along with them.

The presentation of the City of Vienna Cup for the best overall performance in music and marching was clearly the high point of an already illustrious season for the Fort Hunt Band, many of whose members have graduated and will leave it when the current European tour ends in two weeks.

But the days of competition were wet and dreary for the bands, which included 25 from the United States, among them the Parkdale High School Symphony Band from Riverdale, and six from Europe and Israel.

The festival opened July 11 with a massed concert in a frigid downpour in the vast courtyard of the Schoenbrunn Palace on the outskirts of Vienna. The tone for the coming days was set when the conductor lifted his baton for the first trumpet blast of the fanfare and speared an umbrella being held over him.

The next day, with their uniforms still damp, the Fort Hunt Band, one of three chosen to serenade high Austrian government officials, played for Education Minister Fred Sinowatz.

The concert was to have been outside, but because of another rain storm it was moved into the 17th century Starhemberg Palace, which once housed Count von Starhemberg, who defended Vienna against the Turks in 1683, and now houses the Education Ministry.

With the 85-piece band, less a few drums and cymbals, jammed into his ornate gold and white reception salon, hung with red silk wall coverings and carpeted with thick woolen rugs, Sinowatz and his aides smiled at the music and warily eyed the whirling batons that menaced a huge, intricate chandelier.

But the only thing a baton hit was the nose of Majorette Heidi Stevenson. After whacking herself soundly while trying to adjust to the compact surroundings, she sat out one number, then came back to twirl again for "Stars and Stripes Forever."

When it was over, Sinowatz thanked the majorettes for sparing the chandelier, told Majorette Debi Lynch he thought she was pretty and inquired after Heidi Stevenson's nose. "Never before in this room has music been played so loud," Sinowatz said, by way of compliment.

The concert competition was held in the Concert Haus, one of Vienna's two major symphony halls, and the marching competition in the square in front of the Rathaus, Vienna's city hall. Both presented problems.

"This is the worst hall that anyone in this band has ever played in, bar none," Fort Hunt director Frank Wickes told his musicians in a pep talk before rehearsal at the Concert Haus. "It can make us or break us, and it's broken every band I've heard here so far."

His point was that the hall has exceptionally sensitive acoustics, designed for the subtle tones of small ensemble playing, and the big sounds of a brass band reverberate chaotically. The rousing music of some of the young bands had sounded like one constant tumult of percussion and tubas, with any melody smothered.

The astute adaption by the Fort Hunt Band to the exaggerated acoustics and the successful muting of its percussion section were, according to expert observers, a determining factor in the outcome of the competition.

The marching competition was to have been held in a suburban stadium which, after three weeks of prodding of Austrian bureaucracy and finally a direct order from a cabinet member, had been lined to resemble an American football field.

But a new rain storm Friday flooded the field and, when the rains stopped in mid-afternoon, Vienna Mayor Felix Slavik offered the use of the asphalt square in front of the city hall.

Soon, under the brooding neo-gothic spires of Vienna's 19th century landmark Rathaus, a football field had been painted—hash marks, end zones, yardlines and markers—by volunteers with brooms and buckets of whitewash. But shrubbery and sidewalks gouged out big chunks at the corners and, as a result, Fort Hunt, in order to enter the field from its accustomed point on the sidelines, had to arrange itself among trees and bushes.

"Well, we just blew the marching competition," Wickes, a pessimist as well as a perfectionist, groused glumly that night as the Fort Hunt Band ended an exceptionally good 10-minute routine featuring marches, a dance suite and "Old Man River" that brought cheers and lengthy applause from the crowd of 8,000. "The music might have been all right, but the alignment. . . ."

A few minutes later, french horn player Sally Weaver noted to those around her that "he's smiling, so we couldn't have been too bad."

Miss Weaver was one of five Fort Hunt seniors who won scholarships, ranging from $300 to $750, from the National Education Scholarship Foundation, the sponsor of the U.S. participation in the festival.

Other winners were Linda Baker, Mark O'Connell, David Finlayson, who doubles as trombonist and drum major, and David Kapec.

Parkdale, a young school that graduated its first senior class just two years ago, competed only as a symphony orchestra and did not take part in the march competition. Its two scheduled outdoor concerts were rained out.

SENATOR PERCY URGES ACTION ON HOMEOWNERSHIP COUNSELING PROGRAMS

Mr. PERCY. Mr. President, during the debate on the fiscal year 1973 appropriations bill for the Department of Housing and Urban Development, I participated in a colloquy with my distinguished colleagues, the senior Senator from Rhode Island (Mr. PASTORE), and the senior Senator from Colorado (Mr. ALLOTT), regarding funds for counseling programs for low-income homeowners.

I intended to offer an amendment at that time to appropriate a total of $12.5 million for counseling programs under sections 235 and 237 of the National Housing Act. I did not press my amendment after being given assurances in the colloquy with my colleagues that they would urge HUD to submit a budget request for these programs in time for the supplemental appropriations bill. I know the Department is seriously studying this possibility.

I wish to take note today of still another recommendation for a comprehensive homeownership counseling program. This one comes in a report entitled "Defaults on FHA-Insured Home Mortgages—Detroit, Mich.," issued by the Committee on Government Operations of the House of Representatives.

This report is the result of a year-long study of the Detroit situation made by that committee's Subcommittee on Legal and Monetary Affairs under the able leadership of the distinguished gentleman from Connecticut (Mr. MONAGAN). I quote the full text of the recommendation regarding homeownership counseling:

The Committee recommends:

1. That without regard to executive "ceilings" on personnel levels—

(e) The Secretary and OMB authorize all HUD area offices to increase their counseling and credit review staffs for the purpose of screening and counseling applications for home mortgage insurance under all HUD homeownership programs, not only applications for 235 home ownership assistance. Preferably HUD area offices should develop "in-house" counseling capabilities rather

than rely on outside agencies for this purpose and should coordinate the activities of the counseling, appraisal, and credit review divisions within the area office to insure that home purchasers have the capability to pay for and maintain the homes they purchase.

Mr. President, I concur in this recommendation. I believe the overwhelming majority of the members of this body support the concept of counseling programs for families purchasing homes under our interest subsidy programs. I know the members of the Senate Appropriations Committee do. The report accompanying the HUD appropriations bill states:

As the Housing Assistance Programs grow, the Committee recognizes that various counseling needs may expand. Therefore individuals of low and moderate income have a need for counseling in budget and debt management and in other responsibilities of home ownership. In addition, Housing Assistance recipients who are in default on their mortgages often can be assisted through counseling.

It is a fact, Mr. President, that no one opposes homeownership counseling programs. From the day I first proposed establishing the National Home Ownership Foundation to promote homeownership among low and moderate income families I have never heard anyone call into question the necessity for and efficacy of both pre- and post-purchase counseling. It is my firm belief that if the authorized programs had been fully and aggressively implemented from the outset, many of the problems we are witnessing today with our housing programs would have been avoided. It is regrettable that the NHOF which was to take the lead in encouraging these programs never was funded.

I do not believe that the Department of Housing and Urban Development opposes counseling programs. The Department's own auditors, as I have noted on several occasions, have made a strong case for a more fully developed program. Moreover, Secretary Romney frequently has pointed out, with considerable pride, what the Department is doing in the way of signing agreements for voluntary, unpaid programs as well as establishing research and demonstration projects in a number of cities.

But this is simply not enough. The time has come for the implementation of a permanent, inhouse counseling program as authorized by Congress in 1968. No reason exists for further procrastination. I trust that the Department of Housing and Urban Development will come forward with a creative proposal and that Congress will respond by providing all the necessary funds.

CAPTIVE NATIONS WEEK

Mr. BEALL. Mr. President, during this week, July 16 through 22, we in America solemnly mark a most meaningful occasion. Pursuant to Public Law 86-90, which Congress unanimously passed in 1959, the third week of July is known as Captive Nations Week. I join with many of my Senate colleagues in recognizing this significant week.

During the last few months, we have seen continued evidence of the unconquerable drive for freedom that the peoples of the captive nations throughout the world still nurture, in spite of years dictatorial suppression. The constant efforts of Soviet Jews to emigrate from the U.S.S.R., the massive cultural repressions in the Ukraine and other parts of the Soviet Union, and the recent riots in Lithuania, serve to clearly document the repression of the human spirit that is so much a way of life in these nations. Each day, 100 million people in 27 countries live under the shadow of tryanny, encouraged only by the hope that the free peoples of the world notice their plight and champion their cause.

We in this country, a bastion of human freedom and dignity, must not let this flame of hope flicker and die. We must not relax our efforts in behalf of the citizens of the captive nations until their thirst for liberty is quenched.

During this Captive Nations Week, I ask all of us in this body and all in this country not to forget those who live without the privileges of freedom that we so often take for granted. But beyond that, let us carry forward the principles of Captive Nations Week not just for a few days, but for the whole year. We are the focal point of those millions who live in suppressed societies. We must not forget them.

TRIBUTE TO AHEPA

Mr. GAMBRELL. Mr. President, we are celebrating this year throughout the United States the 50th anniversary of the American Hellenic Educational Progressive Association, known as AHEPA.

This association was founded on July 26, 1922 in my home city of Atlanta, Ga., and since then has grown to encompass 430 local chapters in 49 States, Australia, and Canada.

The mother lodge in Atlanta has 2,500 members with many others participating in related AHEPA activities such as the Daughters of Penelope, the Sons of Pericles and the Maids of Athena. Two other AHEPA lodges in Georgia, one in Savannah and one in Augusta, boast a combined membership of over 1,000. A list of local, district, and national officers of AHEPA, residing in Georgia is attached to this statement.

This association is dedicated to the encouragement of respect and loyalty to the United States and the responsibilities which U.S. citizenship implies. It seeks to promote understanding and appreciation of education and culture, especially Hellenic culture and the ideals of Hellenism.

Finally, AHEPA has been a lifeline of assistance to those victims of natural disasters, of wars, and of disease throughout the world.

I join my fellow Senators in congratulating AHEPA on its 50th anniversary.

I ask unanimous consent that a list of AHEPA officers be printed in the RECORD.

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

GEORGIA

LOCAL CHAPTER OFFICERS

Augustus N. Parkes, President, Augusta.
Anest Vlachos, Vice President, Augusta.
George C. Nicholson, Secretary, Augusta.
Spyros J. Dalis, Treasurer, Augusta.
George T. Alexander, President, Atlanta.
James A. Alexander, Vice President, Atlanta.
George Moore, Secretary, Atlanta.
James Caras, Treasurer, Atlanta.
Charles Masterpolis, President, Savannah.
Harry G. Andris, Vice President, Savannah.
John Drakulis, Secretary, Savannah.
Chris P. Thomas, Treasurer, Savannah.

CURRENT NATIONAL OFFICERS

Nicholas D. Chotas, Ahepa Mother Lodge, Atlanta.
James Campbell, Ahepa Mother Lodge, Atlanta.
Harry Angelopoulos, Ahepa Mother Lodge, Atlanta.

CURRENT DISTRICT LODGE OFFICERS

Peter Rumanes, Advisor, Atlanta.

PAST NATIONAL OFFICERS

Charles A. Alexander, Past Supreme Lodge, Atlanta.
George J. Cotsakis, Past Supreme Lodge, Atlanta.

LEGISLATIVE RESOLUTION REGARDING VOTING RIGHTS ACT

Mr. THURMOND. Mr. President, the South Carolina House of Representatives, with the Senate concurring, recently enacted a resolution memorializing the Congress of the United States to take South Carolina from under the Voting Rights Act of 1965. The resolution also requests that the Justice Department retain jurisdiction of South Carolina's election laws in order to hear complaints concerning them.

Mr. President, as the resolution points out, it was almost impossible for South Carolina to vote over 50 percent of the registered electors in the 1964 general election because the registration books were cluttered with the names of many persons who had died or moved away. Since that time South Carolina has put into operation a central voter registration system in order to purge effectively the registration books.

South Carolina has acted in good faith to insure that all those who qualify to vote may be registered. Mr. President, it is time this blatantly political law, written to include those States which gave their electoral votes to Senator GOLDWATER, be repealed.

Mr. President, on behalf of Senator HOLLINGS and myself I ask unanimous consent that the resolution be printed in the RECORD.

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

H. 3649

A concurrent resolution requesting the Attorney General to take such action as is necessary to take South Carolina from under the provisions of the Voting Rights Act of 1965

Whereas, the Voting Rights Act of 1965 has created differing standards in the few states to which it was infamously applied from those in all other states; and

Whereas, had the central voter registration

system of this State been in effect for the 1964 general election process many officials in South Carolina are of the opinion that the 1965 Act, as it was written, would not have applied to South Carolina; that this conclusion is based on the fact that registration lists at that time were about eight years old and contained the names of many deceased persons, persons convicted of disqualifying crimes, persons who had moved from their precincts, a good number of whom were re-registered elsewhere in the State without surrendering their old certificates; that because there was no effective purge of the registration books it was almost mathematically impossible to vote over fifty per cent of the registered electors; and

Whereas, South Carolina has demonstrated that it is no longer necessary for it to be under the provisions of this act; and

Whereas, the General Assembly is desirous of having the Attorney General and each member of the South Carolina Congressional Delegation take all necessary action to take South Carolina from under the provisions of the 1965 Act but for the Justice Department to retain jurisdiction relating to South Carolina's Election Laws in order to hear complaints or any other grievances concerning the election laws of South Carolina.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring: That the Attorney General and each member of the South Carolina Congressional Delegation are requested to take such action as necessary to take South Carolina from under the Voting Rights Act of 1965 but the Justice Department is requested to retain jurisdiction relating to South Carolina's Election Laws in order to hear complaints or any other grievances concerning the election laws of South Carolina.

Be it further resolved that a copy of this resolution be forwarded to the Attorney General and each member of the South Carolina Congressional Delegation.

RADIO PERSONALITIES FRANK HARDEN AND JACKSON WEAVER, OF WMAL, AND ED WALKER AND WILLARD SCOTT, OF WRC, SHOW POSITIVE COMMITMENT TO VETERANS' EMPLOYMENT

Mr. BEALL. Mr. President, as a strong advocate of efforts to secure jobs for returning veterans, I am always heartened to learn of others who recognize this problem and seek to contribute to its solution. It is particularly encouraging to see those who carry the important responsibility and potential impact of the mass media exert their influence to make the public more aware of this situation.

Such is the case, I am proud to say, in Washington, D.C. Two teams of radio personalities, Frank Harden and Jackson Weaver, of WMAL's morning "Harden and Weaver Show," and Ed Walker and Willard Scott, the "Joy Boys" of afternoon radio on WRC, each day interrupt their entertaining antics to spotlight a separate veteran and his employment background and desires. Potential employees are urged to contact Mr. Charles Waters, Washington's job representative, with possible job openings they might have available. All indications show that the efforts of these publice-spirited announcers have been most successful, due no doubt in part to large audiences these shows attract.

I commend these men and their stations for this positive commitment to veterans' employment. So that Senators may have the opportunity to read of this fine project, I ask unanimous consent that the article entitled "Top Washington, D.C., Radio Programs Highlight Vet Job-Seekers to Commuters," published in the JFV Report of June 1972, be printed in the RECORD.

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

TOP WASHINGTON, D.C. RADIO PROGRAMS HIGHLIGHT VET JOB-SEEKERS TO COMMUTERS

Commuters in the Washington, D.C. metropolitan area are hearing about Jobs for Veterans, coming and going.

Thanks to a pair or mirthful radio duos, notices about local job-seeking veterans are broadcast each weekday to large listening audiences when morning and afternoon rush hour traffic is at its peak. Carrying the a.m. messages is the team of Frank Harden and Jackson Weaver on WMAL's "Harden and Weaver Show." Ed Walker and Willard Scott, the zany "Joy Boys" on WRC, provide the veterans' announcements during homeward-bound periods. Both programs are considered to attract the bulk of listening audiences during their respective air times.

Charles Waters, Washington's National Alliance of Businessmen Veterans Job Representative, supplies the radio teams with five profiles every week. Each spotlights a separate veteran and lists his background, job qualifications, and employment desires. Employers are encouraged to contact Mr. Waters with possible job openings for a particular veteran or any other employment listings they may have available.

Since Harden and Weaver began broadcasting the morning veterans spots in March, Mr. Waters says the announcements have resulted in 228 job pledges and added 85 new companies to NAB's roll of potential employers. Statistics from the WRC afternoon ads are not yet available because Jobs for Veterans spots are a very recent innovation to the "Joy Boys" program. Mr. Waters says, however, he is expecting similar success due to the show's large following.

DECLARATION OF DEPENDENCE ON THE LIVING GOD, BY THE BIBLE BAPTIST CHURCH, SAVANNAH, GA.

Mr. GAMBRELL. Mr. President, I had the occasion on Sunday, July 2, 1972, to speak from the pulpit of the Bible Baptist Church in Savannah, Ga., in connection with their Independence Day services and celebration, preceding Tuesday, July 4. The Bible Baptist Church in Savannah, through the dedicated ministry being conducted by its pastor, staff, and members, has become one of the 10 fastest growing churches in the United States. The church is now 16 years old, and on July 4, 1976, it will celebrate its 20th anniversary, concurrently with the 200th anniversary of the proclamation of the American Declaration of Independence.

In order to rededicate themselves to their ministry, and to the principles and commitments of fundamental Christianity, members of this church have adopted, and by the thousands are signing the "Declaration of Dependence on the Living God."

May I say that the religious commitment, the patriotism, and the hospitality extended to my wife and myself, on the occasion of our visit was an inspiration to us. In these times of economic materialism, and moral permissiveness, it is heartening to find a dedicated group of Americans still are intensely committed to God and country.

I ask unanimous consent that their Declaration of Dependence on the Living God be printed in the RECORD.

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

A DECLARATION OF DEPENDENCE ON THE LIVING GOD

On July 4, 1976, the United States will celebrate its 200th anniversary as a nation. The leaders of our government in 1776 made the United States a reality by drafting and signing the Declaration of Independence. This nation was founded upon Christian principles by the pilgrims and others who came seeking freedom. Our founding fathers penned the words, "In God We Trust." In the best tradition, example and challenge of this spirit, we, the pastor, people and staff of the Bible Baptist Church, Savannah, Georgia, do hereby pledge and desire to carry out the command of the Lord Jesus Christ in the great commission by setting our determination to accomplish the following goals by July 4, 1976, the 200th anniversary of our nation and the 20th anniversary of our church, which goals Declare our Dependence on the living God.

Article one: To baptize 4,000 people in the next four years, attempting to get each person to become a working dedicated Christian in the Bible Baptist Church.

Article two: To build a New Testament Church according to the pattern of Scripture in discipline, doctrine, practice and outreach, trusting God to use the example of Bible Baptist Church to motivate others to the same function that a New Testament church should have.

Article three: To build the largest Sunday school in the southeastern United States as a testimony to the effectiveness of fundamental Christianity.

Article four: To provide $500,000 for missions in the next four years to carry the gospel around the world.

Article five: To graduate hundreds of young people from the Bible Baptist Day School with disciplined minds, trained hands and tender hearts who will be effective Christians.

Article six: To provide complete and continious Biblical ministry to the family, aiming at producing 1,000 families in Savannah that attend church together, have a family altar together and serve God together.

Article seven: To pray and plan for an enlarged Sunday school bus ministry, transporting 2,000 to Sunday school each Sunday.

Article eight: To work toward a Sunday school goal of 25,000 on July 4, 1976, on which 5,000 would be teenagers.

Article nine: To follow the Biblical pattern of stewardship taught in Scripture, aiming at a total budget of $1,500,000 by 1976 and 4,000 pledge tithers in the next four years.

Article ten: To intensify our efforts to minister to the handicapped, the retarded, the poor and the oppressed.

Article eleven: To produce 1,000 soul winners who are trained, motivated and organized to carry out the great commission, as Jesus Christ commanded, beginning at Jerusalem, which to us, is Savannah, Georgia.

THE MOSCOW AGREEMENTS

Mr. COOPER. Mr. President, the Foreign Relations Committee today held a hearing on the Treaty on the Limitation of Antiballistic Missile Systems and the interim agreement on strategic offensive arms, and on the military weapons implications of the treaty and agreement. Dr. Richard Garwin of Columbia University and the IBM Watson Laboratory,

Dr. Marvin Goldberger, chairman of the Department of Physics, Princeton University, and Dr. Wolfgang Panofsky, director of the Stanford Linear Accelerator testified at the request of the committee.

The Senate will soon consider the SALT ABM treaty, the Interim Offensive Agreement, and the military procurement authorization bill which bears on the SALT treaty and agreements. The testimony of Dr. Panofsky, Dr. Garvin, and Dr. Goldberger, in my view, would be helpful to all Senators in their consideration of the treaty, interim agreement, and the military procurement authorization bill. Because of the outstanding quality of the testimony by these three distinguished scientists who have long served the security interests of this Nation, I ask unanimous consent that the texts of their prepared statements be placed in the RECORD at the conclusion of my remarks.

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

THE MOSCOW AGREEMENTS TO LIMIT STRATEGIC ARMS—TESTIMONY OF WOLFGANG K. H. PANOFSKY

I am pleased to have the opportunity of testifying before this committee in support of ratification of the Treaty signed May 26, 1972, at Moscow on the Limitation of Anti-Ballistic Missile Systems and in support of approval of the Interim Agreement signed at the same time dealing with limitations of strategic offensive arms. I am testifying as a private citizen who in the past and at present has served in various consultative capacities to branches of the U.S. Government and who has a continuing interest in strategic matters in general, and in arms control in particular.

The Moscow agreements can constitute the largest advance in the control of arms which the world has as yet seen; it is essential that actions subsequent to the treaty and its ratification shall make fullest use of the unique opportunities these agreements could bring to reverse the arms race between the United States and the Soviet Union. This race is dangerous, is wasteful of our resources, and in my view is one of the real tragedies of the post war era.

There are many items in the Moscow agreements which are *precedent-setting*. Let me enumerate a few of these; obviously time does not permit here a complete analysis of the agreements.

1. *The treaty is equivalent to a joint declaration that mutual deterrence is the strategic policy of both the U.S. and U.S.S.R. and implicitly denies the usefulness of a nuclear war-fighting strategy.* It is explicitly stated in Article I that the parties will not deploy an ABM system for the "defense of the territory" of each country. This means that both nations agree not to adopt a "damage-limiting" strategy which would attempt to reduce the impact of nuclear war to each country. Once a nuclear war-fighting strategy at various levels of intensity is given up as a realistic objective of national policy there should be no need for either side to develop and deploy any nuclear strategic offensive weapons beyond those needed for deterring the other side from a first-strike attack or from a preemptive strike in case of crisis.

2. *The agreed prohibition of effective ABM defenses implies that each offensive strategic missile in the U.S. arsenal has a larger deterrent value.* The over-all deterrent value of the U.S. arsenal is enhanced above that before signature of the Moscow treaty; therefore signature of the SALT treaty implies a reduction in the required level of armaments relative to that justifiable before the SALT agreement was signed.

3. *We have agreed with the Soviets not to interfere with legal "national means of verification" presumably including data collection from satellite platforms.* This is an important agreement which attests to the fact that technology in general, and satellites in particular, have made this a more open world.

4. *The SALT treaty enters into technical matters of considerable detail.* It would have been considered impossible until a relatively short time ago to negotiate with our ideological opponents in as much technical detail as has been possible at SALT. As a result, some of the restraints agreed upon (such as limitations on the product of permitted radiated power and aperture for a radar) are quite detailed.

5. *The Moscow Treaty contains many important restraints on the growth of military technology.* The treaty not only forbids *deployment* of ABM systems in excess of the numbers and sizes of radar specified, but it also precludes such items as *testing* of air defense systems in an ABM mode, and prevents deployment of ABM systems using physical principles different from those now employed. Thus the treaty begins to demonstrate to the world man's willingness to control the growth of technology in directions which are considered undesirable to the overriding interests of humanity.

Technical products evolve through a long chain starting from new results in basic research (i.e. research not motivated by applications but by man's fundamental curiosity about the functioning of nature) and leading on through development, test and, finally, production and deployment. Table I illustrates this chain as it relates to the Moscow accords. The table indicates that the Moscow ABM treaty has applied some highly meaningful controls deep in the "technological chain" in order to prevent emergence of a clandestinely developed ABM system. You will note, however, from the table that the Interim Agreement on *offensive* missiles lags notably in terms of any constraints on qualitative evolution of military offensive strategic hardware; this is a defect which I hope will be remedied in the negotiations to follows.

The previous paragraphs describe what I believe to be the most important policy precedents achieved by the Moscow agreements, quite apart from their specific content. In place of a more complete analysis of the agreement themselves I have tried to summarize in Tables II and III some of the pros and cons of the Treaty and Interium Agreement from the point of view of the U.S. interest. These tables, which include the precedent-setting items enumerated above, contain three categories: (1) those items clearly enhancing the security of both nations; (2) those items in which the Soviets apparently enjoy an advantage; and (3) those items in which the U.S. apparently has benefited.

It is clear from these tables that the items agreed to which enhance the security of *both* countries and which should do so at lower cost to each, greatly dominate this summary. This is as it should be, since an arms control agreement can only achieve a durable objective if *both* parties believe they have gained in security. This observation contrasts with much of the debate which has been carried out before this committee and in the Press, which has focused largely on the question as to which side has gained from the Moscow agreements at the expense of the other. The truth of the matter is that the Moscow agreements have increased the security of *both* parties, and that a debate which tries to represent an arms control accord as a tug of war between opposing parties grossly misrepresents the situation. Table III contains items which appear to favor—and may indeed favor—either the USA or the USSR, but these items are reasonably well balanced against each other. A principal achievement of the SALT agreements has been stabilization on a very broad front of the strategic balance between the two countries; therefore small shifts in favor of either side should not obscure the basic truth of the strategic situation of the U.S. vis-a-vis the USSR: *Neither side can have the least hope of delivering a first strike against the other that would be sufficiently devastating to escape destruction of its own society in retaliation.*

On the surface, the much-publicized numbers which constitute the interim freeze on the number of offensive missile launchers provided for by the Interim Agreement appear to be in favor of the USSR. However, it should be recognized that there are many items not covered by the Interim Agreement; in particular the fact that the U.S. is in a position of leadership in the number of deliverable warheads and in numbers of strategic aircraft; *such leadership cannot reasonably be erased during the period in which a follow-on agreement must be negotiated.* In addition, the Interim Agreement on offensive missiles has achieved one goal that strongly favors the USA: The agreement halts those items of Soviet offensive deployment (construction of land-based missile silos and of missile carrying submarines) in which the Soviets currently have a very vigorous ongoing program, but it places no constraints on those programs with which the United States is actively proceeding (deployment of MIRV's and other upgrading measures of the U.S. strategic forces). Therefore within its limited scope the Interim Agreement is a well-balanced measure.

I consider the counting of missiles and warheads and the weighing of megatonnage to be a very naive means of assessing strategic standing. There are many other important factors such as differences in geography and qualitative performance and sophistication of the strategic forces which contribute to the over-all balance. However the single most important fact is that in the absence of meaningful ABM defenses of their territories each nation is now *vastly over-armed* for its primary mission of deterring an attack by the other.

No precise figures can be given as to what the minimum level of armament must be to deter the other from a first strike attack. "Deterrence," after all, is not a measurable physical condition but is a state of mind based on many factors other than sheer level of armaments. Many of those who talk about deterrence tend to lose sight of the enormity of the forces now at the command of the two super-powers and of the literally unimaginable destruction that these existing weapons can wreak. Debates about "sufficiency" of nuclear armament tend to become a political game of numbers rather than a consideration of the physical violence that these tools of mass destruction imply. Since, happily, nuclear weapons have not been used in anger since Hiroshima and Nagasaki, few of the current decision makers of either the United States or the Soviet Union have any firsthand experience with the use of these weapons; it is just this inexperience which tends to lend an unjustified abstractness to the debate. Let me remind this committee again about the incredible lethality of the threat to the future of civilization which the world's nuclear arsenal implies.

Here is a picture of the devastation brought to Nagasaki by a single weapon of approximately 20 kiloton TNT equivalent explosive power. Today, the Captain of a single Poseidon submarine has at his command roughly 150 nuclear weapons, each independently targetable, and each exceeding in explosive power that of the bomb delivered to Nagasaki! Multiply this by the number of submarines and add in the additional striking power available through land-based missiles

and strategic bombers, and the result is a degree of devastation beyond any human comprehension.

It is all too easy for military strategists to ignore those horrors in their preoccupation with the numbers of casualties and weapons needed for deterrence. Moreover, all strategic calculations tend to estimate casualties only through what is known as "prompt" effects, that is the death and injury caused by the blast of a nuclear weapon and its immediate radiation effects; usually not even fallout is included in the damage prediction. What is totally ignored is the aftermath of a nuclear exchange: Fire, disease, lack of medical care, destruction or inaccessibility of food supplies, disorganization, unbalance of ecological chains, etc. Therefore chances are that eventual casualties resulting from nuclear war are very much higher than those generally used by Executive branch decision makers, or presented by strategic analysts to legislative committees. I therefore tend to agree with the opinion expressed by McGeorge Bundy in 1969 that any policy leading to the delivery of only a single nuclear weapon would be considered to be a catastrophic blunder and that the delivery of even a small number of nuclear devices would be a disaster of the first magnitude in the history of the world. In contrast those who plead for additional nuclear armament demand potential deaths in the many tens of millions, calculated naively as "prompt" fatalities, as a basis of "sufficiency" of our deterrent forces!

This brings me to the last part of my testimony which is the relationship of arms control measures in general, and the Moscow agreement in particular, to the level of military expenditures in those areas affected by the arms control agreement. Let me flag again three items which represent the cardinal achievements of the Moscow agreements.

1. *Each missile in the U.S. arsenal has a higher deterrent value as a result of the Moscow agreements than it had before as a result of the Treaty constraints on ABM.*

2. *The declaration in Article I of the Moscow Treaty that each nation will forego defense of its territory is equivalent to accepting a policy of mutual deterrence as the primary mission for its strategic forces; both the U.S. and the Soviet Union are now vastly over-armed for that mission.*

3. *The balance of terror implied by the strategy of mutual deterrence is very insensitive to even considerable changes in the current strategic armaments of both sides.*

Considering these circumstances it is contrary to all reason to use the Moscow Agreements as an argument for more and not less strategic weaponry. The conclusion that the SALT agreements have decreased the need for offensive weaponry is clearly substantiated on *technical* grounds. The only question that remains is whether one can justify further escalation of strategic weapons expenditures on a *political* basis, that is by the socalled "bargaining chip" argument applied to the forthcoming round of SALT.

It is indeed true that in spite of the far-reaching achievements of the Moscow agreements of May 26 a great deal remains to be done. Table IV lists some of the elements of the strategic arms race which remain unconstrained by SALT–I and which, unless controlled, might well in time negate much of what has been accomplished. In particular *qualitative* improvements of strategic missiles (be they through further additions of MIRV, through improvements in accuracy, or through other measures) could in time erode the significance of the limitation on offensive arms imposed by the Interim Agreement. However I would like to point out that the limitations of the ABM treaty will continue to stabilize the strategic balance and thus reduce the requiremens for offensive strategic armament, irrespective of the success of a follow-on agreement.

Control of some, if not all of the items listed in Table IV constitutes an ambitious agenda for the next round of SALT. Priority should be given to converting the Interim Agreement to a comprehensive limit on offensive strategic weapons, including both *numerical and qualitative constraints*. Moreover, in view of the vast excess of present armament, considering the openness of the population guaranteed by SALT–I, both nations should be able to negotiate reductions of strategic arms and so demonstrate to the rest of the world their commitment toward a saner policy.

The argument has been put forth that in order to lend urgency to these future negotiations the U.S. must *accelerate* its arms expenditures. To put it bluntly, the existence of these follow-on negotiations is being proclaimed by DOD spokesmen as a justification for strategic arms expenditures which under the ordinary budgetary process and Congressional review could not be justified.

I believe that this kind of argument is a mockery of the basic purpose of arms control, which is to achieve higher security at lower cost. Whether arms control negotiations are in progress or not, each country has to make decisions on its military expenditures taking into account both its internal priorities and its external security problems. What are the alternatives? One possibility would be for our nation to proceed with a policy of restraint, that is by cutting back military expenditures, taking into account the arms control agreement reached in the past, and demonstrating faith that arms control discussions of the future will achieve further constraints on the arms race. A second alternative might be to proceed on the basis of "business as usual"—ignoring the possibility of future arms control by making the "prudent" assumption that the discussions may fail. A third alternative is the "bargaining chip" or the "negotiation from strength" approach which means to buy more military strength in order to be able to give some of it away in the negotiations. Yet the result may be the opposite: The negotiating opponent may not propose that the "bargaining chip" be given up; rather he may demand an equal augmentation in armament.

Let me consider the lessons which can be learned from the history of U.S. and Soviet ABM deployments that culminated in the Moscow Treaty. The Soviets have deployed an ABM system around Moscow containing 64 "Galosh" type ABM interceptors; this system was built after several false starts and it is now agreed that it offers negligible resistance to the penetration of U.S. missiles targeted against Moscow. The U.S. Administration proposed the multiple purpose Safeguard ABM system for authorization to the Congress; this system was designed both to support an "area defense" mission and to provide for the defense of the Minuteman and strategic bomber deterrent forces. After receiving severe technical criticism of the system, the Congress denied authorization for the area defense component of Safeguard (which is now also prohibited by the Moscow Treaty) but in successive years it authorized deployment around three Minuteman sites. When the technical critics testified persuasively as to the exceedingly low effectiveness of the resulting Minuteman defense in relation to its cost, the Administration used the "bargaining chip" argument in support of authorization.

I cannot conclusively testify as to Soviet reaction to this deployment decision; although they must have been fully aware of the low effectiveness of the system they may well have been concerned about the future growth of Safeguard into a more comprehensive system. At any rate, as a consequence of the Moscow deployment and of the 80% completion of the Safeguard installation at Grand Forks, North Dakota, the SALT negotiations converged on an agreement which, to reflect the strategic parity between the two powers, permitted each side to copy the wasteful mistake made by the other: The agreement permits the U.S. to match the admittedly ineffective defense of Moscow as a defense of Washington, D.C. and it also permits the Soviets to imitate the Grand Forks Safeguard installation by protecting an equivalent force of missile silos east of the Ural Mountains. Thus our "bargaining chip" has resulted in an arms control agreement permitting (but not requiring!) some very ineffective but very expensive ABM installations on both sides.

The achievements of SALT–I have created an unparalleled opportunity to exercise some restraint in military expenditures and still meet the needs of national security. Contrary to some public statements I am aware of no evidence that in response to the Moscow agreements, the Soviets are accelerating their strategic military activity in order to divert and intensify their preparations into those directions not as yet constrained by the agreements. SALT–I gives us some time to watch what the Soviets will in fact do subsequent to the agreements and then to respond ourselves. Because of the very broad range of strategic stability reached by the elimination of meaningful ABM defenses there is no necessity for as high a rate of expenditure in anticipation of unseen threats as we sustained in the past. We must not confuse the weapons *permitted* under the Moscow Agreement with a *mandate to proceed* toward their procurement and deployment.

This testimony deals primarily with the merits of the Moscow strategic agreements, not with a detailed analysis of the strategic weapons authorization request of the DOD. I would, however, suggest that in view of the foregoing the Senate recognize that *technically* the agreements must necessarily lead to *lessened* strategic requirements and that the prospects for negotiation of a follow-on agreement to replace the Interim accords should not justify military expenditures which are otherwise not needed. On the contrary, the increased strategic stability achieved by the accords provides a safe opportunity for restraint in strategic military spending. For all these reasons I recommend that the Congress examine most critically the technical justification for such items as the accelerated programs for the Trident submarine and the B–1 strategic bomber, as well as the need for the ABM defense of Washington. I hope that the Congress will not support further escalation of the strategic arms race justified by proposed negotiating tactics rather than by fully demonstrated strategic need.

I consider the Moscow strategic accords to be a precedent-setting event which enhances the security of both the United States and the Soviet Union, and thus of the world. At the same time, it enhances the opportunity for *both* countries to shift their priorities from oppressive military expenditures to urgent civilian needs. I recommend that the Senate speedily ratify the treaty and that the Congress approve the Interim Agreement. I also hope that the Congress will be able to use the strategic agreements as a basis for increased dedication to the solution of the many pressing civilian problems at home and abroad.

TABLE I.—CONSTRAINTS ON ABM TECHNOLOGY, DEPLOYMENT, AND TRANSFER IMPOSED BY THE MAY 26, 1972 TREATY AND IMPOSED ON OFFENSIVE MISSILES BY THE INTERIM AGREEMENT

Basic research	Research applied to identified technologies	Development	Test	Production	Deployment	Transfer
		No ABM multiple warheads. No ABM reload or refiring. No adaptation of non-ABM systems to ABM use. No development of seabased, air-based, spacebased or mobile ABM.	Agreed test ranges, limits on launchers at test ranges. No test of ABM multiple warheads, or reload capable launchers. No testing of the non-ABM systems in an ABM role. No test of sea, air or space-based ABM or mobile ABM systems.	----------	ABM launchers limited in numbers and locations. Radar constraints. No ABM capabilities to be given to non-ABM systems. No ABM reload-capable launchers. No ABM multiple warheads. ABM system based no new physical principles not to be deployed. No deployment of sea, air or space-based ABM or mobile ABM system. No new starts of specified categories of land-based missiles and numerical limits on sea-based missile launchers. Limits on certain physical dimensions.	No transfer of ABM systems or components to other states.

TABLE II.—Some items in the agreements of May 26, 1972, of security benefit to both the United States and U.S.S.R.

a. ABM limits increase deterrent value of each offensive missile. Thus both nations can attain more deterrence at less cost.

b. Agreement on "no defense of the territory of each country" signals that mutual deterrence of attack is an agreed strategic policy and that the populations of *both* countries are "hostages for peace." Under these conditions peaceful coexistence is a necessity.

c. The momentum of the *offensive* arms race is reduced (but not halted!); an obligation is assumed to seek a halt and a reversal to the race through future agreements.

d. "New technology" ABM is prevented from deployment.

e. The world is a more open place since surveillance of satellites (national legal technical means of verification) is protected.

f. Future reduction of offensive weapons can be undertaken without impairing strategic stability.

g. A consultative commission to monitor compliance is established.

TABLE III.—Some items in the agreements of May 26, 1972, which might be considered to favor either the United States or the U.S.S.R.

IN FAVOR OF UNITED STATES

Momentum of that program in which the USA is active (MIRV's) is continuing, while momentum of that program in which USSR is active (Missile and Submarine Building) is arrested.

U.S. has *technical* superiority in many aspects of strategic submarines and has better access to ocean areas.

U.S. has numerical superiority in strategic bombers and numbers of warheads.

IN FAVOR OF U.S.S.R.

Freeze occurs at a larger number and size of USSR ICBM's and greater total megatonnage of all offensive systems combined.

Freeze occurs at a somewhat larger number of Soviet launch tubes on submarines.

TABLE IV.—Items of importance to the strategic arms race not controlled by the Moscow Treaty or interim agreement of May 26, 1972.

a. Strategic bombers.

b. *Qualitative* improvements through one-for-one replacement by better models.

c. Almost all strategic military Research, Development and Test.

d. MIRV.

e. Nuclear weapons improvements.

f. Production (in contrast to deployment) of hardware for strategic military offensive systems.

g. Anti-submarine warfare.

PREPARED TESTIMONY OF RICHARD L. GARWIN

I am honored by the Committee's request for my testimony in regard to the Strategic Arms Limitation Agreements now before the Senate, and I am pleased to have this opportunity to comment. The Committee surely recognizes that I can add very little to the excellent factual presentations which have been made by Ambassador Smith and others, and to the highly informative White House briefing by President Nixon and Dr. Kissinger on June 15, 1972. Furthermore, it must be recognized that I speak for myself alone in making these remarks. I hope that my views may be of some help to you.

Since 1950, I have been involved extensively in technical contributions to offensive and defensive strategic arms. Since that year, a substantial part of my time has been spent in helping to understand and to provide the background for policy decisions in the national security area. In particular, I have contributed extensively to the design of nuclear and thermonuclear weapons; to the command and control of such weapons; to the strategic air defense of the United States; to the formulation of various possible systems for antiballistic missile defense; to studies of arms control agreements, such as the Limited Nuclear Weapons Test Ban, and to agreements such as those which are now before the Congress.

My recent involvement with the government has included membership in the President's Science Advisory Committee from 1962 to 1965 and again from 1969 to the present time; membership in the Defense Science Board (advisory to the Secretary of Defense) 1966 to 1969; membership and chairmanship of several military panels of the President's Science Advisory Committee over these years; and the chairing of panels for the Defense Department and for other agencies in the national security area. In particular, it has been reported to the Congress by responsible officials that I chaired the Military Aircraft Panel and the Anti-Submarine Warfare Panel of the PSAC. Over the years, I have had deep and intimate contact with both strategic and tactical weapons programs, with the responsibility of assessing our technology in these specific areas in view of the potential and the capabilities of our possible adversaries. Another aspect of my task at various times was to assess the current military capability of certain of our forces. I have recommended at times that certain development or production programs be initiated or expedited, and I have judged at times that certain programs should be canceled or redirected.

I appear before you as an advocate of strong and real military capability, with substantial experience in observing programs through their life cycle from formulation through cancellation or deployment and obsolescence. I am quite conversant also with the opportunities and mechanisms of negotiation as a powerful tool for the enhancement of national security and the achievement of our national goals.

THE STRATEGIC ARMS LIMITATION AGREEMENTS

The Senate has before it for its action the ABM Treaty, the Interim Agreement on Offensive Weapons, and the associated Protocol, signed May 26, 1972. These were transmitted to the Senate June 13, together with twelve agreed interpretations initialed by the heads of the delegations on May 26, 1972, six common understandings, and eight unilateral statements. These supplementary statements amplify and in most cases extend the coverage of the agreements. The formal documents are models of brevity.

I regard these agreements as a historic achievement. They are indeed a step toward more complete limitation of strategic arms, but the limitations which they impose are of enormous significance in themselves. I do not suggest that the agreements coincide in every respect with those I would have advocated, but I believe they result in greater overall progress than I thought possible in arms limitation by this date.

For more than a decade the destruction of the US by the Soviet Union, or vice versa, has been prevented not by the traditional aspects of defense (i.e., a shield against the striking force) but by the certainty that each side possessed a thermonuclear force sufficiently numerous and survivable that it could be used in return to destroy the initiator of strategic warfare. During the decade, measures were taken on both sides to render the offensive forces more survivable and more controllable, so that this posture of mutual deterrence, apparently acceptable (even unavoidable) at any given time, could not be stolen or destabilized by sudden unilateral action on the other side. The technical possibility most destabilizing would have been a deployed defense against ballistic missiles (ABM), which it was felt by some could be developed and proliferated to ward off and hence to negate the reentry vehicles and warheads of the land-based ICBM force and of the submarine-launched ballistic missiles.

Of course, deterrence would still exist if the bombers could survive to take off and to penetrate to their targets. Although costly and heavy air defenses were deployed on both sides, it is clear that the present bombers on either side can penetrate. Furthermore, any ABM system which has thus far been proposed in detail has had no capability to prevent the overwhelming penetration by the ballistic missile forces of the other side. Still, the uncertainty as to the future possibility of ABM of some unknown type was an impetus for proliferation and improvement programs of the offensive forces, such as multiple reentry vehicles (MRV), multiple independently targeted reentry vehicles (MIRV), retention of bomber-delivered weapons, etc.

The other perceived threat to the stable deterrent was the possibility of destruction before launch. The public and even official circles often confused some eventual possibility of prelaunch vulnerability of the land-based ICBM with an overall destruction before launch of the offensive forces, although no combination of enemy ICBM warhead yield and accuracy can threaten the sur-

vivability of the bombers or of the submarine-launched missiles. The first are protected by their ability to be launched on detection of ICBM firing, and the second by the other side's ignorance of their specific location. This confusion was exploited by various individuals and groups for their own reasons.

Furthermore, many wished for a world in which the shield-like defense could replace the deterrent, and in which their own nation could yield the threat of ultimate destruction of the adversary. In fact, no proposal has ever been advanced which could seriously promise to repeal the technical facts. Between the reality and grudged acceptability of deterrence on the one hand, and the will-o-the-wisp of the permanent defensive shield (against all possible types of weapons) on the other, the responsible national leaders have chosen the reality of deterrence.

Thus, the ABM Treaty promises the permanent absence of effective ABM capability, either locally or nationwide. To enforce such an important promise, it has provisions to limit systems which act like ABMs or look like ABMs. Most importantly, it recognizes the use of national technical means of verification, and it includes the undertaking not to use deliberate concealment measures nor to interfere with the national technical means of verification of the other Party. Finally, it establishes a standing consultative commission to consider various questions, including details of compliance, etc. Furthermore, the agreed interpretations further limit ABM systems and specify, among other things, that specific limitations on ABM systems based on other physical principles, and on their components, would be subject to discussion and agreement. Among the articles of the treaty, Article V is an undertaking "not to develop, test, or deploy ABM systems or components which are sea based, air based, space based, or mobile land based." It is my judgment that this treaty and the auxiliary documents provide a firm, safeguarded, and verifiable elimination of the ABM as a threat to the effectiveness of our ICBM and SLBM force.

The interim agreement on the limitation of offensive missiles, together with the Protocol and the agreed interpretations, attempt to do for a period of five years what the ABM Treaty does for an unlimited duration. They attack the other possible threat to stable deterrence—i.e., the fear of destruction of the ICBM force before launch. Remember that the SLBM force is not threatened by accuracy or numbers of the opposing offensive warheads, and the bombers can be based and managed so that they can take off before being destroyed. Thus the offensive limitations constitute a further insurance to the certainty that an entire strategic offensive force cannot be destroyed in a pre-emptive strike. As has previously been stated many times in these hearings, the interim agreement and the Protocol freeze the number of ICBMs at the number presently operational or under construction, and the number of SLBMs at the number presently under construction, the Protocol spelling out the precise numbers. The US may trade 54 of its ICBMs for new construction SLBMs on not more than three submarines, and the Soviet Union can destroy 210 ICBMs and replace them with SLBMs. I can respond to questions regarding the details of these numerical limits, but I don't want to give them undue significance.

Various individuals have made much of the discrepancy between the number of missiles allowed the two sides—

United States:		
ICBM	1,054	(1,000)
SLBM	656	(710)
U.S.S.R.:		
ICBM	1,618	(1,408)
SLBM	740	(950)

(For each nation, the numbers in parentheses give the maximum permitted number of SLBM launchers on nuclear-powered submarines and modern SLBM launchers on any submarine. To reach this number, a nation must destroy ICBMs to the level indicated by the parentheses.)

TABLE OF MISSILE FORCES

Critics have argued that the Soviet Union, by virtue of these greater numbers, has some kind of strategic advantage. These arguments ignore the realities of deterrence, the fact that an ABM Treaty effectively increases the number of our missiles five or ten years hence by some unknown but large factor in comparison with what we regarded as satisfactory in the absence of such a treaty. It ignores the strategic advantage contained in the unilateral "statement of the Soviet side" submitted to you, regarding the "strategic imbalance" in the deployment of the nuclear powered submarines of the USSR and the US. Finally, it ignores the enormous growth potential permitted us under the terms of the agreements, which would allow us to replace each Minuteman missile in its existing silo by a new missile with at least three times as many warheads as the MIRVed Minuteman III. Of course, there is no necessity to do any such thing—in the absence of an ABM agreement, we felt no compulsion and had no program to increase our ICBM offensive force at all, let alone by that amount, but this offensive agreement (which in any case is limited to a duration of five years) allows us this enormous growth.

It is difficult to recollect that in May of 1972 we had no guarantee that these SALT agreements would be signed. Admiral Moorer testified to this Committee on June 21, 1972 that the Soviet Union was deploying annually 250 ICBMs and 128 SLBMs. Considering the expiration date of the interim agreement, 1977, during this five-year period the Soviet Union, without such an agreement, and without any acceleration in their programs, could have had 1250 more ICBMs and 640 more SLBMs, all of the most modern types. Even if the interim offensive agreement were not to be followed by further advances in arms limitation, I would regard it as a very major benefit to the United States to be facing a Soviet Force in 1977 little different from that which they have now, rather than one which could be far more than twice as large. I must admit that there is one way in which the Soviet Union benefits from these agreements more than the US—by having agreed to the termination of the enormous on-going programs to which Admiral Moorer alluded, they will save tens of billions of rubles.

We should be very clear that, had the SALT agreements not been reached, there was no program under way in the Defense Department to provide a larger offensive force by 1977. The ABM agreement has now guaranteed our ICBMs and SLBMs a free ride to their targets. Compared with conservative projections of Soviet ABM capability, our penetrating missile forces are enormously increased in capability in the late 1970s. Furthermore, the ABM Treaty, which eliminates effective ABM, does not limit air defense. Thus for the indefinite future, missiles are assured of penetration, whereas our bombers face an already heavy and potentially unlimited air defense. There is no doubt that the SALT agreements make a major change in the relative values and priorities of our existing strategic forces, in the needs for development, and in the relative balance between strategic forces and others.

The benefits of the agreements will become a reality only when the treaty has been ratified by the Senate and the Congress has approved the executive agreement. Therefore, I believe that it is urgent, as the President stated on June 22: "First, the arms limitation agreements should be approved on their merits." The President goes on to say that: "After the Congress moves [in approving the ABM Treaty and also the limited, temporary, offensive limitations curb], all Congressmen and Senators—and this would, of course, concern them all—who are concerned about the security of the United States should then vote for those programs that will provide adequate offensive weapons in the areas that have been recommended by the Secretary of Defense and by the Administration." I would like to give you my views on some of these programs.

FISCAL YEAR 1973 STRATEGIC PROGRAMS

It is important to recognize that the FY–73 programs must take into account the great impact of the ABM Treaty and the offensive limitations which the leaders of the United States and the Soviet Union have signed and which the Congress will soon affirm. Proposed programs, and on-going programs, should then be evaluated in terms of their contribution to our overall stable deterrent, their cost and hence their impact on other military and non-military needs, and their impact on future arms limitations agreements. The largest and the least sensible innovation in strategic weapons programs is ULMS or TRIDENT.

It must be clearly recognized that TRIDENT is an uneasy marriage of a useful sensible program and a premature, almost purposeless program. The TRIDENT-1 missile (that is, the Poseidon C–4) is a new development missile which will fit into the existing Polaris-Poseidon submarine and which, even if deployed in small numbers, would allow these submarines to contribute to deterrence soon after they left home port. Furthermore, these new missiles would greatly increase the submarine operating area from which Polaris-Poseidon could strike deterrent targets in the Soviet Union. I believe that the TRIDENT-1 missile is a good program and should proceed at a measured pace.

The Trident submarine, on the other hand, seemed to me unjustified even in the absence of any SALT agreements. There is no threat known or on the horizon which threatens the pre-launch survivability of our submarine deterrent. In particular, a proper response to some future unexpected development in anti-submarine warfare could almost certainly be met at lower cost by new construction, slightly modified, Poseidon boats carrying the Poseidon C–4 missile. In the *presence* of the ABM Treaty and the Interim Offensive Agreement, continuation and even acceleration of the Trident submarine program seems to me to compound folly. The ABM Treaty ensures the penetration of warheads launched from Polaris or Poseidon boats. There is no need to expand our force. Furthermore, there is no reason to believe that the ICBM's will in fact become vulnerable, since it would be illogical for the Soviet Union to build an expensive capability to threaten Minuteman when it has no way of effectively threatening Poseidon, and when it will now have no ABM system to ward off those missiles which may be launched.

In regard to the Trident submarine, you will remember that the Secretary of Defense testified before the Armed Services Committee, February 15, 1972, that:

"The continuing Soviet strategic offensive force buildup, with its long term implications, convinced us that we need to undertake a major new strategic initiative. This step must signal to the Soviets and our allies that we have the will and the resources to maintain sufficient strategic forces in the face of a growing Soviet treat. It would be diplomatically and politically unacceptable for the US to allow the Soviets to achieve a large numerical superiority in both land-based and sea-based strategic missiles . . . ."

I am at a loss to understand how an ULMS program which was "needed" in the face of a Soviet rate buildup of 250 IBMs and 128 SLBMs per year continues to be needed when this rate of buildup has been reduced to zero. I believe that the Trident submarine program ought to be redirected to be an exploratory submarine survivability program, at a level of about $50 million annually.

The B–1 bomber, in view of SALT, is considerably less valuable relative to missiles than had been the case. The ABM Treaty guarantees penetration to their targets for both ICBMs and SLBMs. It does nothing for the bomber. I believe that the B–1 must be justified, if at all, for its tactical uses. For the strategic force, if one believes that bombers are indeed a necessary component (and I remain unconvinced), one could better use the SCAD (subsonic cruise armed decoy) now planned for the B–52, launched from outside the borders of the Soviet Union by cargo-type aircraft, e.g. C–141, etc. There is no hurry to replace the B–52, and the B–1 could well proceed, if at all, at a slower pace. On the other hand, the SCAD program, in its armed version (not solely a decoy) could provide additional deterrent capability from many available vehicles.

The Department of Defense has included in its strategic programs the development of a new cruise missile to be launched from submarines. It notes that the Soviet Union has cruise missiles which can be launched from their submarines. I have long argued that such nuclear armed Soviet cruise missiles could in fact vitiate any coastal ABM system, but I believe that the Soviet submarine-launched cruise missile is generally regarded as an anti-shipping weapon. Surely, the Defense Department cannot seriously propose the *substitution* of cruise missiles on a one-for-one basis for SLBMs, which latter encounter no defenses, while the cruise missile will be subject to the general air defense system of the Soviet Union. If the Department of Defense is proposing to build large numbers of cruise missiles, simply because they are not limited by the precise text of the interim offensive agreement, it could better consider the payload enhancement of the Minuteman missile, to on the order of 10 of the present-type MIRVs, to which I have referred before. This program makes no sense.

The Safeguard ABM system is strictly limited by the treaty to the one ICBM defense site at Grand Forks and to a possible site at Washington, D.C. I believe that the site at Washington, D.C. was never worth the money and is far less desirable now. If the Soviet Union wished to deny us the small additional decision time which one might imagine to be provided by a 100-interceptor Safeguard site, it could well do that by targeting on Washington a very small fraction of their total stable of warheads. They could do it with far less expenditure by the use of decoys. They could deny us all warning in the case of this attack on the national capital (not in the case of an attack on the strategic offensive force) by other means. Simply because I am permitted by law to shred or burn my money, does not impel me to do so. Similarly, although the US is authorized under the ABM Treaty to deploy an ABM for Washington, D.C., there is no reason for us to proceed with this system of 100 interceptors together with radars at no more than 6 aim points, unless we believe it is in our interest to do so.

The Joint Chiefs of Staff are quoted by their Chairman in his testimony of June 21, 1972, as requesting three assurances in connection with their support of the arms limitation agreements. These are:

Assurance 1—"A broad range of intelligence capabilities and operations to verify Soviet compliance in a strategic arms limitation environment."

Assurance 2—"Aggressive improvements and modernization programs."

Assurance 3—"Vigorous research and development programs."

I agree with his statement of Assurance 1. I believe that the JCS statement of Assurance 2 is unrealistic and illogical—"maximize strategic capabilities within the constraints established by the ABM Treaty and the interim offensive agreements." This says to me that because we have arms limitation agreements, the normal budgetary controls no longer apply. It means that strategic capabilities must be maximized independent of their impact on tactical programs, or for that matter of their budgetary impact on Assurance 1 and Assurance 3. Furthermore, the second part of Assurance 2, "plan for rapid augmentation of strategic forces beyond the constraints of the treaty and agreement . . . to be made in the event of abrogation, withdrawal, or collapse of negotiations;" unless qualified, is a prescription for an arms race, for the development and creation of production capacity for systems which are unneeded now and which would be unneeded even in the event of collapse of negotiations.

Assurance 3, "continued testing to ensure the effectiveness of new and existing nuclear weapons systems," really begs the question as to whether nuclear testing is necessary to ensure the effectiveness of existing nuclear weapons systems. This is a point which deserves a good deal of discussion in its own right, rather than being stated as a condition for support of the arms limitation agreements.

In his remarks at a briefing for five Congressional committees June 15, 1972, President Nixon said:

"It is for that reason, without getting into the specifics as to what the level of defense spending should be, as to what the offensive programs should be, I am simply saying that if we want a follow-on agreement, we have to have two steps: We need first, of course, to approve these agreements; and second we need a credible defensive position so that the Soviet Union will have an incentive to negotiate a permanent offensive freeze. That is what we all want."

That is what I want, too. The Congress should act favorably on these agreements and should then look closely at what is required for a strong and credible defense program. I do not believe that the program proposed by the Department of Defense would lead to a credible and strong defense. I have no objection to spending the money requested, but I believe that far better uses for it can be found in the Defense Department than in the development of the TRIDENT submarine, in the construction of the Washington, D. C. Safeguard site, or in the development of the submarine-launched strategic cruise missile. I think that the historic achievement represented by the strategic arms limitation agreements, when endorsed by the Congress, should force a thorough review of the detailed programs for improving and maintaining our defense capabilities. I do not believe that hasty action on the defense budget is in the best interests of our national security or of our military capability.

TESTIMONY OF M. L. GOLDBERGER

Mr. Chairman, it is a privilege to be here today to discuss the Strategic Arms Limitation Treaty and the related Interim Agreement on Offensive Weapons. I have been concerned for many years with arms control issues related to strategic weapons and it is particularly gratifying to appear before you at a time when an important step has been taken to limit the strategic arms race; namely, the signing in Moscow of the SALT agreement. I strongly support this treaty and urge speedy ratification of it by the Senate.

While supporting the Treaty without reservation I think it worthwhile to draw attention to certain issues that naturally arise in connection with it which might have bearing on future actions taken by both sides and on the direction which future arms control agreements might take.

ABM TREATY

It has long been clear that ABM systems have been one of the most destabilizing elements in the arms race: They can create unwarranted confidence in their effectiveness for those who build such systems, which might promote reckless foreign policies and at the same time cause the other side to react violently to produce offensive weapons in quantities more than sufficient to compensate for the conjectured effectiveness of the defense. Although it would have been preferable in my opinion, if the Treaty had banned ABM's completely or limited them to the existing single site in each country, I feel that the two site provision in the Treaty is still quite satisfactory since it clearly precludes the acquisition of a nationwide defense by either side.

The Treaty, together with the supplementary understandings contain sufficient technical details so that not only are large ABMs banned but also the fears that air defenses could be upgraded to ABMs no longer can have any substance. The negotiators have successfully attacked the problem of ABM radars, the most critical element in an ABM system which must be controlled. While upgrading was always of very questionable technical feasibility, it was nevertheless used as an excuse by the U.S. for procuring additional offensive weapons such as MIRVs. This red herring can now be buried.

Before leaving the subject of ABMs, I should like to express my views on the future US ABM program in light of this Treaty. Should we proceed to deploy the Washington ABM which is specifically allowed? My answer to this question is clearly, No. Just because we have this option is no justification for proceeding to exercise it. Admiral Moorer stated on February 15, 1972 that the "Moscow (ABM) system even with improved radars and more and better interceptors, could still be saturated by a very small part of our total missile force." Why then should we proceed to deploy a Washington defense similar to such an ineffective Moscow system?

Neither Secretary Laird nor Admiral Moorer in testimony before this Committee have satisfactorily justified the need to proceed. They have argued that they might buy time for our Command and Control system, but they have so far avoided being specific on this score, probably because the time bought is extremely short even under optimum circumstances. Since the allowed system would permit only 100 defensive missiles, even if it were 100% effective, it could be overwhelmed by 101 incoming warheads. What time is then bought by the defensive system? Our current Command and Control system has been built to respond to the normal thirty minute warning of an ICBM launch or somewhat shorter for SLBMs; any small increment provided by a defense which could be measured only in seconds or at most minutes is clearly irrelevant.

Furthermore, the Washington ABM makes no sense for the secondary objectives originally put forth to justify the Safeguard system, i.e., defense against a Chinese attack or accidental launches. Since by Treaty the remaining population and industrial centers of the US outside of Washington must remain vulnerable, the Washington system cannot have any practical value against even a limited Chinese ICBM threat. Similarly, only a small proportion of the Soviet missiles would be targeted against Washington so that the probability that it could provide useful protection against an accidental Soviet launch is very small. Thus, the Washington ABM has virtually no value against accidents, the Chinese threat, or a Soviet attack. I would submit that we are carrying the concept of parity too far if we seek equality in Soviet mistakes.

The question of proceeding with the missile site defense at Grand Forks is more debatable since it has been announced that the system is already more than 80% completed. As I have stated previously before this Committee I do not believe that the Safeguard ICBM defense was either needed or effective

since it could be overcome by a very small increase in the offensive forces needed to destroy Minuteman. This conclusion still holds good today; in fact the requirement for ICBM defenses has been significantly reduced by the ABM Treaty and by the ceiling on large ICBMs included in the Interim Agreement. The ABM Treaty would allow the construction of 18 additional radars as a part of the missile site defense and this does not remove the most obvious Achilles' heel in the Safeguard system, i.e., the vulnerability of the single MSR radar. However, with the limit of 100 interceptors, the system can still be easily overpowered. The addition at great expense of 18 radars to the system at this time is probably unwarranted. I recommend however that vigorous research be carried out on the so-called hard-site system as a hedge in the event that the Treaty and Interim Agreement are abrogated.

INTERIM AGREEMENT ON OFFENSIVE WEAPONS

I consider that the Interim Agreement on Offensive Weapons is of more limited value than the ABM Treaty since both nations already have large numbers of strategic missiles and since it includes few restraints on qualitative improvements. Two years ago when SALT was in its early stages, Dr. Herbert Scoville pointed out that a simple numerical limitation on missiles with few if any restrictions on replacement of existing weapons by new and different models could be a sham of arms control. Fortunately, the Interim Agreement does go beyond a simple numerical ceiling although only to a limited extent. It does prevent the replacement of small ICBMs by large ones and significantly increasing the size (10% to 15%) of the landbased launchers.

Thus, the Soviets are now frozen at 313 large (SS–9) ICBMs, significantly less than the 500 which Secretary Laird, predicted the Soviets would have by 1975 when justifying the Safeguard ABM and MIRV deployments. The Interim Agreement therefore should reduce fears on this score although in fact the Soviets had only started 25 new large ICBM launchers since August 1969. If Secretary Laird's original arguments were sound, then we should have reduced requirements for new strategic weapons now.

Apart from this restriction on large ICBMs, the numerical ceiling is of marginal value and indeed by specifically endorsing the concept of replacement of old models by new ones, it can provide an excuse for accelerating the qualitative arms race. I'm not concerned by the fact that the Soviets are allowed a larger number of submarine-launched ballistic missiles than the U.S. This disparity has no security significance since the U.S. has a tremendous qualitative and geographical advantage. Dr. Kissinger has pointed out that the Russians would require about 60 submarines to have the same capability as 40 U.S. ones because of the much longer time that their ships would have to take to reach operational stations. President Nixon pointed out in his State of the World Message this year that both our SLBMs and our Polaris submarines were superior to the Soviet systems. Secretary Laird in testimony before this Committee attempted to give the impression that the Soviet Y-class submarines together with the newly developed longer range SLBM was already equivalent to our proposed Trident, but I know of no facts which would justify such a comparison. The Polaris-Poseidon system is in my view still superior to anything that the Soviets are deploying today.

Since the Interim Agreement places so few restrictions on qualitative improvements, its true value and indeed that of the ABM Treaty as well will depend on the unilateral actions which the two nations now take in light of the present guaranteed state of mutual deterrence and on the vigor with which additional negotiations are prosecuted to secure restrictions on qualitative improvements and to reduce existing weapons. Our proposed strategic arms program should now be carefully re-examined in light of the new situation and only those items which have a real security need should be carried forward.

There is no reason for accelerating any offensive weapons programs at this time. Instead, if the agreements are to have any real value, then many proposed programs should be cut back. There is no security requirement for rushing ahead with the Trident submarine; in fact, prematurely freezing on the design of a large, faster vessel at this time could eventually lead to a reduction in our security.

Further deployment of MIRVs on either the Poseidon or Minuteman III is no longer warranted since the requirement for overwhelming a large Soviet ABM does not now exist and since the continuation of such programs can only make more difficult the achievement of a MIRV ban. The proposal to move ahead with a submarine launched strategic cruise missile at this time seems so absurd as to almost not warrant comment since the ABM Treaty has guaranted that our submarine launched ballistic missiles can reach their target within the USSR. I would recommend that the Congress look at these and in fact all other strategic weapons programs in light of the Moscow Agreements and fund only those which have a clearly justifiable security need.

The argument that weapons must be bought as bargaining chips for arms control negotiations is not very convincing. The Safeguard ABM bargaining chip only produced a Treaty which allowed the Russians to enlarge an ABM system which they were showing no signs of extending. The MIRV bargaining chip only has made more difficult the achievement of any limitation on MIRVs which in the long run can be a significant security loss to the U.S. The Trident submarine program request designed to demonstrate to the Soviets our intention to match their submarine construction program only resulted in an agreement which allowed the Soviets to build 50% more submarines than they already had under construction. This is not an impressive record for bargaining chips. We can no longer afford to let arms control negotiations be used as a cloak to procure unnecessary weapons.

Finally, I should like to make one further point relative to the verification aspects of the two agreements. I fully subscribe to the thesis that national means of verification are satisfactory to verify that significant violations of these two agreements are not occurring. The clandestine deployment of an ABM system or upgrading of air defenses to provide a significant ABM capability would have a very high probability of being detected by our national means. In this connection, the provisions of the Treaty relative to radars are particularly helpful since these are the most easily detectable and longest lead time items in an ABM system. The precedent established by these agreements in legalizing such national technical means of verification is excellent and is useful not only in connection with the present agreements but for future ones as well. It is particularly satisfying to note the provisions which make it illegal to interfere with such national technical means and to use deliberate concealment measures which impede such verification This is a major accomplishment in the field of arms control.

In conclusion if the two Governments act with restraint in their unilateral programs and if they move forward rapidly to attempt to reach agreement on qualitative restrictions, then the Moscow Agreements can be truly looked on as milestones toward the goal of limiting nuclear arms. With good will and restraint on both sides there will be many opportunities for further restrictions not all of which need to be carried out in the context of bilateral SALT negotiations. A Comprehensive Test Ban which could be negotiated at the CCD in Geneva would be a useful step in applying qualitative restraints and in reducing the risks of further proliferation of nuclear weapons. Mutual force reductions negotiated by the NATO and Warsaw Pact countries would be an important step in reducing the burdens of conventional arms. There is little question that there will be widespread support for efforts by the United States to ensure that the limitations on strategic arms now undertaken are followed up in a manner which ends the fruitless and expensive arms competition.

THE HOUSING MESS

Mr. BROCK. Mr. President, today, attempts to lay blame for the faulty structure of one housing program fly everywhere, while the real losers, the Nation's poor, remain without decent homes and adequate living environment.

I ask unanimous consent that an article, entitled the "Housing Mess," written by Diane K. Shah, be printed in the RECORD.

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

[From the National Observer, June 24, 1972]

HOUSING MESS

(By Diane K. Shah)

George W. Romney's house, sprawling gracefully in understated ($150,000) elegance atop a landscaped hill, is a showplace even on East Valley Road in the veddy exclusive Detroit suburb of Bloomfield Hills.

Romney's 44,540 other houses are mostly headaches.

These houses, which Romney would like to unload, were bought up by the Department of Housing and Urban Development (HUD) when mortgages were foreclosed. Many are like the tired-looking frame house at 2593 Drexel in a black neighborhood, 15 miles and several social strata downwind from Bloomfield Hills.

In Detroit alone Romney, as Secretary of HUD, owns 7,074 houses, making him the city's most titled—and most reluctant—landlord. What's more, in the last 3½ years Romney has picked up 5,000 houses in Philadelphia, more than 3,000 in New York City, and probably 1,500 in St. Louis.

It adds up to a national housing mess, if not a national housing scandal.

DREAMS BECOME DEBACLES

To date, four congressional subcommittees, five grand juries, five Justice Department task forces, and dozens of FBI agents have been investigating how HUD has come into so much property. Hearings continue this week before Sen. Philip A. Hart's antitrust and monopoly subcommittee.

Unlike the Bloomfield Hills estate, a glittering monument to Romney's personal financial success, the other houses are crumbling memorials to HUD and Federal Housing Administration (FHA) programs gone awry. The programs were intended to make it easier for low- and moderate-income Americans to buy houses. But through HUD and FHA administrative bungling and—so Federal indictments charge — occasional swindling, coupled with the fraud perpetrated by a supporting cast of villains, the dream of homeownership for many dwindled into debacle.

Thousands of persons have been saddled with hefty mortgage payments on disintegrating, FHA-approved houses. Thousands more have simply packed up and vanished, leaving their rotten lemons to decay entire neighborhoods and Romney to pay off the mortgages.

CAST OF VILLAINS GROWS

Observes Ralph Nader: "In some other countries with different traditions, the equivalent of Secretary George Romney would have resigned in disgrace after those indictments were handed down and after the evidence indicated fraud on such a widespread scale."

As investigations unfold, the cast of villains swells and the plot grows more complex [see story on Page 14]. Already under indictment are speculators, real estate brokers, mortgage companies, inspectors, appraisers, attorneys, and Dun & Bradstreet, the nation's largest collector and dispenser of credit information, which is accused of supplying FHA with false credit reports. And whether through complicity, neglect, or naivete banks, secondary money markets, and title companies are being scrutinized for their roles in what investigators are calling the nation's most outrageous scandal.

There's no telling how serious the housing mess is. Aside from the houses HUD now owns, indications are that double or triple that number are going into default. In Detroit alone, the General Accounting Office estimates, 23,000 houses are in default, owners having skipped from one to three payments. If all are foreclosed—and HUD predicts at least 6,559 will be by year's end—it could cost FHA $200,000,000. FHA has already shelled out $24,000,000 in New York City; the U.S. attorney's office in Brooklyn says the total may reach $200,000,000.

SOCIAL WEB DISINTEGRATING

Though both HUD and FHA officials avow that new administrative controls should cut losses, none can tell how soon. At any rate, FHA Commissioner Eugene Gulledge notes, "It hasn't cost the taxpayer a cent" because of FHA's well-endowed insurance funds.

Mere numbers, of course, do not tell the story. Abandonment is already rampant in many cities, and FHA foreclosures only exacerbate the problem. Cores of a half-dozen cities, like so many mini-Dresdens, are rapidly decomposing into garbage-strewn ghost towns, ripe for crime and vandalism. Entire neighborhoods, such as north Philadelphia, Detroit's lower east side, Chicago's Woodlawn area, and the Brownsville-East New York sections of Brooklyn, are all but uninhabitable.

Concedes Romney: "Vast central-city areas are experiencing such serious blight that the whole human social web that makes living possible is breaking down into a veritable jungle."

BETTER TAKE IT NOW

Predictably, housing experts are trying to analyze what has gone wrong and what to do about it. Their solutions range from closing loopholes in existing programs to throwing out all housing programs and starting over again. Either way, nobody sounds optimistic. Meanwhile, the situation worsens.

The scandal works like this: Speculators flood a racially changing neighborhood and coax or frighten white homeowners into selling cheaply. They then apply cosmetic repairs to the houses and secure—often with a bribe—an inflated FHA appraisal of the property. Next they sell to low-income, minority families who are led to believe they are moving into paradise.

"He showed us the place with a flashlight," recalls Nathan Wilkins of the Philadelphia speculator who sold him a house. "It was night and he said the electricity was shut off. He said it was a good house, that it had just been remodeled. He said somebody else wanted to buy it and we better take it now."

PLOT AND SUBPLOT

After moving in, Wilkins found the roof leaking, the upstairs basin emptying into the dining room, and paper peeling from the walls. Records show the speculator paid $1,750 for the house, which the FHA subsequently appraised at $9,000, the price Wilkins paid. The speculator bought 85 similar houses for a total of $222,000 and sold them for $603,000—an average markup of 172 per cent.

Selling a lemon is but the main story. A subplot, turned up by New York Secretary of State John P. Lomenzo's office two years ago, runs like this:

In April 1969 Mrs. Ortrud Kapraki, a Brooklyn real estate broker, allegedly sold a house to Enrique Perez for $22,000. To make sure the FHA would insure a mortgage, Mrs. Kapraki submitted with the mortgage application a 1968 income-tax return that identified Perez as the owner of an auto shop. The return, prepared by accountant A. E. Abad, showed that Perez grossed $15,286 that year repairing cars.

Perez in fact had earned only $6,224. He owned no auto shop. He never repaired cars. Furthermore, the signature on the fraudulent tax returned was not Perez's and he had never met Abad. Nevertheless FHA approved the mortgage. Mrs. Kapraki has since been indicted.

EVERYONE CHEATS THE BUYER

Other subplots involve mortgage companies offering short-term loans to speculators who then buy houses and bring in more mortgage business; mortgage companies charging the seller too many "points" and keeping the excess or splitting it with the speculator; mortgage companies selling bad paper to the Federal National Mortgage Association (Fannie Mae) and to banks; title companies overlooking obvious irregularities at closings to insure that the deal goes through; and everybody—mortgagees, speculators, lawyers, and title insurers—collecting his gratuity.

"Everybody is in bed with everyone else, indiscreetly cheating on the poor home buyer," one investigator sighs.

Conceivably such fraud has been speculator sport since 1967, when the FHA first agreed to do business in the inner city. But not until Congress passed the 1968 Housing Act did the fraud become the pastime of so many. Proclaimed by President Johnson as "the most far-sighted, most comprehensive, most massive housing program in all the American history," the 1968 act did in fact provide houses for thousands of persons—and free lunch for hordes of crooks and indigestion for FHA.

The act coupled the old 221(d)(2) program, which permitted FHA to insure "less-than-standard" houses, with a new special-risk fund to back mortgages in "less-than-standard areas." It created the 235 subsidized program, under which FHA insures mortgages up to $24,000 and HUD pays, at most, all but 1 per cent of the interest. And it created the 236 subsidized program, which works the same way for apartments.

To speculators the act meant wide new markets to exploit with on-the-spot payoffs from mortgage companies, which could always collect unpaid bills from Uncle Sam. To a reluctant FHA the programs meant trading the "economic soundness" test it had always applied to insuring suburban mortgages for one of "acceptable risk." To Romney it meant becoming godfather to another Administration's ill-conceived baby.

FHA EMPLOYEES INDICTED

Romney didn't like it. "The programs were enacted without having been adequately tested to determine whether they could work well, whether they would even work at all, or whether they were structured in such a way as to invited abuse," he complained.

Though Romney now contends he "began to realize there were some problems" in May 1969, he insists he didn't recognize the full scope of the scandal until a year later. Nevertheless, not until a barrage of grand jury indictments began capturing bigger headlines than Romney's record number of housing starts did he publicly confess that perhaps he hadn't been keeping his house in order.

Among the 10 corporations and 40 individuals named in a 500-count indictment by a Brooklyn grand jury in March were seven FHA employes, among them appraisers and one underwriter. A Philadelphia grand jury later indicted 46 persons, among them the former head of the Philadelphia insuring office of FHA, Thomas Gallagher, Jr., who is accused of taking $73,000 in bribes from a building contractor. (Romney had asked the Philadelphia office in the spring of 1970 if there had been any problems with FHA programs. He was told everything was fine. A high FHA official says this completely misled Romney as to the extent of the scandal.)

Johnson's Congress, may have enacted the housing legislation, but these were Romney's boys. Not surprisingly, lack of qualified personnel comprises a large chunk of Romney's apologia.

ROMNEY WANTS FIRING POWER

On the day of J. Edgar Hoover's burial, Romney, testifying before Rep. John S. Monagan's House Subcommittee on Legal and Monetary Affairs, noted: "Hoover refused to accept the job as FBI director unless he could hire and fire people like a corporation executive, without regard to civil-service qualifications or seniority. HUD's problems could be alleviated if I could do that too." But he also admitted, "While the staffing situation has unquestionably contributed to our problems, it is also obvious that the administration of housing programs, particularly in some cities, has been imprudent, negligent, and in some cases plainly corrupt."

Only two months earlier Romney had found out just how lax (his word) HUD and FHA administration had been. That was when he read for the first time the audit reports he had commissioned in early 1971 on the 235 and 236 programs. Among other things, the audit turned up 362 alleged violations of the 235 program involving falsification of applications and fraudulent certifications of repairs, plus 27 alleged violations of the 236 program involving fraudulent applications.

AUDITS TELL SAD TALE

The audit found that FHA appraisers, pressured by higher-ups to carry out Congress' mandate to approve as many houses as possible for the poor, were producing four appraisals a day; too many, said the auditors. Some made only "windshield" appraisals of houses as they drove by. Others accepted deficient houses with an attitude that, "This is good enough because it's better than what these people had before." Sometimes FHA called upon "fee" appraisers, local real-estate people who often had conflicting interests. And FHA field reviews, intended to turn up irregularities, were not being performed often enough, if at all.

More bad news came in the 236 audit.

The 236 program was designed to attract co-operative, nonprofit, or limited-dividend corporations to building apartments for the poor. They were baited with generous tax shelters, an annual return of 6 per cent on the initial investment, plus other incentive fees. With HUD paying most of the mortgage interests, down to 1 per cent, the owners could charge below-normal rents.

Generally they charged more. Because HUD wasn't overseeing the projects as it should, inconvenient locations were chosen, driving away tenants. Architectural fees were unduly high. Excess construction costs were allowed. Mortgage amounts were inflated. Unnecessary interest-subsidy payments were made. Operating costs were underestimated (to win quick HUD approval). Therefore rents were high. Another serious flaw: With tax shelters designed to offer the best benefits within a 10-year period, there was little incentive for long-term ownership and sound management.

Romney acted. He ordered the FHA in Philadelphia and Detroit to stop using fee appraisers and to tighten up appraisal procedures of their own staffs. He demanded that all appraisers file personal finance statements to weed out any who might have conflicting real-estate interests. He requested more careful screening of applicants' credit history. He implemented a computerized "early warning" system in Detroit to detect immediate defaults and coaxed FHA employees to counsel strapped families and seek forbearance from mortgage companies. He set up counseling programs for prospective home buyers. He ordered strict checking of housing values in speculator-dominated areas. And when finished he proclaimed eargerly, if not prematurely, "As is presently applied, this has ended speculator profiteering."

The Senate apparently didn't think so. Its version of the 1972 Housing Act prohibits kickbacks by lawyers, title companies, insurance companies, and others in closing costs on all FHA-insured houses. Minor alterations were also made in housing programs to curtail speculator activity in inner cities.

TOLL GATES COSTLY

Some housing experts say that's not good enough. Rep. Wright Patman, whose House Banking and Currency Committee turned up the first evidence of fraud two years ago, never liked the subsidy programs and still doesn't. "There's a little bit for the land speculators, the builder, the lender, the closing attorney, the title company, the insurance company, and on down the line," the Texas Democrat complains. "By the time the project reaches the end of the line it so top heavy that you can't be sure just who did get the subsidy."

Patman's remedy: A direct lending program to homeowners through a National Development Bank. The bank, he says, "could handle much of this financing without the costly procedure of financial toll gates."

Like Patman, many housing experts favor yet more Federal involvement. Says Samuel Kaplan, development director at the New York City Educational Construction Fund: "We can't leave it to private interests any more. They have abused the system, raped our landscape. We can't leave it to local politicians who have been dictated to by greed either."

In a radical departure from current thinking, Kaplan suggests that private developers should be required to meet Federal guidelines as to number of low-income units, schools, community services, etc. What the developer leaves out, the Government would subsidize and own. Additionally, private owners would be subject to strict profit margins and rent control.

Taking a softer though similar line, Simeon Golar, New York City Housing Authority chairman, suggests giving Washington power to override local zoning laws and other red tape that have impeded housing programs. "If municipalities fail to live up to their responsibility," Golar says, "HUD should have the power to move in and do the job."

"UPSIDE-DOWN FEDERALISM"

Bucking more Federal control, Congressman Thomas L. Ashley, an Ohio Democrat, favors a block-grant system under which local housing officials could spend lump-sum Federal money as they see fit. This, he says, would reverse the "upside-down federalism" where Washington makes the picayuane decisions on mortgage and income limits, and the private sector decides the fundamental questions of where to put the housing—and in fact whether to put it up at all.

Other solutions call for guaranteed minimum incomes and direct housing allowances.

Nobody, however, pretends to have the perfect solution. Romney asserts that no housing programs alone are going to solve inner-city housing problems anyway. "We need to find cures for other social conditions first," he notes, "chiefly poverty, crime, drug addiction, lagging education, poor health-care facilities, inadequate public services, soaring taxes, and unemployment."

On an equally gloomy note, Joseph P. Fried writes in his book *Housing Crisis U.S.A.* that, "The vision of an America acting to provide a decent home and a suitable living environment for all its citizens seems as realistic as the hope of a palace-studded Camelot suddenly arising out of the squalor and decay of Brownsville in Brooklyn."

A CLEAN AND SAFE ENVIRONMENT IN SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, in regard to the sometimes conflicting demands of a strong economy and a clean environment, my State of South Carolina finds itself in a very sensitive position, requiring a calm approach and policy. South Carolina is not a wealthy State, and we know we must better educate, better house, better feed, and better employ our people. There are some who tell us that, as a poor State, South Carolina cannot afford the luxury of this new fad of environmentalism. But the more farsighted know that it will little profit our people to provide them with new jobs if those same jobs eventually poison our now clean air and water supply.

For several successive governorships—my own included—South Carolina has aggressively recruited new industry. One of our biggest industries has been the Federal Government itself, which has located an Atomic Energy Commission nuclear powerplant at Aiken, S.C. Private companies in the nuclear power field have—or want to—follow the Government's lead in choosing South Carolina as a base of operations. In general, we have welcomed these industries. Our economy has profited, and we have been very, very fortunate that our environment has not suffered.

But South Carolinians are a cautious people. They are acutely more aware of the ecological risks they may face as the growing generation of nuclear power increases the problem of what to do with nuclear waste products. They have come to believe that while the State has often suffered because of slow industrial growth, this relatively slow progress may turn out to be the cloud with the silver lining; that is, our State has avoided the environmental crises that have plagued other more developed States.

We intend to profit by not repeating the mistakes and misfortunes we have observed elsewhere. I trust that South Carolina will never be confronted with anything like the smog alert which has hung over Washington, D.C., for the past several days. We will keep our State pollution free at the same time we make her richer in new jobs and industry. Those who think this is an empty boast or an unattainable goal do not understand the innate, commonsense attitude of the South Carolina people. We do not have many hysterical, environmental alarmists caught up in a new fad, nor do we have a great many money-hungry officials and developers. We do have conservationists and environmentalists and officials and industrialists who work together—or who confront each other—in a climate of scientific fact, reason, and civility.

I find all of these good attributes in a recent column in the Charleston News and Courier. With me, the writer, Mr. Frank Gilbreth, known as Arkley Cooper, is deeply concerned about the long-range hazards involved in the proposed permanent storage of atomic waste in the South Carolina bedrock. I have fought to have the AEC limited in the advancement of this idea because the commission is proposing to drill exploratory shafts in bedrock that is in an earthquake zone and also directly above the water supply that sustains much of both Georgia and South Carolina. But at the same time, I can applaud the AEC for the generally efficient, safe way it has run the Aiken facility. Neither I nor this columnist propose to brand the AEC as the "boogeyman" or some kind of monster out to destroy our State for selfish motivation. I ask unanimous consent that this column be printed in the RECORD both for the factual material it contains on this particular controversy and also as an example of the reasoned, balanced approach that the entire country must adopt if we are going to save the environment without strangling progress.

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

DOING THE CHARLESTON

A few days ago, I journeyed with some colleagues to the Atomic Energy Commission facility—maybe better known as the H-bomb plant—near Aiken and Barnwell.

The officials there were good enough to give us a tour, as well as a briefing based primarily on environmental factors.

We visitors had solicited an invitation, so possibly a security check had been made in advance of our arrival. In any event, when we signed in at the main building, badges were awaiting for us. In addition to an identification badge, each of us also put on a badge containing some kind of sensitive paper. The paper is white—but if by any chance you should be subjected to radioactivity, it would turn red. Thank goodness it stayed white.

There aren't too many international secrets anymore, in regard to atomic reactors. Security, I gather, is aimed mainly at nuts and possible saboteurs. The principal secret, nowadays, is not how it's done but how much you're producing!

Well, the main thing that every South Carolinian wants to know about the facility, I suppose, is whether it's putting out any radiation, and whether the production process or its wastes constitute any sort of danger either now or in the future.

We came away absolutely convinced that there's no radiation problem. In fact there's never been any sort of serious accident at the facility, involving atomic energy. At the time we visited, there had been only one death in the whole history of the facility—and that occurred recently. Ironically enough, it was an "old-fashioned" kind of accident—nothing whatsoever to do with atomic energy. A blue-collar worker got crushed between two railroad cars that were moving coal.

It becomes apparent quite quickly that DuPont and the Atomic Energy Commission have done a smashing job in South Carolina. The plant is efficient and pleasant. And in some ways it has had really beneficial effects upon our environment.

Would you believe that in the cities of

Aiken and Barnwell—and indeed within the confines of the 'bomb plant' area itself—tests shows virtually no radioactivity at all from the plant.

Indeed, right here in Charleston there is more radioactivity from the atomic tests conducted by the big powers over the last 25 years than there is radioactivity from the "bomb plant" right at the site of the plant itself.

Have I made that clear? Imaging a graph of radioactivity at the bomb site. There'll be a smidgen of natural radioactivity which is every place, and a fairly good slice of radioactivity from the fall-out of bomb testings around the world, which is also everyplace—and then just a smigden of radioactivity caused by the bomb plant itself.

Now you can't forget, though, that the residue from a bomb which dropped in Spain after two of our Air Force planes colided in 1966 is buried at the plant site. Also, ice and wreckage from the vicinity of a B–52 crash in Greenland in 1960 are buried there.

Also, undeniably, there is dangerous waste from the reactors at Aiken, which is now stored in tanks buried below the surface of the ground. That waste certainly constitutes a danger. If we were at war, and a bomb—even a conventional, old-fashioned bomb—was dropped on those waste storage tanks, we'd be in deep trouble.

DuPont and the AEC think that possibly the best solution is to sink a shaft far into the bedrock below the plant, and to store the waste materials there.

But so far they have not been given the money to drill an exploratory shaft, to see just how feasible this would be.

The very thought of storing the materials forever in South Carolina has caused too many hackles to rise.

The people at the plant have heard every argument there is about possible dangers in deep rock storage. But they are inclined to dismiss them. They say earthquakes wouldn't be a factor, if exploratory shafts showed that you were in an area of rock where earthquake wouldn't occur. Their big complaint is that they haven't even been allowed to make a proper study of the whole business.

Everybody there concedes, though, that storage of the waste materials is the big problem. Obviously, no other states would want our waste shipped to them. And, of course, talk of shooting the whole business off into space—perhaps in a rocket headed toward the sun—is pretty far-out at this time. In the first place, it would take an awful lot of rockets to accommodate all the waste. And in the second place, if you had an abort, you might kill an awful lot of people with radiation. That thought frightens everybody!

The effects of thermal pollution have attracted scientists and botanists to the facilities. A whole river of water, used to cool the reactors, emerges steaming hot. The temperature is a secret, because a savvy scientist could use the temperature and somehow or other, figuring backwards, guess at production figures.

I guess it's all right for me to say, though, that the water is not too far below boiling. At any rate, you wouldn't dare put your foot in it.

As this water is cooled in open lakes, it's causing some interesting things. Bass and alligators thrive in it—not when it's boiling hot, but when it gets down to a temperature 10 or 15 degrees above normal for lakes in these parts. In some places, you can catch a fish swimming comfortably on the bottom, but he's scaulded to death by hot water as you pull him to the surface.

In fact, the whole area is becoming more and more popular for environmental experiments that have nothing at all to do with radiation. It's simply that here is a vast amount of acreage, completely controlled, so that study of such things as movement of snakes or how often lizards reproduce can be made, without human disruption of the experiments.

As you drive through the acreage, you see deer, raccoon and flocks of birds. Thus does the facility preserve a vast section of unspoiled, natural environment for South Carolina.

In summary, the production is safe. The water pollution—thermal or otherwise—is no problem. Water returned to the Savannah River is even purer than what's taken out. Radiation is virtually non-existent. But as for the atomic waste—it's potentially dangerous!

ORDER FOR THE CONSIDERATION OF S. 1991 TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order, at an appropriate time tomorrow, to temporarily lay aside the pending business and turn to the consideration of Calendar No. 904, S. 1991; and that the consideration of the unfinished business be resumed after the conclusion of action on that bill or at the close of business tomorrow.

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

Mr. MATHIAS. Mr. President, would the majority leader give us the title of that measure?

Mr. MANSFIELD. That is a bill to assist in meeting national housing goals by authorizing the Securities and Exchange Commission to permit utility holding companies to provide it.

ORDER FOR CONSIDERATION OF H.R. 15495, THE DEFENSE AUTHORIZATION BILL, ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Monday, if the pending business (S. 3390), an act to amend the Foreign Assistance Act of 1961, and only if the pending business is completed, it be followed by H.R. 15495, an act to authorize appropriations during the fiscal year 1973 for the Defense Department and that H.R. 15495 be made the pending business upon the disposition of S. 3390.

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

FAIR LABOR STANDARDS AMENDMENTS OF 1972

The ACTING PRESIDENT pro tempore. The time of 9:40 a.m. having arrived, the Chair, under the previous order and pursuant to the unanimous-consent agreement lays before the Senate the pending business, which the clerk will state.

The legislative clerk read as folows:

A bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.25 an hour, to provide for an 8-hour workday, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 17, after the period insert the following: "If the wages of a group of two or more employees employed by the same employer in the same class of work in agriculture are computed on piece rates and the aggregate of the piece rate earnings of such group of employees is, for any workweek, at least 25 percent higher than the aggregate of the wages such group of employees would have earned had they been paid for such work at the hourly rate provided by the first sentence of this paragraph, the employer shall be deemed to be in compliance with the minimum wage requirements of this Act with respect to such group of employees for that workweek. If the aggregate of the piece rate earnings of such group of employees is, for any workweek, less than 25 percent higher than the aggregate of the wages they would have earned had they been paid at such hourly rate, the employer shall, at his option for that workweek, either (A) pay wages at such hourly rate to each such employee whose piece rate earnings are less than such hourly rate, and pay to each such employee whose piece rate earnings equal or exceed the hourly rate, his piece rate earnings, or (B) pay to each such employee his adjusted piece rate earnings computed by increasing the piece rates for that workweek by the percentage which will cause the aggregate of the increased piece rate earnings of such group of employees to be 25 percent higher than the aggregate of the wages they would have earned had each been paid for such work at such hourly rate."

The ACTING PRESIDENT pro tempore. Under the previous unanimous-consent agreement, the debate is limited to 20 minutes, the time to be equally divided between the Senator from Florida (Mr. CHILES) and the Senator from Ohio (Mr. TAFT). Who yields time?

Mr. CHILES. I yield myself 5 minutes.

I ask unanimous consent that the name of the Senator from Georgia (Mr. GAMBRELL) be added as a cosponsor of my amendment.

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

Mr. CHILES. Mr. President, Senator GURNEY and I are today offering an amendment to the minimum wage bill designed to provide an effective means by which individuals engaged in agricultural work can increase their earnings above the hourly rate provided by the bill, yet do so without increasing the cost of the foods which they are cultivating or harvesting.

Our amendment's use is strictly optional, not mandatory. It will allow individuals engaged in agricultural work to increase their earnings by requiring that the average of the piece rate earnings of any group of workers whose employer elects this option must be at least 25 percent higher than the hourly rate provided by the minimum wage bill. It will avoid increases in the cost of foods, because it bases wages on a piece rate so that unit costs are not increased.

The piece rate system would be strictly optional. It will not take the place of, or prohibit any of the present systems of pay, but simply provide an additional alternative. No doubt only some agricultural employers are better adapted to hourly pay than piece rates.

By assuring that the piece rates paid by employers who elect to use this system

are high enough to make the average earnings of the group at least 25 percent higher than the minimum hourly rate, agricultural workers will be able to increase their earnings.

Our amendment will allow the average worker to always earn at least 25 percent more than minimum hourly wage. He will often earn more than that since the piece rate is not reduced when the average piece rate earnings are more than 25 percent higher than the hourly rate, and the below average worker, if he is below average only because of lack of experience, will be able to get a job for which he is not initially qualified, then be able to increase his earnings as he becomes proficient. If he is below average because of age, infirmity, lack of dexterity, or otherwise, it will still enable him to secure employment at which his work rate will be compatible with his capacity. Without a system like I am suggesting this individual will not be employed.

The approach I am describing has been tried with very successful results, in the Florida citrus industry between 1965 and 1967 which preceded the coverage of agricultural workers under this act. A Department of Labor wage survey of the wages paid in the Florida citrus industry during the third year of the program showed that the piece rates being paid under that system resulted in earnings which averaged $2.10 per hour. This was more than double the $1 minimum hourly wage which became effective for agricultural work the following year.

In this Department of Labor survey the citrus pickers who were being paid under this system were asked: "What do you like most about your job?" The second most frequent answer was "good earnings." The most frequent answer was "working out of doors." Another frequent answer was "can work at my own pace."

I believe the system our amendment would allow is beneficial to both employers and employees. It is an alternative which assures the worker a good wage, and more importantly it provides real incentive for the above average worker, while still protecting the below average worker. The employer can only use this if he is going to pay the average worker 25 percent more than the minimum wage.

I urge the Senate's support of this piece rate amendment because I strongly believe it would be a very important and worthwhile addition to the minimum wage law.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a series of questions and answers which, I believe, will help to further explain how the plan works.

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

RE AVERAGE WAGE OPTION

PURPOSE

This amendment is designed to provide an effective means by which individuals engaged in agricultural work can increase their earnings above the hourly rate provided by this bill, yet do so without increasing the cost of the foods which they are cultivating or harvesting.

It accomplishes these objectives by an innovation system of piece rate pay.

Its use is strictly optional—not mandatory.

It accomplishes its first objective of increased earnings by a requirement that the average of the piece rate earnings of any group of workers whose employer elects this option must be at least 25% higher than the hourly rate provided by this bill.

It accomplishes its second objective—that of avoiding increases in the cost of foods—by basing wages on a piece rate so that unit costs are not increased.

Q. Is there any compulsion that this piece rate system be used?

A. No. It is strictly optional. Every agricultural employer can make his own personal choice, and, having done so, can change his mind at any time.

Q. Will it take the place of, or prohibit, any of the present systems of pay?

A. No. It is an additional system.

Q. Will all agricultural employers elect to use this system?

A. No. Many types of agricultural employment are better adapted to hourly pay than piece rates.

Q. How will it enable agricultural workers to increase their earnings?

A. By assuring that the piece rate paid by employers who elect to use this system are high enough to make the *average* earnings of the group at least 25% higher than the minimum hourly rate.

Q. Will foremen's wages be included in computing the average?

A. No. (All workers whose earnings are used in computing the average must be engaged in the "same class of work"—see line 2).

Q. Will the wages of a group engaged in highly paid piece rate work be averaged together with those of another group engaged in another class of work for which lower piece rates are paid?

A. No. (See line 2—"the same class of work").

Q. Will the earnings paid by a number of employers be averaged together?

A. No. (all must work for the same employer—see line 2).

Q. Will higher earnings from one week be averaged with low earnings from another week?

A. No. The average is subject to the "at least 25% higher than" requirement *every* workweek. See lines 4, 5, 11, 12 and 13).

Q. How will this benefit an *above*-average worker?

A. His earnings will be substantially more than 25% higher than the minimum wage.

Q. How will this benefit an average worker?

A. He will *always* earn at least 25% more than minimum hourly wage. *Oftimes he will earn more than that* since the piece rate is *not* reduced when the average piece rate earnings are *more* than 25% higher than the hourly rate. (Note the phrase "at least" on line 5).

Q. How will this benefit the below-average worker?

A. If he is below average only because of lack of experience, it will enable him to get a job for which he is not initially qualified, then enable him to increase his earnings as he becomes proficient. If he is below average because of age, infirmity, lack of dexterity, or otherwise, it will enable him to secure employment at which his work rate will be compatible with his capacity. Without this system he would be expected to work at a rate beyond his capacity. His inability to do so would otherwise result in his discharge.

Q. Has this system ever been tried?

A. Yes. Very successfully—in the Florida citrus industry during the three years (1965 through 1967) which preceded the coverage of agricultural workers under this Act. (the 1966 amendments became effective during 1967). (It was done under regulations issued by the Department of Labor at the request of the Florida citrus industry. Those regulations are found in part 602, Title 20, of the Department of Labor Regulations which were published in the Federal Register on Sept. 24, 1965, October 19, 1966, and March 28, 1967).

Q. What effect did its use have upon wages?

A. A Department of Labor wage survey of the wages paid in the Florida citrus industry during the third year of the program showed that the piece rates being paid under that regulation resulted in earnings which averaged $2.10 per hour. This was more than double the $1.00 minimum hourly wage which became effective for agricultural work the following year (1967).

Q. Does this amendment regulate piece rates?

A. Not directly, but it does require that they be adjusted upward for any week in which they fail to meet the "at least 25% higher than" requirement if the employer elects to use this piece-rate system.

Q. If this bill initially establishes $1.50 as the minimum hourly wage for agricultural workers, what will each worker be paid if the *average* of the piece rate earnings of a particular group of workers performing the same job is $2.25 per hour?

A. Under the average wage option, each would be paid an amount exactly equal to his piece rate earnings for that workweek since the $2.25 average of the piece rate earnings is more than 25% higher than the $1.50 minimum hourly rate (actually $2.25 is 50% higher than the $1.50 minimum hourly rate) (see lines 1 through 11).

Q. If the average piece rate earnings exceeds the minimum hourly wage by more than 25%, can the employer elect to reduce their wages so as to exactly equal the requirements of this proposal.

A. No. Piece rate earnings may be increased (see line 21), but never decreased.

Q. Suppose, instead, the *average* of the piece rate earnings of workers performing the same job is $1.65 per hour, then what will each worker be paid?

A. $1.65 is only 10% higher than the $1.50 minimum hourly rate. It therefore fails by 15% to meet the "25% higher than" requirement. Accordingly, the piece-rate earnings of each worker in the group must be adjusted upwards 15% in order to increase the piece-rate earnings to a level equal to the "25% higher than" requirement. (See lines 11 through 16 and 20 through 26.) This 15% increase applies to every workers—not just to those who earn less than the minimum.

Q. Suppose the employer does not wish to make this kind of adjustment in piece rates. Is he required to do so?

A. No, but he will then be subject to the present requirements of the Act. Under those provisions he will have to pay make-up pay to those workers who earned less than the minimum hourly wage, but none to those whose earnings exceed the minimum hourly wage.

Q. Why would any employer prefer to pay make-up pay to all of his workers rather than just to those whose earnings are below the $1.50 minimum hourly rate?

A. Because of its positive effects upon productivity, its positive effect upon the earnings of those workers who are really trying, and its positive effect upon workers who would otherwise be unemployable. (Some employers will not wish to do so. They may, at their option, elect the other alternative. See lines 16 through 20).

Q. Will one effect of the use of this pay plan be that there will always be some workers who will be paid less than the minimum hourly wage?

A. Not by any means. If all of the individuals are industrious and qualified for the job, all will earn more than the minimum hourly wage—in fact, all may earn more than the minimum average wage.

Q. Do workers like this system?

A. In the Department of Labor survey of the citrus pickers who were being paid under this system, these workers were asked: "What do you like most about your job?" The second most frequent answer was "good earnings." ("Working out-doors" was the most frequent answer.) Another frequent answer was "can work at my own pace."

The ACTING PRESIDENT pro tempore. The 5 minutes which the Senator yielded himself have expired. Who yields time?

Mr. GURNEY. Mr. President, will the Senator yield time to me?

Mr. CHILES. I yield my senior colleague such time as he may require.

Mr. GURNEY. Mr. President, I am pleased to join with my distinguished colleague from Florida (Mr. CHILES) in introducing this amendment to the substitute amendment to the minimum wage bill offered by the distinguished Senator from Colorado (Mr. DOMINICK). The objective of this amendment, and I am sure it is one we will all share, is to insure a fair level of pay for all agricultural employees while, at the same time, encouraging maximum productivity from our Nation's farms.

More specifically, what this amendment would do would be to insure that any group of employees engaged in the same class of agricultural work would receive, on average, at least 25 percent more than the minimum hourly wage if they are paid on a piece rate basis. It would also give the agricultural employer a choice of two ways to meet this requirement.

This flexibility is important to both agricultural employers and employees. For the average and above average worker, it will promise earnings of at least 25 percent more than the minimum wage; for the unskilled or handicapped worker it provides him an opportunity to keep a job he would otherwise lose while developing the skills needed to move into higher pay brackets.

This type approach has been tried before with great success. In my own State of Florida, the citrus industry used it for 3 years—1965 to 1967—and at the end of that time, it was found that earnings averaged $2.10 per hour, over double the minimum wage put into effect in 1967. Even now, such wages would be well above the minimum called for in this bill.

This approach also has another big benefit—it will help keep food prices down. By allowing the agricultural industry to utilize the piece rate system of pay, which often best suits its peculiar needs, the unit costs of production are not increased. This can only benefit the hard-pressed American consumer.

Mr. President, each of the minimum wage bills passed by recent Congresses—and this one is no exception—has recognized that agriculture has different problems and a different set of working conditions than just about any other industry. To change things now would hurt rather than help farmers and consumers alike.

If we are to keep farm prices from rising and farm productivity from falling, we need to provide both the flexibility and incentives contained in this amendment. This amendment would do just that, and would increase the earnings for a great number of farm workers in the process.

The important factor about the amendment is that it will encourage initiative and productivity and it will reward those who can and want to work better.

Our whole great economic process in this Nation is built on initiative and willingness to work. I think this amendment serves to encourage and not kill that initiative, and I hope the Senate will adopt it.

Mr. WILLIAMS. Mr. President——

The ACTING PRESIDENT pro tempore. Does the Senator from Ohio wish to yield time? Time on this amendment is controlled by the Senator from Ohio and the Senator from Florida. The Senator from Florida has 9 minutes remaining, and the Senator from Ohio has 10 minutes.

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

Mr. TAFT. I am glad to yield to the chairman such time as he requires.

Mr. WILLIAMS. Mr. President, I rise in opposition to this amendment. Let me take a moment to review the situation of farmworkers and their coverage under the minimum wage law. We all know that coverage of farmworkers was a long time in coming. They were not included in the early legislation, and they were not included subsequently at times of amendment. But finally they were covered, and for very good reasons. Farm work is one of the most hazardous occupations. It is some of the toughest, hardest, most difficult, and most demanding work. While people suggest that this is unskilled labor, after hundreds of hours of field trips throughout this country and on the farms of our land, it does not impress me as unskilled at all.

We should bring a floor of protection with a minimum wage. The farmworkers are still well behind industrial workers now. They come up over a period of years until ultimately it is our hope they will be in parity with all other workers. It will take years to get to that point.

This amendment, it seems to me, erodes the very basis of a floor for farmworkers, giving them to barest of minimums in terms of an hourly wage. Superficially, it might seem appealing. I know that when it was first offered some 6 years ago, it seemed appealing, and I stood here and I accepted it. We did not have a record vote. It went in. But then we discovered that it was hazardous, indeed, to put this into the bill, and it was taken out in conference.

This is what the amendment would permit: It would permit superior workers to raise, through piecework, the average well above the minimum. But for those who did not have this superior skill and the fast hands and the extra strong back, they would be working well below the hourly minimum wage.

Hypothetically, I can state—I know that this could be more than a hypothesis; it could be a fact—you could have a hundred workers out in the strawberry field. You could have workers with exceptional ability, and they could be picking at a rate that would bring them, on a piecework basis, $4 an hour. This, of course, would raise the level. So that if 50 percent of them were making $4 an hour, the others could be making only a dollar an hour; yet, the law would be complied with, if this amendment were accepted.

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

Mr. WILLIAMS. I yield.

Mr. PASTORE. I have been reading the explanation of this amendment, which has been offered by Senator CHILES and Senator GURNEY; and in the first paragraph, the concluding sentence reads:

Its use is strictly optional, not mandatory.

Does this mean that the matter of being optional still preserves the floor—and what is the floor?

Mr. WILLIAMS. I would ask the Senators from Florida—at whose option?

Mr. CHILES. At the employer's option. If he were paying an average worker at least 25 percent more than the hourly minimum wage, he could go on a piece-rate basis—if he were paying an average worker at least 25 percent more.

Mr. PASTORE. After he exercises this option, what if some of those who come under the option, in doing their work, do not have the skill to meet this $2.10, or whatever the minimum is? What happens to them? Do they get less than the minimum?

Mr. CHILES. They would be paid on the piece-rate basis.

Mr. PASTORE. So they could end up making only a dollar an hour?

Mr. CHILES. That is correct.

Mr. PASTORE. I think it is a bad amendment.

Mr. WILLIAMS. I rest.

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield me 3 minutes?

Mr. TAFT. I yield 3 minutes to the distinguished Senator from Colorado.

Mr. DOMINICK. Mr. President, as most of us know, I am in opposition to the committee bill and have been arguing and debating with my good friend, the Senator from New Jersey (Mr. WILLIAMS), on this matter for a long time, both in committee and on the floor.

The substitute will be coming up in approximately an hour, on which we will have a final vote.

I was reluctant to oppose the Senator from Florida with respect to his amendment, and I find myself once more in agreement with Senator WILLIAMS, as we were on two other amendments yesterday. I do it for this reason: It strikes me that if there is any good at all in a minimum wage, the purpose of it is to establish a floor beyond which wages cannot be lowered. I realize that the Labor Department, for a period of time, has had a similar type of regulation in effect. But, historically, it has been used only for foreign agricultural labor. It has not been used for anything else.

As I understand the amendment—and I hope the Senator from Florida will correct me if I am wrong—it would be possible for an employer who has 10 employees, we will say, to average their piecework rate. If one was doing piecework

at the rate of $3.50 and one was doing it at the rate of about a dollar, they would meet the minimum wage requirements, as long as the average exceeded the minimum rate by 25 percent. But the person who was at the low end of the scale, either the unskilled, the uneducated, the handicapped, or whoever it might be, would be getting less than the minimum floor.

It does not seem to me that we ought to go that route. I say this realizing that there are all kinds of defects in the proposed committee bill.

But it seems to me that we, in the 20th century, and we in the Senate, with a concept of the dignity of mankind, should be trying wherever we can to enable people, whether they are unskilled or handicapped or whatever, to be guaranteed a minimum wage. Otherwise, there is no point in their working. They just go on welfare. They do not do anything, and we have the obligation at that point of trying to steer them again into a new channel of work. One of the great areas available for relatively unskilled labor is in agriculture.

I hope the amendment will be rejected.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CHILES. Mr. President, it is unlikely that an appreciable number of workers will be making below the average wage. The amendment will allow some people—young people and perhaps aged people—to be able to go out and work on a piece-rate basis for part of a day during the citrus picking season, let us say, in Florida. They could work on a piecework basis part of a day and make those earnings. If you have an hourly minimum wage and then you have the number of hours you must pay, you are going to knock those people out of employment. It is very easy to say that you are doing something fine, but you are going to disqualify and keep those people from having any kind of earnings at all, if they are aged or if they are young people.

The ACTING PRESIDENT pro tempore. All time of the Senator from Florida has expired. The Senator from Ohio has 1 minute remaining.

Mr. CHILES. Mr. President, I understand that if we can have a rollcall vote it will come at 11 a.m.

The ACTING PRESIDENT pro tempore. The rollcall vote would precede the vote on the Taft-Dominick amendment at 11 o'clock.

Mr. CHILES. I should like to give notice that we will request the yeas and nays at 11 o'clock.

Mr. DOMINICK. I want to say for the record that my understanding is, under the regulations I have read from the Labor Department, the piecework rate is permitted at this time in agricultural labor. The only qualification to that is that each employee paid on a piecework basis must earn at least the minimum. In other words, if they go on a piece basis, they can earn considerably more than the minimum, but not less.

It is that distinction which the amendment would vitiate.

The ACTING PRESIDENT pro tempore (Mr. METCALF). All time has expired on the Chiles-Gurney amendment. The time from now until 11 a.m. today will be utilized for debate on the Taft-Dominick substitute, amendment No. 1204, with the time to be equally divided and controlled by the Senator from Ohio (Mr. TAFT) and the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS).

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

The ACTING PRESIDENT pro tempore. To be taken equally from the time?

Mr. WILLIAMS. Yes—equally divided.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. 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. WILLIAMS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS. Mr. President, I oppose Amendment No. 1204 which is an amendment in the nature of a substitute to the bill S. 1861. This amendment would have the effect of undercutting the careful work of the committee in considering each of the provisions contained in S. 1861.

Adoption of the substitute would preclude Senate debate on matters of vital importance to the working poor of this country.

You know, Mr. President, the bill reported from the committee to the Senate followed well over a year of committee work. After its introduction, we had many days of hearings and many days of executive consideration. The bill, as introduced, was substantially modified in executive sessions both at the subcommittee level and at the full committee level.

The final product was reported to the Senate by a vote of 14 to 3. The pending amendment, the substitute, in one measure, would sweep this all away. It would not permit the careful consideration of the bill item by item.

We had limited debate and limited opportunity to amend the substitute. In the parliamentary situation, many of us thought the better and more acceptable and the far more prevalent approach to legislating here in the Senate was not to amend the substitute.

At 11 a.m. today, it is hoped to defeat the substitute, and then have an opportunity to deal with the bill, amendment by amendment, item by item.

The ranking minority Member and I have both indicated that some additional changes that have come to us informally during this debate come with certain merit.

For example, the very first amendment to be offered, in the event of defeat of the substitute, will be the Stafford amendment, which will preserve $250,000—the enterprise test. This is felt in the Small Business Committee to be of vital importance. Over this long period of discussion of the bill, it has come to me that they have a compelling case. I announced earlier and announce again that I will support that amendment. There will be others, too. The distinguished Presiding Officer of the Senate at this moment, the Senator from Alabama (Mr. ALLEN), has an amendment that, as manager of the bill, I will be glad to accept. And there will be other amendments offered if this one-shot approach of a substitute is defeated.

Mr. President, the long-suffering people on the lower rungs of the economic ladder are owed by us at least this opportunity of an open and free debate on all issues raised on the minimum wage bill reported by the committee.

As I see it, the substitute is deficient in two principal elements of legislation—the wage rate and expansion of coverage. In addition, the substitute incorporates a differential minimum rate for young people, a provision with the potential for undermining this country's longstanding policy of a floor on wages.

In the light of a 27-percent increase in the cost of living since 1966, when we last legislated in this minimum wage area, the increases called for in the substitute are wholly inadequate.

The PRESIDING OFFICER (Mr. ALLEN). The time of the Senator has expired.

Mr. WILLIAMS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 additional minutes.

Mr. WILLIAMS. Mr. President, the substitute provides only a 12.5 percent increase at this time in the minimum rate. This is legislating a further slippage in the battle against the rising cost of living for the working poor.

The committee reported bill provides a wage increase that will leave the minimum wage worker in the same position in which he was in 1966 with regard to the cost of living. Believe me, this is a modest approach. Really, the lowest wage earners are just about marking time with the committee reported bill. They would be falling behind if the substitute were agreed to.

Mr. President, in later years the committee bill promises an improvement in the cost of living position for these workers. I do not believe we can in good conscience legislate a minimum rate that totally fails to recognize that the lives and the plight of our working poor are affected.

If we accept the substitute, Mr. President, we will be accepting the proposition that welfare is an absolute substitute for a living wage.

Mr. President, in the committee reports—and, I believe, they are on the desks of the Senators—we show what welfare supplement would be needed at various hourly rates of a worker's earnings. This shows that when a worker gets to a point where he earns $2 an hour for 40 hours a week, he almost approaches that level where he will not need welfare supplement. But at any hourly rate that is lower than that, that wage earner has to be partially subsidized by the tax-

payers of this country. These figures are all based in terms of welfare supplements on the provisions of H.R. 1, if that should become law. As a matter of fact, not until a worker makes $2.07 an hour for 40 hours a week has he reached through his own toil a level that will not require welfare supplements.

Mr. President, it seems to me that as concerned as this Nation is and as concerned as each Member of the Senate is about the tragedy and, in many cases, the travesty of welfare in our land, this is the surest way to honor the age-old American ethic of working for a living instead of having to be supported through a dole, through welfare, through supplements.

These people who are covered, when they reach $2 an hour or a little better than $2 an hour, will be off the backs of the taxpayers and will be standing on their own dignified rights and making their own living. That is what this minimum wage amendment in the pending bill is all about. And we will not reach this point if the substitute does prevail.

Mr. President, the substitute represents a reversal of trends in this country. It denies the protection of the Fair Labor Standards Act to millions of our workers who are given coverage under the committee bill. In many instances these workers are in dire need of such protection—for example, the domestic household workers of the country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. Mr. President, I yield the floor.

Mr. TAFT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I doubt if any Senator with an understanding of the economic problems in this country seriously believes that poverty can be cured by drastically increasing the minimum wage. I am not satisfied at all with the fact that 25 million Americans are estimated to be below the poverty line. This figure for black Americans is especially alarming as it is estimated to be as high as 34 percent. The simple fact, however, is that minimum wage legislation is not the way to solve this problem. I believe a far better approach is that taken in H.R. 1, the President's welfare reform proposal.

The poverty level for a family of six is nearly $5,300. And for a family of seven, it is over $6,400. But to raise the minimum wage to meet the needs of these families an increase of $2.65 an hour and $3.20 an hour respectively would be needed. So, we are not going to solve their problems by going the route proposed by the committee bill.

Family income depends upon the number of wage earners in the family and the number of hours they work per year, more than on hourly wage rates. A large percentage of the poor receive no possible benefits from a higher minimum wage and expanded coverage because they have no family member employed. A great percentage of our Nation's poor families do not have a full year-round wage earner, and that is a major reason that they are poor.

Many of the beneficiaries of a higher minimum are not below the poverty level. They are the individuals with dependents or members of families without other wage earners. A higher minimum severely hurts those workers that it is intended to help by pricing them out of the labor market. There are many Americans whose income is not directly affected by the minimum wage. However, with the ripple effect of the wage increase, they will be affected. Unfortunately, this fact just does not come through to many Members of the Senate.

Prof. James Tobin, formerly a member of the Council of Economic Advisers of President Kennedy, and currently an economic adviser to one of the nominees for President, Senator McGOVERN, suggested the following regarding the impact of minimum wage:

> People who lack the capacity to earn a decent living should be helped, but they will not be helped by minimum wage laws, trade union pressures, or other devices which seek to compel employers to pay more than their work is worth. A likely outcome of such regulations is that the intended beneficiaries are not employed at all.

The Members of the Senate should seriously consider the increased concern of consumers of this country. Consumerism is a very important part of the so-called populism that is sweeping this country. We are indeed in an age of new consumerism. I believe many Members of the Senate will be hard pressed by their constituents to explain their irresponsibility in supporting a minimum wage bill that increases the minimum wage 37.5 percent in 26 months for nonagricultural workers and 69.2 percent for agriculture workers, as does the committee bill. I realize this is an election year and that spending programs may be very tempting politically. This country, however, is undergoing continuing inflationary pressures and is still suffering from sizable unemployment. President Nixon, with the help of Congress has attempted to attack both of these problems. The economic stabilization program has been a major step in the right direction. The Emergency Employment Act passed by the Congress and signed into law by the President also has been a positive step. The legislation before the Senate today, S. 1861, however, can only be interpreted as a negative and counterproductive step and I believe the Senate should be held both politically and economically responsible to the American public.

Mr. President, in this regard, the Director of the Cost of Living Council, Mr. Donald Rumsfeld, recently made some statements I would like to quote because I think they state the matter succinctly. This is a release dated May 23, 1972, when the committee was about to report the committee bill in the form now before the Senate:

> Any proposal which fails to take into account the upward pressure on prices, generated by an abruptly higher minimum wage, poses a threat to the national effort to stabilize costs and prices.
>
> Such a large and abrupt change in the minimum wage will lead to additional wage increases for some, which will be paid for by the low income wage earner in the form of lost employment opportunities, and by the American consumer in the form of higher prices.

We have distributed to all Members of the Senate a summary of S. 1861 as reported, and the provisions of the substitute, in comparative tabular form. The only changes not shown here are provisions relating to child labor which were amended in the substitute yesterday.

Mr. President, we are for a reasonable minimum wage increase but we believe minimum wage increases of 37.5 percent will cut into employment problems in this country and constitute an inflationary threat. The question is what is wise and consistent with sound economic policies. I think we can be fair, wise, and consistent in attacking this problem by adopting the provisions of the substitute, and I urge the Senate to do that.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield to me for 10 minutes?

Mr. TAFT. Mr. President, I am glad to yield to the Senator from Colorado for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, the Senator from Ohio has done a very fine job with analyzing the problems that he and I and a great number of other Senators have had with the committee bill.

I was entertained to hear the distinguished Senator from New Jersey and the distinguished Senator from New York say today and yesterday that all of a sudden they thought the small business amendment was a pretty good idea. I say I am entertained because I brought this up in committee and specifically offered the amendment which the Senator from Vermont was discussing. The proposal received six votes, with 10 votes against, including the votes of the Senator from New York and the Senator from New Jersey. A change of heart is always welcome. But I might say this was one key issue in committee which led me to propose such a substitute on a strong basis. I did it because I thought the committee bill as reported was totally unrealistic, and unfair in this area. The substitute incorporated the so-called small business amendment which the Senator from Vermont talked about yesterday.

It seems to me that we have a number of points that should be made in discussing this matter. I note the chart which was distributed by the Senator from New Jersey referring to the administration income supplement program for a four-person family and then indicating a raise in the minimum wage eventually. As you raise the minimum wage you would not need any welfare supplement. The intent of the chart is to show that, as the minimum wage progressively increases, the need for welfare decrease.

Mr. President, as one goes back over the history of increases in minimum

wages, it will be found we have not had any less welfare. As a matter of fact, the chart, if it contained a line showing welfare increases, that line would go off the upper right-hand edge of the chart because, as we have raised the minimum wage, the welfare situation has gotten worse and not better. So let us get away from the assertion that by raising the minimum wage we are going to take people off of welfare. The likelihood is, according to reports from people who have been there recently, the more you raise the minimum wage the more people go on welfare, because more people lose their jobs and they lose their jobs in the area where we have the highest number of unqualified people so far as modern skills are concerned.

Mr. President, we have another chart. I do not know what that proves one way or another except we have had significant and persistent unemployment since 1949, with dips and curves. I do not see how it relates to increases in the minimum wage but I am sure the Senator from New Jersey will explain that later.

The next thing that I think the proponents of the committee bill have to overcome is the obvious presumption that an increase in minimum wages of 37.5 percent in 14 months and 36.2 percent in 3 years, is not inflationary. They are either saying it is not, or, "if it is, we do not care."

I say that one of the most crucial problems we have is trying to control inflation. We would not find in times of relative peace a President imposing a freeze on wages and prices and then putting in phase II unless we had a very difficult situation so far as inflation is concerned, and undoubtedly this will make it worse, as seen by statements of Mr. Donald Rumsfeld, referred to by the Senator from Ohio (Mr. TAFT), and the letter of C. Jackson Grayson, a copy of which has been placed on the desk of each Senator.

For clarity, on page 2 of that letter dated July 17, 1972, he states:

> These developments will have significant implications for the regulations concerning permissible prices under the Economic Stabilization Program. For instance, wholesalers and retailers are permitted to adjust prices according to their customary initial percentage markup. However, they are not permitted to raise prices to reflect increased operating costs, such as would result from sharply increased wage costs.

So the wholesalers and retailers would be bound by existing regulations while the wages go sharply up and the only way they are going to be able to cut operating costs is by letting people go.

It is just that obvious. There is no other way to get at it. Then he goes on in the letter:

> Under current regulations, a hospital must apply for an exception in order to raise prices by more than 6 percent, or to raise prices to reflect labor costs more than 5.5 percent. This percentage limitation might also prove unrealistic if the bill is passed.

One of the things we are pointing out here is that this is not any 5.5-percent increase; this is a 37.5-percent increase in 14 months, as recommended by the committee, and a 69.2-percent increase in the agricultural field, which is probably as difficult a field for anybody to make a living in as there is, unless they are in the agribusiness at this time.

So I just say we would be dealing with something which is wholly unrealistic if we went along with the committee bill.

The next one I want to talk about is a provision in the committee bill which no one has mentioned, making it a crime to knowingly hire an illegal alien. No one has mentioned that in the whole debate. I have received a letter from the Spanish International Network, sent by Mr. Rene Anselmo, executive vice president, dated January 27, 1972, dealing with this situation as it was before the House, protesting vigorously against it and saying it was arrant discrimination to have that provision in the committee bill. We do not have the provision in the substitute we propose.

I ask unanimous consent that the letter be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. DOMINICK. The third point I want to make is on coverage. The Senator from New Jersey stated he wanted to cover domestics. I do not see any possible way we are going to get housewives, who, by and large, are not abiding—willingly or unwillingly I do not know—with the regulations on social security, to also start keeping all records and determining how much is being paid to domestics who come in to clean or cook or do laundry, or whatever it is.

Furthermore, it is beyond my comprehension to determine how a domestic, working in one place for a long time, would affect interstate commerce, which is the only constitutional basis for such legislation. If a domestic is in interstate commerce, I must say we might as well say that everything is going to be in interstate commerce, whether one is fly swatting or whatever he is doing. It makes no sense to me.

It will mean fewer domestics, rather than more. It would put a terrible burden on every housewife in the country. It would further reduce employment opportunities for those who have no alternative but welfare. It makes no sense as far as I am concerned.

As to local employees, how in the name of heaven do we have a right in the Federal Government to determine what wages are to be given to an employee of a local school disrtict? Where do we get the brains to determine what employees are going to get in sanitation districts or in other institutions or departments in the various States? How are we going to determine what every local jurisdiction is going to pay an employee in every local agency of the 50 States?

Mr. President, I oppose S. 1861 for a variety of reasons. Since I have expressed them in detail during the course of this debate over the last 3 days, let me just summarize them here in broad terms.

First, I think it would contribute substantially to inflation. And it could not come at a worse time. No better plan than the radical minimum wage increases and sweeping extensions of coverage it proposes could be devised to blow the Economic Stabilization Program right out of the water. You have on your desks copies of statements by the Director of the Cost of Living Council and the Chairman of the Price Commission saying essentially that, although in more restrained terms. A lot of dust has been raised by the conflicting arguments on the inflation issue during this debate. But I think the proponents of this bill clearly have the burden of overcoming the strong presumption that minimum wage increases of 35.5 percent within 14 months for most nonfarm employees, and 69.2 percent within 3 years for farm employees, are inflationary. I am confident that when the dust settles everyone will recognize that burden has not been met. If a majority of my colleagues do not see it, they will be reminded soon enough by their constituents, who will be complaining about even higher prices for virtually every consumer product. They will also be reminded by small businessmen and farmers, who would bear the brunt of the considerable increases in labor costs.

I am opposed to this bill because it clearly will not do what its supporters say it will. They pronounce that it will put an end to welfare for the working poor in this country. As I have said earlier, this is an undeliverable promise which amounts to nothing more than a cynical joke on the poor. The minimum wage would have to be increased immediately to $2.65 per hour to raise the income of a family of six with one wage earner to the poverty level. The figure for a family of seven is $3.20. Forty-six percent of the working poor are members of families of six or larger. To them, the realization that this promise was totally undeliverable from the start will not be a very funny joke.

Worse than not delivering on promises to the poor, the committee bill would actually harm them. Marginal workers who find themselves unemployed will wonder whether welfare is really a better alternative. They will have difficulty seeing why their "morale and dignity" should be "boosted," as the proponents of this bill suggest. The only workers whose morale will be boosted are those who least need help—well-paid, skilled workers with secure jobs. Due to the "ripple effect" from these large increases in minimum wages, they will receive disproportionate windfalls when, through the collective bargaining process or otherwise, previous wage differentials are restored.

I believe the substitute we have offered is a realistic alternative to the committee bill. A summary of the most important differences between it and the committee bill, along with a section-by-section analysis, are on your desks. It provides for substantial increases in minimum wage rates, but would minimize the inflationary and unemployment impact by confining such increases to presently covered employees. In an attempt to deal with the serious teenage unemployment problem ignored by the committee bill, it would establish a youth differential to replace the obviously unsuccessful present 85 percent certification system.

On this issue, it is a little ironic to observe how those who view themselves as forward thinking and progressive argue vehemently to preserve a very unsatisfactory status quo. All we are saying with the youth differential is, "Look, we have a problem—an alarmingly high teenage unemployment rate which has broad and harmful social implications. Let us try to do something about it. Here is our proposal." As legislators to whom the people of this country look for solutions to difficult problems, I think we should feel compelled to give this proposed solution a fair chance to stand or fall on its own merits. It is not going to cause any sudden disaster. It is not as if we would be making a decision which is irreversible for all time. If, after enough evidence is in, it appears to be ineffective, we can modify it or simply repeal it and look for something better. But let us do not just turn our backs on the teenage unemployment problem, as the committee bill would, because it is not likely to solve itself.

One other point I want to make this morning, before I reserve the remainder of my time, is the fact that this amendment, if adopted, will cut off all further amendments—the Senator from New Jersey referred to this—germane and nongermane. It will mean we will have a bill which can get through a quick conference with the House, which will give a very substantial raise in the minimum wage to the working people of this country, but will not be so excessively inflationary that we are going to hurt the consumers and producers and the very people we are said to be helping by the committee bill.

I see no advantage in encumbering the bill with nongermane amendments, which I have reason to believe may be offered if this amendment is not adopted. I see no point in having to go over each one of these items, one by one, when we have debated the whole thing, we have brought up the points, and we have made the specific points we have debated, and can avoid that whole process by adopting the Taft-Dominick amendment. I hope we can do that today.

EXHIBIT 1

SPANISH INTERNATIONAL NETWORK,
January 27, 1972.

DEAR CONGRESSMAN ERLENBORN: Spanish International is a network of Spanish language television stations throughout the United States with the audience of some 5 million people. Because our viewers sometimes have difficulties adjusting to American culture, our relationship with them is more personal than usual between a station and its audience. They often call us to aide them with individual problems and to assist the Spanish community as a whole. For this reason, we are disturbed beyond measure at the consequences that Sec. 214 Section 4(g) of H.R. 7130 ("Fair Labor Standards Amendments of 1971") will have on the minority groups in this country. This subsection of H.R. 7130 provides criminal penalties for employers who "knowingly" hire illegal aliens.

First, let us assure you that we are concerned about the situation with illegals. However, as we will demonstrate later in this letter, effective remedies exist under present law. The immediate question is if, in an attempt to protect American jobs, the Congress will approve legislation that turns life into a nightmare of identification, restriction and legalized discrimination, first for minority citizens and ultimately for all Americans.

If this amendment becomes law, it can only be enforced in two ways in a nation with the heterogeneous population of the United States:

(1) Spanish, Oriental and most other minority Americans as well as the millions of naturalized citizens who still retain accents in their speech or other characteristics which distinguish them from "Anglo" Americans will have to prove they are citizens when applying for a job. Since employers are clearly not going to go through the expense and bother of substantiating the national background of prospective employees, job opportunities for minorities will descend even lower than they are now. This legislation will also be a windfall for discriminatory employers. (Furthermore, there are still millions of people of working age in this country who did not have their births registered and thus have no readily available documents to substantiate their citizenship.)

Certainly, no Congressman would have dared propose a law that placed this discriminatory burden exclusively on white Americans. And yet, despite the terrible effects this approach will have on millions and millions of minority citizens, it will be of doubtful value in halting the employment of illegals. Dishonest employers need only to have aliens declare they are American citizens to get around the technicality of "knowingly" hiring an illegal.

(2) Since it seems unlikely the courts will ultimately allow any law to be enforced so discriminatorily, there is only one other method. Every citizen and legal resident of the United States will have to be identified and filed and given some document which proves he exists "legally" for the purpose of being employed. Most suggestions along this line center on making the Social Security card into what essentially amounts to an internal passport—and requiring that card applicants be investigated, fingerprinted or otherwise "nailed." In the age of computers, we are sure you must be aware of the extreme danger of instituting any system of this sort. Further, even the cost of administering this horrendous bureaucratic monster would be much more than the cost of deporting illegals.

Compared to H.R. 7130 Sec. 214 Section 4 (g), which is so expensive in terms of human dignity, personal freedom and administrative machinery, the government can take several rather simple steps to halt abuses in the employment of illegals.

1. The United States Code already provides severe penalties for smuggling illegals (5 years in jail and a $5,000 fine), harboring aliens, various passport and document forgeries and, most particularly, for willfully concealing information from any United States Department or Agency enforcing the laws under its jurisdiction. Since many of the worst employers either have their own smuggling operations or have devised elaborate techniques to protect themselves (we have even read of one farm in the Southwest that stations lookouts with walkie-talkies to warn of the approach of Immigration agents) a few major prosecutions would certainly make the point. We recognize that many of the people involved in these practices are well-connected politically. However, if the law enforcement agencies are sincere, there is no doubt that strict application of present law would minimize abuses.

2. There are a variety of ways in which visa procedures could be tightened. Just a few examples! The loose administration of undated border passes gives many aliens the means to enter the United States legally and then just disappear. Applicants for student visas could be checked to see that they have registered at an accredited institution in the United States and paid their tuition. Clearly, no one wishes to hamper visitors from foreign countries, but some of the current methods invite abuse.

In conclusion, this subsection of H.R. 7130, while potentially the most dangerous and discriminatory legislation before Congress, will not be as effective in stopping the problem as would be the enforcement of present law. We are particularly disturbed that this subsection was added to "The Fair Labor Standards Amendments of 1971" at a closed session of the Education and Labor Committee. Surely the Congress will not consider passing a law with such overwhelming implications without even opening it to public consideration. How can the Congress, in attempting to protect American jobs, undermine the very freedoms and dignity which Americans value above all else?

Sincerely,

RENE ANSELMO,
Executive Vice President.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have a request for time from the Senator from Illinois (Mr. PERCY) for 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. PERCY. Mr. President, I have not been here to listen to all the debate of the distinguished Senator from Colorado. I have a very high regard for him, for his reasoning, and his motivations, and I have studied the RECORD very carefully. I did not reach a final conclusion on this matter until the last 24 hours.

I do intend to vote against the Dominick-Taft substitute for S. 1861 as reported from the Senate Labor and Public Welfare Committee. I simply do not believe the substitute does what is necessary to be done to help low-income workers to achieve and maintain a decent standard of living within the free enterprise system, as I know it and understand it, having worked in it for many years.

The committee bill, though I do feel it requires certain amendments, and I intend to speak on and support certain amendments to it, comes closer to what I consider as a worthy objective for all of us to have.

I simply do not feel, further, that the place to wage the fight against inflation is among those below the poverty level. That is not the place to say to people, "Hold the line." That is not the place, when it is at a level that is not really sufficient to sustain and maintain a decent standard of living.

When the distinguished Senator asks the question, "What right do we have to intervene to raise wage rates that are paid out in the States and municipalities?" I say we have an inherent right, it seems to me. We have assumed an obligation and responsibility to try to bring everyone up to at least the equivalent of the poverty level. When people are being paid a wage that results in them being lower than the poverty level, that leaves us the obligation to improve that income so that people who are working, in order to maintain and sustain themselves, would not have to be put in the degrading position of being a full-time employee and yet having to become recipients of welfare because their salaries do not bring them up to the poverty level. The line of poverty has

now been raised by inflationary forces to such a substantial level that there is a need for this increase since the last increase in the minimum wage occurred.

The present minimum wage of $1.60 an hour only yields a full-time worker $64 in gross income per week, or $3,200 a year—over $800 below the poverty level. A $2 minimum wage would only yield $4,000 a year—just at the poverty level for a family of four. Actually, for a family of four to escape the poverty level, a minimum wage of $2.08 would be necessary today.

What has happened is that inflation has so eroded the value of the dollar since 1966, the date the minimum wage law was last amended, that a substantial increase in the present rate is necessary just to permit low-income workers to earn enough to provide themselves and their families with the barest necessities of life. To not take this action will only continue to overburden public welfare, which business and individuals pay for out of tax revenues.

So the question is, Are you going to pay it to people who are working at jobs, who are able to work in full-time employment, or are you going to pay it for welfare? No one argues that they are not going to have enough to live on. All the reform bills that I know of try to bring people at least up to the poverty level. I am simply arguing, bring them to that level with people who are working, and let us not have a disincentive for working. That is one of the main and crucial points we are debating today.

In view of the over 25-percent increase in the cost of living we have experienced since 1966, I believe a raise in the minimum wage to $2 per hour, as now proposed in S. 1861, rather than $1.80, as proposed in the substitute, is fully justified.

We have spent a great deal of time during the past few years trying to reform our present welfare system and reduce the heavy burden it now places on our taxpayers. It seems obvious to me that one of the most important things we can do to alleviate this burden is to insure that an incentive exists for people to work. The committee bill would at least provide income sufficient to permit workers to escape eligibility for public assistance under H.R. 1; yet the substitute would not.

The committee bill also expands minimum wage coverage to an additional 8.4 million workers currently uncovered by the minimum wage, while the substitute does not provide any expanded coverage. It is really unfair to talk about the minimum wage being raised and the benefits it will bring and then exclude this many low-income workers, leaving some workers more minimum than others. The new workers covered by the committee bill include some of the most poorly paid workers in the country. For example, domestics now earn an average of $1,900 per year. Also the committee bill—unlike the substitute—eliminates a number of exemptions from the minimum wage which really can no longer be justified. Again this expanded coverage and elimination of exemptions is just a matter of economic and social justice.

The substitute also errs in establishing a youth differential with no effective provisions to guard against wholesale replacement of adult workers by youth paid subminimum wages. The youth differential could badly disrupt the structure of unemployment by causing wholesale replacement of adults by youths paid at subminimum rates. Present law has provisions which permit learners and students, under carefully controlled conditions, to be paid less than the statutory minimum. There has been no showing that the kind of blanket exemption which would be provided in the substitute is really necessary to preserve employment opportunities for young people.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 11 minutes. The Senator from Ohio has 8 minutes.

Mr. WILLIAMS. Can the Senator conclude with 2 minutes?

Mr. PERCY. I think so.

Mr. WILLIAMS. I yield the Senator 2 additional minutes.

Mr. PERCY. Finally, Mr. President, a most compelling argument for rejecting the substitute is involved in the parliamentary situation we as legislators are now in. If the substitute is accepted, it would be a substitute for the whole bill and no further amendments would be in order. Acceptance of the substitute would cut off any amendments dealing with individual provisions. I must candidly say that there are provisions of the committee bill that I would prefer to see changed. Rejection of the substitute would not foreclose changes in the committee bill. The Senate could still make selective changes in the bill but adoption of the substitute would be an all-or-nothing preempting any other amendment.

As a matter of fact, Mr. President, I intend later in the debate today, should the Dominick substitute fail to offer or support amendments stretching out somewhat the increase in the minimum wage and to restore the tip or gratuity credit to 50 percent.

For the above reasons, Mr. President, I will vote against the substitute offered by the distinguished Senator from Colorado (Mr. DOMINICK), but will reserve the right to vote for amendments to selectively modify the committee bill to put it in greater accord with what I feel is reasonable and fair under the circumstances.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Ohio has 8 minutes remaining.

Mr. TAFT. And how much time does the Senator from New Jersey have?

The PRESIDING OFFICER. The Senator from New Jersey has 9 minutes.

Mr. TAFT. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Oh, no, we have time. I just meant to ask the Senator if he would go ahead, because I am not quite ready.

Mr. TAFT. Mr. President, I yield myself 2 minutes.

The arguments made by the distinguished Senator from Illinois are arguments that we have heard before in this debate. I believe they have been more than answered already. I regret that the Senator from Illinois was not here to engage in colloquy on the positions that we have taken.

The point that I think I have made, and I believe it was made very clear, is that the poverty level is not going to be corrected by increasing the minimum wage, no matter what that increase might be. It is mainly a question of whether jobs are going to be available or are not going to be available. I believe we should do whatever we can do to bring all Americans above the poverty level. That is the principal purpose of many of the programs and many different approaches that we have made. But the fact of the matter is, as the Senator from Colorado has so ably pointed out just a very few minutes ago here on this floor, that a severe increase in the minimum wage forces a continual increase in the number of persons on welfare in this country. So the arguments made by the Senator in that respect to me simply do not make any sense.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TAFT. I yield myself 1 additional minute.

Mr. President, I also want to take issue with the Senator from Illinois on the matter of restrictions on the youth differential. I pointed out, I think right at the outset of the debate, in a colloquy with the Senator from New York, that there is a provision in the substitute that regulations shall be issued by the Secretary, a finding that the youth differential shall not be used to cut into employment opportunities for others. Rather, I think it is a matter of trying to do something about the tremendous increase in youth unemployment, and particularly minority youth in this country. Evidently the Senator from Illinois is not aware that employment opportunities would be hurt by the passage of this bill, or by the failure to pass the youth differential in the substitute. It seems to me the committee measure flies completely in the face of the facts, and I think it does not merit our support.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield me some time?

Mr. WILLIAMS. I yield the Senator 5 minutes.

Mr. JAVITS. Mr. President, we have now come to the end of the debate on the substitute, and what we expected to find we do find, that is, that the substitute as now before us, having been amended by its sponsors with such amendments as they chose to allow, is completely inadequate to deal with the situation which the bill was designed to correct.

Bearing in mind that the Senate will have the power, in a selective way, and will—not only will have the power, but will—work its will and, as my colleague the Senator from Illinois has very clearly set forth in his own position, act selec-

tively on individual items in this total package, as to what the basic rates shall be and when they shall be applied. I have little doubt, because I am going to support one of those changes myself, that there will be many corrections in other aspects of the bill, including inventions of various kinds, expansions of coverage, et cetera.

The important points, however, that will be established by the vote on the substitute, are the following:

First, that the Senate wishes to keep its options open. That, to me, is prime point 1–A, and there I have a fundamental difference with the Senator from Colorado. I believe that what we should not do is package this up and lock ourselves out of any further effort to deal with it in a selective and specialized way, so that we can go to conference with the House of Representatives fast.

I have been in a lot of these conferences, and it is not going to be any faster or any slower. If that is what is to moderate our judgment with respect to the minimum wage, it is a mighty poor standard. We are going to get through with this conference in 3 hours or 10 hours, more or less, and it is going to come out of our hides, in that we may have to work nights; but it should not come out of the hides of the 53 million people who are under the minimum wage.

So I am not buying this argument, and I hope the Senate does not buy it, "Let us wrap this up quick and throw it into conference."

So what? On that basis there are a lot of things we could throw to the wolves.

Mr. President, this is a very profound matter of social justice, make no mistake about it. And interestingly enough, the letter which is supposed to crush us, from the chairman of the President's Price Commission to Senators TAFT and DOMINICK, actually makes this copper-riveted, because if it is a fact, as he says, that about 16 percent of workers in the service industries are currently earning less than the current minimum wage and about 40 percent of the workers in those industries earn less than $2 an hour, and if it is a fact, Mr. President, that in the retail sector 19 percent of the workers earn less than $1.60 an hour but over 50 percent earn less than $2 an hour, then they are the group in this country that is paying the price for what they want in terms of stabilization. I am all for the stabilization program. But I am not for that group paying the whole bill. If that is the evidence, it seems to me decisive in terms of the passage of this bill and not the passage of the substitute.

Finally, Mr. President, the argument is made that this will have an inflationary effect. Anybody who has administered business or administered anything knows that it is not what you owe or what you spend but what you get that determines an inflationary effect. There have been plenty of raises. We did not hesitate to raise the dockworkers in California and New York—not by a fraction of 1 percent, which is what is estimated here as the added annual wage bill, but by 15 percent in 1 year. So when we have to do so, we are not afraid of the inflationary effect. But it gets to be a big argument in this instance.

Again, I get back to the commonplace, matter-of-fact standard which every American can understand: The $2 minimum wage is $80 a week, and after deductions, that is $75 a week. What a big deal that is for any man who has any kind of responsibility.

So, Mr. President, the basic argument here, aside from the substantive details of the $2 or the $1.80, is the fact that we should not lock ourselves out of the ability to deal with each of these items in a specialized way by adopting the substitute. That, to me, is the basic and fundamental decision which the Senate is making now. I hope very much that, in common equity to that part of the population which is directly affected, we will defeat the substitute.

On the question of expanded coverage, the greatest group are the State and municipal employees—the largest group which now comes in for expanded coverage. It is shocking to me that we should even argue about that, that we should even think that a $2 minimum should not be established for anybody who works for any governmental unit, no matter what that unit might be.

As to the domestic workers, we hire them, as practically every Member does, in our own families. One of the great difficulties with the domestic worker field is its irregularity, the fact that there is still some kind of lingering question about whether they are "servants" in the old sense, so that you have kind of a chattel mortgage on them, rather than their being workers like anybody else.

I hazard the point that the more we regularize them in terms even of hours—though we do not do so in this bill—and of compensation and of other conditions of work, and give it dignity, and call that lovely cook "Mrs." or "Miss," instead of by her first name, and do not think she does not need any sleep because she is our servant, we will have more of them. The more the job becomes dignified and recognized as honorable employment, such as any other employment—working in a factory or working here—the better it will be from the point of view of getting that kind of service, which Americans so urgently need.

For all those reasons, I hope very much that the Senate will reject the substitute and will enable us to get on with the business of selectively dealing with the individual items of this bill.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, it has been loosely stated here by those who support the substitute that in an increase in the minimum wage will lead to unemployment. This is in direct contradiction of all our experience in this country with the minimum wage.

On six occasions following an increase in the minimum wage, not only has there been an increase in employment at three points in time when the minimum wage was raised, but also, there has been a decrease in unemployment, and the other two times employment has remained stable. This was true in 1949. Following that increase, unemployment decreased. That was true in 1955 and in 1961. In 1963, employment stayed stable, as it did in 1967 and 1968.

So for those who say that the minimum wage should not be increased to where the bill raises it now because it will cause unemployment, I point out that the record shows that this has not happened in the past. We have no reason to believe that it will happen in the future. The economics might suggest the contrary—that it will increase employment.

The PRESIDING OFFICER. All time of the Senator from New Jersey has expired.

Does the Senator from Ohio desire to be recognized?

Mr. TAFT. I yield 1 minute to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that a member of my staff, Mr. Michael Francis, may have the privilege of the floor during this vote and the consideration of the amendment I will call up immediately afterward.

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

Mr. TAFT. Mr. President, I yield to the Senator from Colorado such time as he may desire.

Mr. DOMINICK. Mr. President, we are nearing the end of this debate. I just want to make two points again, for the benefit of the Senator from Illinois and the Senator from New York.

First of all, I invite the attention of the Senator from Illinois to a study which was made by Prof. John Peterson and Prof. Charles Stewart, both professors of economics, which was made in very careful detail. After they get through, they say on page 155:

> Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants.

This is when you raise the minimum:

> Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, nonwhites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers.

The Senator from Illinois has had experience in the business world. If one is going to have a low-profit situation because of increased costs, he wants to get the most productive people he can, so he does not hire the marginal workers. He does not hire those who are unskilled. If one already employs them, he lets them go, in order to cut his costs wherever he can, in order to maintain a profits level.

Insofar as Mr. Jackson Grayson's letter is concerned, after citing the number who are below the minimum wage, he then goes on to say the following, which was not read by the Senator from New York:

> Clearly, such large increases—

Referring to the bill—

> Would generate strong upward price pressures and disruptive employment effects in that sector.

He goes on and on, showing the adverse effects of the committee bill.

We have changed that. We have given a minimum wage increase. We are not saying that they should all be treated like slaves, that we are going to take a

whip and make everybody work whether they want to or not, and not pay them anything. We are giving a very substantial increase in minimum wages. We are not doing it to the excessive degree of 37.5 percent in 14 months and 69.2 percent in the agricultural field over 3 years.

We are doing less than that in order to try to help maintain some kind of brake on the inflationary cycle, to be able to give opportunities to young people to get into jobs which the committee bill does not do anything about at all. We are trying to do this on a basis that while we are taking care of the inflationary cycle that already has occurred, we are not increasing new inflationary pushes.

So far as I am concerned, we can defeat the committee bill, we can have a substantial minimum wage increase without increasing inflation, and, most important, we can provide job opportunities for young people in the area of a maximum unemployment situation as we have it now. These are the reasons why I think we should support the substitute.

I thank the Senator from Ohio for yielding.

The PRESIDING OFFICER. Is all time yielded back? One minute remains to the Senator from Ohio.

Mr. TAFT. I yield myself the remaining time.

The committee bill in sum certainly provides a bleak outlook for many of the Nation's working poor as they face: higher prices for food, products, and services, possible curtailment or abandonment of services including the closing of the neighborhood grocery and the loss of their only way to work—the bus; higher taxes due to increased burden of State and local governments; and most important, even face the potential loss of their jobs—but we suppose the ex-workers could say that if they had jobs they would have received a $2.20 minimum.

The PRESIDING OFFICER (Mr. TUNNEY). All time of the Senator from Ohio has now expired.

Mr. ROBERT C. BYRD. Mr. President, I ask for 30 seconds.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment by the Senator from Florida (Mr. CHILES).

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Taft-Dominick substitute.

The PRESIDING OFFICER. The Chair would inform the Senator from West Virginia that they have already been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on S. 1991, which is scheduled for tomorrow.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I give my strong support to S. 1861 as reported by the Senate Committee on Labor and Public Welfare, and I urge the Senate to vote to reject the debilitating substitute that is being offered on behalf of the administration.

S. 1861 is one of the most important pieces of domestic social legislation that the 92d Congress will consider. Ever since President Franklin D. Roosevelt, when America as a nation first made a firm commitment "to provide enough for those who have too little," and to provide a decent living wage for Americans everywhere, Congress has been in the forefront of launching programs to meet that goal. The original Fair Labor Standards Act, enacted in 1938, was a principal cornerstone of President Roosevelt's New Deal for America, a key Federal program to help the working poor, and to protect all workers against the sort of sweatshop wage conditions that the Nation had endured for too long.

To be sure, we in Congress have not always kept the Fair Labor Standards Act as current as we should. But over the years, the act has been close to the heart of all our social programs to benefit American workingmen and women. For more than three decades, millions of workers in every State have enjoyed the benefits of the minimum wage, and have thereby been helped to attain a fair reward for their labor and a start toward a decent life for themselves and their families.

Now, we have the chance to bring the Fair Labor Standards Act into the sunlight of modern American life, to make it an effective tool for the financial protection of workers in the decade of the seventies. Congress last looked at the Act in 1966, when it established the $1.60 basic minimum wage still in force today. But no one who has lived and worked through the soaring inflation of the past 6 years can have any doubt that a $1.60 wage that was a viable minimum in 1966—or even in early 1968, when the $1.60 level actually went into effect for most workers—is not a viable minimum today.

Simply to enable millions of workers to stand still—or, rather, to recoup their losses since 1966—Congress must raise the minimum wage to the levels specified in S. 1861, as reported by the Senate Labor Committee. We need a new minimum wage of $2 now, and $2.20 a year from now. Surely, that is the smallest step we can in good conscience take today. If we are to keep faith with our promises over the years to make the minimum wage a decent living wage—if we are, in the current phrase to "keep on keeping on" with our effort to rid America of poverty, and to upgrade the lives of the workers who are least able to help themselves and who are therefore most vulnerable to exploitation and harassment in our modern society.

That is why those of us who give strong support to the committee bill have so little patience with the arguments of those who plead for cutbacks and delay in enacting this legislation. To me, the substitute now being offered on the Senate floor on behalf of the administration is yet another example of the administration's consistent and continuing attempt to relegate the working poor to the status of second-class citizens.

We have heard all these administration arguments before—they often come in different clothes, but their substance is the same. Whenever the sequence of national priorities is being established by the administration, it is always the poor and disadvantaged who ride the caboose. When the President's fiscal package was launched in the wake of the wage-price freeze last year, one of the most shocking aspects of the program was the decision to postpone welfare reform for many months—"for fiscal reasons" they said, while the poor were left to suffer. When Congress attempted to write an eminently reasonable exemption for the working poor into the President's phase II legislation last fall, in order to ease restraints on wage increases for American workers at the bottom of the pay scale, the administration came up with such a narrow and invidious interpretation of the law that millions of the working poor now fail to receive the benefits that Congress intended.

Fortunately, in recent days, the position of Congress on the working poor in the phase II legislation has now been vindicated by the Federal courts, but it is little comfort to those who have learned once again that their basic rights must be won in the courts instead of the councils of the executive branch of their Government.

Again and again, we have seen this sort of evidence—whenever the administration decides to postpone action, it postpones programs for the poor and disadvantaged. We shall never win the war against inflation if all we use as cannon fodder is the rights and lives and well being of those who are most in need and least able to speak with effective voices. We in Congress have a high obligation to speak out and act for them, to guarantee that the war against inflation is an evenhanded fight, and that the brunt of the battle is not borne too heavily by any single group within our population.

That is why I support the present legislation in the form approved by the Senate Labor Committee. I fully support the $2/$2.20 standard. I fully support the expansion of coverage in the bill, especially the extension to employees of State and local governments. I fully support the broad coverage of the bill for the Nation's youth. I fully support the bill's major extension of benefits to agricultural workers, and the welcome new restrictions imposed on child labor on the Nation's farms. I fully support the elimination of so many exemptions in the existing law, exemptions that have long outlived any possible rationale they might once have had, and that now persist as silent testaments to the special power of special interest groups in the Halls of Congress.

In sum, the legislation before us is an important opportunity for Congress to take another major step on the road to a decent society. It is an excellent and well-deserved tribute to Senator WILLIAMS, the chairman of the Senate Committee on Labor and Public Welfare, who has guided this complex and urgently needed bill through every stage of the legislative process. It deserves to be enacted. I hope the Senate will reject the substitute, and pass the bill the Nation needs.

Mr. President, one further point should be mentioned. In discussing the Fair Labor Standards Act, I wish to call the

attention of the Senate to a growing problem caused by the fact that under section 13(a)(1), professional employees are exempted from the maximum hour standards of the act. I am especially concerned that, at a time when unemployment continues in our aerospace and other technical industries and when a large number of competent professional people are seeking employment, those who remain employed are forced to work long hours for no extra pay. Rather than spread available work and thus encourage more of our valuable, highly trained people to remain in the technical professions, industry has found it profitable, because of the FLSA professional exemption, to add many thousands of engineers and scientists to the unemployment lines and to concentrate the available work among a diminished professional work force.

This practice has resulted in many injustices among the engineering and technical professions. Additionally, it is a practice that is driving urgently needed technical talent out of the professions. These professional men and women represent a vital human resource for our Nation. A great deal of time and money have been expended in preparing them for their careers. Certainly, they should not be treated as second-class citizens. They are entitled to the same protection and benefits of the law that are enjoyed by other employed people.

At last, Congress is beginning to understand the plight of unemployed professionals. I believe that the problem deserves thorough exploration, and I hope that Congress will undertake an appropriate study of the issue, including the impact of the section 13(a)(1) exemption.

Mr. McGEE. Mr. President, the chairman and members of the Committee on Labor and Public Welfare have done an outstanding job in their deliberations on S. 1861, and I commend them for their efforts and the constructive provisions which are contained in the bill. I support most of the proposed amendments and consider them of the utmost importance in bringing equity to millions of workers in this country who have been working at substandard wages and, in many cases, have been forced into a poverty situation.

Mr. President, for this reason, I intend to vote against the proposed Taft-Dominick amendment which would eliminate virtually all of the progressive provisions which the committee has strived so hard to achieve.

There is one area of the committee bill which concerns me a great deal. It would reduce the dollar volume test for small business from $250,000 to $150,000 in annual gross sales. The small businessmen in my State and, I am sure, those across the Nation have been particularly hard pressed in recent years due to the increasing pressures of inflation. The small businessman is especially at a disadvantage under these circumstances in trying to compete with big business and chain operations which do not feel the pressures of inflation so severely. In 1966 the small business exclusion was reduced to the present $250,000 figure. Since that time, the Consumer Price Index has increased 24 percent. Therefore, the $250,000 exclusion today is equivalent to a gross volume dollar value of $190,000 in 1967 dollars. I have concluded that in the case of small business the committee's recommendation is unnecessarily harsh and that we should retain the $250,000 enterprise dollar volume test under the Fair Labor Standards Act.

For this reason, I have joined the Senator from Vermont (Mr. STAFFORD) in sponsoring amendment No. 1318, and I urge Senators to join me in supporting it.

Mr. DOLE. Mr. President, according to the majority report of the Committee on Labor and Public Welfare, the minimum wage bill is intended to eliminate the "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well-being of workers." This purpose is laudable and one which Congress has always attempted to achieve through legislation affecting virtually all aspects of the workingman's environment. But the provisions of this bill as reported by the committee ignore the fact that the well-being of the worker is advanced not only by higher wages but also by a slower rate of inflation and lower levels of unemployment. A high hourly rate of pay means little if a man has no job to earn it or if the dollars in his pay envelope are constantly being eroded by rising inflation.

I, therefore, rise in support of the substitute amendment offered by the Senator from Ohio (Mr. TAFT) and the Senator from Colorado (Mr. DOMINICK) which I feel takes into consideration all the complex factors involved in workers' well-being and succeeds in striking a responsible and progressive balance among these factors.

The effects of inflation on the wage earner are obvious and serious. He is faced with the problem of meeting the rising costs of living with a stabilized income. Obviously wages must be increased to meet inflation, but establishment of these increases must not ignore the fact that wage increases are, in part, the cause of the very inflation they are designed to counteract. It is a tight circle of interlocking forces in the economy, of action-reaction; and the best solution is the institution of gradual wage increases which can be absorbed in the economic process without stimulating a corresponding increase in prices. Excessive action—that is unreasonable wage increases—gives rise to excessive reaction—skyrocketing inflation that destroys the real benefits of the wage rate boosts.

The wage levels established in the committee bill would provide a 25-percent increase in the minimum wage within 60 days and a 37.5-percent increase over a period of 14 months. The direct increase in wages and the expanded coverage proposed by the bill will result in a $7.2 billion increase in the Nation's annual wage costs. This figure does not take into consideration the increased wages which will result from overtime costs, nor does it include the wage increases necessitated at higher wage levels to maintain the existing wage differentials when higher rates go into effect. The overall increases in wage cost under the proposed bill would be extreme and too sudden to be absorbed in the economic process without resulting in another round of price increases with a devastating impact on the Nation's entire effort to build a prosperous and stable peacetime economy.

Another highly undesirable effect of the committee bill will be a reduction in job opportunity for the poor, the young, and the unskilled—those who have found it most difficult to enter the mainstream of the American economy and who might at first blush be expected to benefit most from an increased minimum wage. It should be recognized that a large increase in the minimum wage will create an incentive for business to abolish marginal, low-paying jobs by increasing mechanization, reorganization, and reduction of services offered customers.

Reduction of marginal jobs will be most severe in business which will for the first time be included in the expanded coverage of the minimum wage bill. The specific factors which made it reasonable in the past to exempt domestic help, public transit employees, and employees of small retail businesses from the minimum wage requirements are now being overlooked. The result of this inclusion in the minimum wage coverage will be increased wages for some of these employees, but many others will face a loss of jobs or opportunities for employment because employers will be forced to eliminate marginal jobs in an attempt to compensate for increased overall wage costs.

Small farmers in Kansas and other States will face serious difficulties should the committee bill be adopted. At a time when per capita farm income is 25 percent lower than nonfarm income and small farms are being supplanted by big corporate farm operations as a result of the economic pressures, it seems totally unreasonable to require the farmer to absorb an additional $174 million in annual wage costs. The farm labor setting has been characterized by a close relationship between pay and productivity. To interfere with this highly beneficial and salutary relationship by imposing a 69.2-percent increase in minimum farm wage rates over a 3-year period will only accelerate the already too rapid decline of family farming and farm employment in this country.

The welfare of the wage earner is always of immediate concern to all Members of the Senate. I would ask at this time that my colleagues consider the entire range of factors involved in the well-being of all wage earners, not only their wages but also the effects of inflation, and their need for stable employment. When these factors are taken into its consideration, I feel the substitute amendment offers the most responsible and substantial benefits to all the wage earners, and I urge my colleagues to support this proposal.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

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

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 New Mexico (Mr. ANDERSON) and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 20, nays 74, as follows:

[No. 279 Leg.]

YEAS—20

Allen	Cotton	Miller
Bellmon	Dole	Randolph
Buckley	Eastland	Spong
Byrd, Harry F., Jr.	Ervin	Stennis
Byrd, Robert C.	Gambrell	Talmadge
Chiles	Gurney	Thurmond
	McIntyre	Tower

NAYS—74

Aiken	Hansen	Muskie
Allott	Harris	Nelson
Bayh	Hart	Packwood
Beall	Hartke	Pastore
Bennett	Hatfield	Pearson
Bentsen	Hollings	Pell
Bible	Hruska	Percy
Boggs	Hughes	Proxmire
Brock	Humphrey	Ribicoff
Brooke	Inouye	Roth
Burdick	Jackson	Saxbe
Cannon	Javits	Schweiker
Case	Jordan, Idaho	Scott
Church	Kennedy	Smith
Cook	Long	Sparkman
Cooper	Magnuson	Stafford
Cranston	Mansfield	Stevens
Curtis	Mathias	Stevenson
Dominick	McClellan	Symington
Eagleton	McGee	Taft
Fannin	McGovern	Tunney
Fong	Metcalf	Weicker
Goldwater	Mondale	Williams
Gravel	Montoya	Young
Griffin	Moss	

NOT VOTING—6

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt

So Mr. CHILES' amendment was rejected.

The PRESIDING OFFICER. The question occurs on the substitute amendment offered by the Senator from Ohio (Mr. TAFT) and the Senator from Colorado (Mr. DOMINICK). On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BURDICK (after having voted in the negative). On this vote, I have a pair with the Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON) and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER) if present and voting would vote "yea."

The result was announced—yeas 46, nays 47, as follows:

[No. 280 Leg.]

YEAS—46

Allen	Dominick	McClellan
Allott	Eastland	Miller
Beall	Ervin	Moss
Bellmon	Fannin	Packwood
Bennett	Fong	Roth
Bentsen	Gambrell	Saxbe
Brock	Goldwater	Sparkman
Buckley	Griffin	Spong
Byrd, Harry F., Jr.	Gurney	Stennis
Chiles	Hansen	Symington
Cook	Hatfield	Taft
Cooper	Hollings	Talmadge
Cotton	Hruska	Thurmond
Curtis	Jordan, Idaho	Tower
Dole	Long	Young
	Mathias	

NAYS—47

Aiken	Humphrey	Pearson
Bayh	Inouye	Pell
Bible	Jackson	Percy
Boggs	Javits	Proxmire
Brooke	Kennedy	Randolph
Byrd, Robert C.	Magnuson	Ribicoff
Cannon	Mansfield	Schweiker
Case	McGee	Scott
Church	McGovern	Smith
Cranston	McIntyre	Stafford
Eagleton	Metcalf	Stevens
Gravel	Mondale	Stevenson
Harris	Montoya	Tunney
Hart	Muskie	Weicker
Hartke	Nelson	Williams
Hughes	Pastore	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Burdick, against.

NOT VOTING—6

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt

So the Taft-Dominick amendment (No. 1204), in the nature of a substitute, as amended, was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

Mr. DOMINICK and other Senators asked for the yeas and nays.

The yeas and nays on the motion to table were ordered.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry. A "yea" vote on the motion to table is a vote against the motion to reconsider.

The PRESIDING OFFICER. That is correct.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 48, nays 45, as follows:

[No. 281 Leg.]

YEAS—48

Aiken	Hughes	Pastore
Bayh	Humphrey	Pearson
Bible	Inouye	Pell
Boggs	Jackson	Percy
Brooke	Javits	Proxmire
Burdick	Kennedy	Randolph
Byrd, Robert C.	Magnuson	Ribicoff
Cannon	Mansfield	Schweiker
Case	McGee	Scott
Church	McGovern	Smith
Cranston	McIntyre	Stafford
Eagleton	Mondale	Stevens
Gravel	Montoya	Stevenson
Harris	Moss	Tunney
Hart	Muskie	Weicker
Hartke	Nelson	Williams

NAYS—45

Allen	Dominick	Metcalf
Allott	Eastland	Miller
Beall	Ervin	Packwood
Bellmon	Fannin	Roth
Bennett	Fong	Saxbe
Bentsen	Gambrell	Sparkman
Brock	Goldwater	Spong
Buckley	Griffin	Stennis
Byrd, Harry F., Jr.	Gurney	Symington
Chiles	Hansen	Taft
Cook	Hatfield	Talmadge
Cooper	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Jordan, Idaho	Young
Dole	Mathias	
	McClellan	

NOT VOTING—7

Anderson	Fulbright	Long
Baker	Jordan, N.C.	Mundt
Ellender		

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. MOSS. Mr. President, today I have voted to support the Taft-Dominick substitute amendment to the minimum wage bill. I did this with some reluctance, for I believe that the amendment could have been considerably improved. I made an attempt to do this through my perfecting amendment yesterday, but was not successful. I approve of an increase in the minimum wage, and the Taft-Dominick substitute does provide for a substantial increase in the minimum wage. Mine is not a vote against the minimum wage, but rather a vote for a more moderate position in the overall size of minimum wage increases and in the expansion of coverage of those brought under minimum wage.

I favor an increase in the minimum wage and expansion of its coverage to more employees. I believe, however, that the committee bill, S. 1861, moves too far and too fast. A 60-cent increase, from $1.60 to $2.20, seems rather large for businesses to absorb at the present time. This is one reason I supported the more moderate increase provided in the Taft-Dominick amendment.

The Bentsen amendment provides another reason for supporting Taft-Domi-

nick. It was placed in their amendment yesterday by the Senate, and makes it unlawful for Federal, State, and local governments to discriminate against employees because of their age in matters of pay and related employment conditions. I attempted to bring Government employees under the minimum wage program in my amendment yesterday, and I am happy the Bentsen amendment is now a part of the Taft-Dominick amendment.

I believe that the bill finally enacted by Congress and sent to the President will be closer to my position than to either the committee bill or the Taft-Dominick substitute. I believe it is unfortunate that the Senate rejected the moderate compromise that I proposed yesterday, for I believe that it would have provided the essential elements of an increased wage, expansion to cover some new employees without going as far as the committee bill, and my amendment provided a fair formula for slowly increasing the minimum wage on a regular basis so that these periodic large adjustments could be avoided.

There should be an increase now in the minimum wage. There should be an expansion to include more employees under its coverage, but these steps should be taken in moderation, particularly when overall economic well-being, unemployment, and inflation may all be affected adversely if we move too rapidly in these areas.

I have seldom opposed the committee on minimum wage issues, and I would have gladly supported its efforts had the provisions of the bill been somewhat more moderate.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair recognizes the Senator from Vermont (Mr. STAFFORD).

AMENDMENT NO. 1318

Mr. STAFFORD. Mr. President, I call up my amendment No. 1318 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistan legislative clerk read the amendment, as follows:

On page 18, strike out all after line 16, over to and including line 9 on page 19 and renumber subsection accordingly.

Mr. STAFFORD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the names of the Senator from Georgia (Mr. GAMBRELL) and the Senator from Indiana (Mr. BAYH) be added as cosponsors of the amendment.

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

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

Mr. STAFFORD. I am glad to yield.

Mr. RANDOLPH. Mr. President, it is my privilege to cosponsor with the Senator from Vermont (Mr. STAFFORD) this amendment to preserve the $250,000 gross sales test exemption for small businesses of our Nation, as contained in the present minimum wage law. I strongly endorse this proposal and I will vote for it.

The Senator and I have discussed this subject. We worked on it in the Committee on Labor and Public Welfare.

I want to express my genuine approval of the constructive effort that is being made by the Senator from Vermont. He seeks not to dilute this legislation—to make it less effective—but to bring into focus the realities of what small businesses actually are today and the problems involved in their operation. It is important that we recognize the value of the small business community to our country. I have always viewed such enterprises as not only vital to the economy and employment but also as a strengthening element in our society. We must insure that small businesses in every area have the opportunity to continue to serve the public.

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

Mr. STAFFORD. I appreciate the remarks of the Senator from West Virginia.

I yield to the Senator from New York.

Mr. JAVITS. I wish to supplement what the Senator has said by advising him that Senator WILLIAMS and I already have expressed our commitment to this amendment.

Mr. RANDOLPH. Mr. President, will the Senator yield further?

Mr. STAFFORD. I am happy to yield further.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, so that Senators can be heard?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, it is gratifying to know of the support of our distinguished chairman of the committee, Senator WILLIAMS, and of the distinguished ranking minority member, Senator JAVITS, for this amendment. It was in good purpose that we worked within the committee to bring to passage a reasonable, a fair, and a strong bill that will provide important improvements to the minimum wage law and strengthen our economy. We endeavor to recognize the realities of the dollar as it exists today and the size of a small business as contrasted to a large business, and the differing elements which now enter into the economic picture. While there were differing views on levels for the gross sales test, all members worked to bring forth a proposal under which a small business could operate. That is why the committee agreed to the phasing in of the $150,000 level in four steps. I am pleased that we are now advancing the proposal to preserve the $250,000 test—a position I supported in committee. This, in my opinion, further evidences our commitment to finalize a reasonable and fair measure.

I appreciate the general attitude of the members of our committee toward the support of the amendment that I am privileged to cosponsor with the able Senator from Vermont.

Mr. STAFFORD. I appreciate the remarks of the Senator from West Virginia.

Mr. President, this amendment is designed to restore the $250,000 gross sales test exemption for the small businesses of our Nation.

The committee bill S. 1861, would reduce the $250,000 gross sales test exemption in four steps of $25,000 each over a 3-year period. While I support most of the committee's decisions on this bill, I feel the action taken in regard to the small business exemption came without adequate consideration of the effects of inflation and other factors.

I do not believe, Mr. President, that it was the intention of the committee to be an instrument for the kind of action that would deal considerable and irrevocable damage to many small businesses of our Nation.

The amendment we have offered would specifically affect the small American retail and service merchants who employ more than 11 million persons and whose labor costs amount to two-thirds of their total operating expenses.

These small businesses are among the most competitive in our economy, and their margins of profit as well as their profit-per-worker are the lowest of any industry in our economy.

In addition, the rate of failure of these small businesses is already alarmingly high. Dun & Bradstreet has reported that 10,321 small businesses failed during 1971. Because of the nature of many small businesses, I am convinced that it is virtually impossible for these small businesses to absorb the impact of an increase in the minimum wage for their employees at this time.

This amendment is designed to give relief to the present problems and future operation of the so-called Mom and Pop neighborhood stores that continue to play such an important role in our society and economy.

Inflation and the competition of large chain stores are already taking their toll of these small businesses. Inflation has already automatically extended the coverage to many more small businesses since the $250,000 test was established by the amendments of 1966.

The Consumer Price Index has increased by 24 percent since 1966. That means that a small business that grossed $250,000 in 1967 would, without any real growth in volume, be grossing $310,000 at present. Likewise, in terms of 1966 dollars, the $250,000 exemption in the present law—and in our amendment—is equivalent to only $190,000 in 1972 dollars.

Inflation results in the gradual extension of minimum wage coverage of all workers, which is one of the goals of this legislation, although inflation is not. I am convinced it is more appropriate to have the workers employed by small businesses come under minimum wage coverage by this method, rather than through the drastic method proposed by S. 1861.

The amendment we have offered does not affect the committee's decision to eliminate the chain store exemption of the present law. Our amendment deals only with small businesses.

It should be noted that, during the discussion of this exemption in the committee, it was stated that each employee in a retail establishment was considered to generate $30,000 in gross sales of the business and that an employee in a service establishment would generate $11,-

000 worth of gross sales. These figures, provided by the Department of Labor, were in terms of 1967 dollars. When one looks at what inflation has done to the 1967 dollar, we see that the $30,000 per employee amount has increased to approximately $36,000 per employee in a retail small business and the service employee amount has jumped from $11,000 to $13,000-plus.

In view of the clear need for continuation of the present $250,000 exemption, I understand that the distinguished chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), and the ranking Republican member, the distinguished Senator from New York (Mr. JAVITS), may very well accept this amendment.

Mr. President, I urge its adoption.

Mr. WILLIAMS. Mr. President, we have had discussion of this amendment and it was understood that if the Taft-Dominick substitute was defeated, the Stafford amendment would be the first amendment to be taken up.

During today and the day before, I indicated, as manager of the bill, that I am supporting the move by the Senator from Vermont.

I think I should back up a little and explain what appears to be a change in position. The bill I originally introduced would have eliminated the small business exemption. Through the hearings and the executive committee consideration of the bill, I could see, with the inflationary forces at work, that the figure of $250,000, which is the law, in fact, in yesterday's dollars was being reduced and reduced and reduced so that the coverage, because of the factor of inflation, really was being expanded without any action by Congress.

We all know the struggles of small business, for a variety of compelling economic reasons. I have come to the point where I regret some employees will not be covered whom I would like to see covered but, on balance, this is, I believe, a wise answer and is in the best interests of the country.

So I do support the Senator from Vermont, not only support him but applaud him for his sensitivity to the needs of the small business communities, and certainly applaud him for his contribution during the hearings and executive sessions of the committee on the bill.

Mr. McGEE. Mr. President, will the Senator from Vermont yield me 1 minute?

Mr. STAFFORD. I am happy to yield 1 minute to the Senator from Wyoming.

Mr. McGEE. I want to say to the Senator from Vermont that those of us who come from low-population States with many small business communities owe him a great debt of appreciation for his leadership on this amendment. Those of us in the West try to understand the great problems that the urban areas of the country have. We try here to legislate for those problems, but very often the case, in fact, turns out to be that the solution to some of the problems creates new problems for us.

The consequences of the Senator's amendment will be to help us survive this new and laudable effort by the committee to make it possible for some of our small town businessmen in the small business communities to hang in there without suffering unfair setbacks in what is otherwise a noble intent so far as the committee bill is concerned.

I want to announce that I intend to support in every way, as a cosponsor, the efforts of the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the Senator from Wyoming.

I ask unanimous consent that the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. COOK), the Senator from North Dakota (Mr. YOUNG), the Senator from Nevada (Mr. CANNON), and the Senator from West Virginia (Mr. ROBERT C. BYRD) may be added as cosponsors of this amendment.

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

Mr. THURMOND. Mr. President, will the Senator from Vermont yield?

Mr. STAFFORD. I yield.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Vermont for offering this amendment. In my judgment, it is important for us to follow a course that will protect small business.

Every year we see business getting bigger and bigger. The little businessman is the backbone of this Nation. So I want to compliment the Senator from Vermont for offering his amendment and to ask him to add my name as a cosponsor of it.

Mr. STAFFORD. I shall be very glad to do so. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. BENTSEN), and the Senator from Florida (Mr. GURNEY) be added as cosponsors of this amendment.

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

Mr. STAFFORD. Mr. President, I now yield to the distinguished Senator from Ohio (Mr. TAFT).

Mr. TAFT. Mr. President, I thank the distinguished Senator from Vermont for yielding. I want to commend him for the amendment he has proposed. As a member of the Senate Small Business Committee, I certainly am familiar with the problems of small business in this country during the past few years with inflation. Specifically as it has been pointed out, the change here would be in the opposite direction from what the tendency of the bill would be, because actually the net effect of inflation on a $250,000 business is to reduce the coverage, or reduce the level of exemption from coverage in any event. So, I think it is an appropriate amendment.

I would point out, it is one of the important provisions of the substitute on which we just had a close vote here in the Chamber—one of the very important provisions of it. I would note, however, while businesses with revenues under $250,000; are correctly exempted, domestics also should be. I do not believe we should go into every home and tell every housewife who wants to employ domestic employees that she will be covered even though a businessman who may be doing a business of $250,000 will not be covered.

I bring that up now because at a later time I expect to make that argument when we offer the amendment again and attempt selectively to eliminate the domestic coverage which is impractical and unfair.

I am happy to support the amendment and urge its adoption.

Mr. PERCY. Mr. President, I support amendment No. 1318 offered by the distinguished Senator from Vermont (Mr. STAFFORD).

The amendment would retain the current $250,000 gross sales exemption for small businesses in this country rather than reducing that level to $150,000 as the committee bill provides.

Adoption of this amendment will help prevent another hardship being placed on many small businesses which are already having a difficult time in today's economic climate.

I feel that this amendment is a responsible approach to helping to resolve the problems of many small businesses and I support its adoption.

QUORUM CALL

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

The PRESIDING OFFICER. On whose time?

Mr. STAFFORD. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. 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. STAFFORD. Mr. President, I am prepared to yield to the Senator from Illinois (Mr. PERCY) if he desires some time.

Mr. PERCY. Mr. President, I have no time to request on this amendment.

Mr. STAFFORD. Mr. President, in that event I am prepared to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Vermont. 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 New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Oklahoma (Mr. HARRIS) and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) and the Senator from Arkansas (Mr. FULBRIGHT) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting the Senator from Utah (Mr. BENNETT) would vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[No. 282 Leg.]

YEAS—91

Aiken	Fong	Moss
Allen	Gambrell	Muskie
Allott	Goldwater	Nelson
Bayh	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bentsen	Hansen	Pell
Bible	Hart	Percy
Boggs	Hartke	Proxmire
Brock	Hatfield	Randolph
Brooke	Hollings	Ribicoff
Buckley	Hruska	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott
Cannon	Jackson	Smith
Case	Javits	Spong
Chiles	Jordan, Idaho	Stafford
Church	Kennedy	Stennis
Cook	Long	Stevens
Cooper	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McGee	Thurmond
Dominick	McGovern	Tower
Eagleton	McIntyre	Tunney
Eastland	Metcalf	Weicker
Ervin	Miller	Williams
Fannin	Mondale	Young
	Montoya	

NAYS—0

NOT VOTING—9

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Bennett	Harris	Sparkman

So Mr. STAFFORD'S amendment was agreed to.

Mr. RIBICOFF. Mr. President, I urge the Senate to adopt S. 1861, the Fair Labor Standards Amendments of 1972 This legislation, which would raise the minimum wage to $2 an hour immediately and to $2.20 an hour 1 year from now, is of vital importance to millions of American workers.

We have heard a lot of discussion recently about welfare, workfare, and the fight against poverty in America. This bill—S.1861—would do as much to help end poverty as any proposal before Congress by bringing 6.1 million American workers, their families, and dependents out of poverty. Raising the minimum wage for working Americans is the best antipoverty program ever devised.

This landmark legislation would also extend the coverage of minimum wage protection to an additional 8.4 million workers including 1.2 million domestics and millions of workers in agriculture, retail, service, and manufacturing. In the past the income of these workers has often been so low that welfare has been their only alternative for subsistence.

The situation of domestics, not presently covered by any form of minimum wage law, illustrates the problem confronting the working poor.

In 1969, the median annual income for a full-time domestic, including all forms of public assistance payments, was $2,072. The poverty level that year was close to $4,000. Fifty-seven percent of all domestics had total cash incomes of less than $1,000.

Because the overwhelming majority of domestics are black females living in broken homes, the struggle to provide for their families is a desperate one. Their wages are so low that many of them must accept welfare to supplement their wages and some are forced to rely on welfare entirely. The total number of domestics decreased between 1960 and 1970 by almost a million.

By providing these and other Americans with a wage which pays at least a poverty-level income, we will reduce the welfare rolls and provide an adequate income through work. The taxpayer will be relieved of the burden of subsidizing substandard wages through the welfare system. Yet, while some 6 million workers would receive wage increases when S. 1861 becomes effective, the annual wage bill overall would be increased by only .4 of 1 percent. The increase represents less than .3 of 1 percent of the total gross national product.

No part of welfare reform is more important than enabling those already working to get off welfare.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 3323) to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3442) to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and purposes, with amendments, in which vaccination assistance and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6204. An act for the relief of John S. Attinello; and

H.R. 10012. An act for the relief of David J. Foster.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 473) to amend the Automobile Information Disclosure Act to make its provisions applicable to the possessions of the United States.

The ACTING PRESIDENT pro tempore (Mr. METCALF) subsequently signed the enrolled bill.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the Judiciary:

H.R. 6204. An act for the relief of John S. Attinello; and

H.R. 10012. An act for the relief of David J. Foster.

FAIR LABOR STANDARDS AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, to provide for an 8-hour workday, and for other purposes.

Mr. PERCY. Mr. President, I send to the desk an amendment, which I call up.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment proposed by Mr. PERCY for himself, Mr. BOGGS, and Mr. PEARSON, as follows:

On page 21, line 16, strike out "year" and insert in lieu thereof "two years".

Mr. PERCY. Mr. President, earlier today I voted against the substitute and for the committee provisions which would increase the minimum wage to $2 upon the effective date of the act and to $2.20 1 year later. I believe that the desire to help low-income workers achieve and maintain a decent standard of living within the free enterprise system is best served by the committee bill.

The present minimum wage of $1.60 an hour only yields a full-time worker $64 in gross income per week or $3,200 a year—over $800 below the poverty level. A $2 minimum wage would only yield $4,000 a year—just at the poverty level for a family of four. Actually, for a family of four to escape the poverty level, a minimum wage of $2.08 would be necessary today.

What has happened is that inflation has so eroded the value of the dollar since 1966, the date the minimum wage was last amended, that a substantial increase in the present rate is necessary just to permit low-income workers to earn enough to provide themselves and their families with the barest necessities of life. To not take this action will simply continue to overburden public welfare which business and individuals pay for out of tax revenues.

Even at this new "higher" level, the minimum wage is a wage level so low that under existing law not a penny of Federal taxes would be paid by the wage earner.

However, Mr. President, although recognizing the need for an increase in the minimum wage, I am worried about the impact it would have on business adjusting to it. I think that employers generally are aware of and prepared for an increase in the minimum wage on the effective date of this bill. But I am not sure that a second increase a year later in employees covered prior to 1966 is wise. I think this might be putting too high a cost burden on business too soon.

For that reason, Mr. President, my amendment, although retaining the committee provision extending the minimum wage eventually to $2.20 would delay the jump from $2 to $2.20 for 2 years. The minimum wage would become effective 2 years after effective date of the bill, rather than 1 year.

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

Mr. PERCY. I am happy to yield to my colleague from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a brief quorum call, without the time being charged to either side, and that immediately after the quorum call the Senator from Illinois may resume the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PERCY. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 21, line 16 strike "year" and insert in lieu thereof "eighteen months."

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The matter of when the $2.20 should take effect has been a matter of considerable discussion, and I feel that the closeness of the vote on the substitute certainly shows that there is a considerable amount of concern on that score.

I have discussed this matter in detail with the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), and we are willing, not that we thought there was any imperfection in our argument respecting the $2.20 or in the committee's action, under the circumstances, out of deference to the views of a number of our colleagues that the $2.20 comes too soon in terms of the size of the increase, to extend the effective date of that increase from 1 year to a year and 6 months later; and with that in mind, Mr. President, I have proposed this amendment for myself. I have not, as a matter of fact, asked my colleague the Senator from New Jersey as to whether he wished to join in it, but that is not material. I feel he is with me on it, and I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I concur in the logic of the able and distinguished Senator from New York, and I wish to join with him, if it is agreeable, as a cosponsor of his amendment.

Mr. JAVITS. Mr. President, I certainly appreciate that, and I ask unanimous consent that the names of the Senators from West Virginia (Mr. RANDOLPH and Mr. ROBERT C. BYRD) be added as cosponsors of the amendment.

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

Mr. JAVITS. Mr. President, I am prepared to yield back the remainder of my time on this amendment, if the Senator from New Jersey will yield back the time in opposition.

Mr. WILLIAMS. I yield back our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

Mr. PERCY. Mr. President, in lieu of the language proposed by the Senator from New York, I propose as a substitute the language which I now send to the desk.

The PRESIDING OFFICER. The substitute amendment will be stated.

The assistant legislative clerk read as follows:

In lieu of the language proposed by the Senator from New York, Mr. JAVITS, insert the following: on page 21, line 16, strike "year" and insert therein "two years."

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment of the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, in the comments that I made earlier in connection with my amendment, I gave the basic underlying reasons why I feel that it is necessary. I would simply like to expand on those reasons for an additional minute or two.

My amendment, now in the form of a substitute, although retaining the committee provision extending the minimum wage eventually to $2.20 would delay the jump from $2 to $2.20 for 2 years. The $2.20 minimum wage would become effective 2 years after effective date of the bill, rather than 1 year.

Mr. President, this amendment would not affect the phase-in of the minimum wage for nonagricultural employees covered by the 1966 or 1972 law for the first time, nor would it affect agricultural employees. It would affect only those employees covered prior to 1966 who are scheduled to go to $2 upon the effective date of the act and to $2.20 a year later. What this would mean in actuality is that all nonagricultural employees, both those covered prior to 1966 and those covered for the first time in the 1966 or 1972 acts, would get to a minimum wage of $2.20 at the same time, 2 years after the effective date of the act.

Mr. President, I feel that this amendment would enable employers to adjust somewhat more easily to the impact of the minimum wage and I recommend it to my colleagues. It is my hope that the managers of the bill might be willing to accept this amendment and will see its justice.

Mr. WILLIAMS. Yes. Mr. President, it impresses me that the amendment of the Senator from Illinois presents a realistic time frame. We are going, 60 days after the enactment, under the terms of the bill, to $2 for 1 year and the bill as presented brings it thereafter to $2.20. Extending the period of adjustment another year before reaching the $2.20, as a practical matter, suggests a great deal of merit to me as manager of the bill, and I support it.

Mr. BOGGS. Mr. President, I am most pleased to join with the distinguished Senator from Illinois (Mr. PERCY) in offering this amendment.

It strikes a reasonable middle ground, I believe, between the provisions of the committee bill and the provisions of the substitute which was just defeated. The bill, as it now stands, would provide an immediate increase to $2 an hour, with a further increase to $2.20 coming 1 year later, for most employees. Those employees newly covered by this bill and those newly covered by the 1966 act would have their minimums increased to $1.80 now, $2 next year, and $2.20 the year after.

This amendment would put all these covered employees on the same footing next year, instead of in 1974.

Mr. President, I believe we should strive in this legislation to correct inequalities that exist, but that we should be ever mindful of the specter of inflation which troubles our country. The increase from $1.60 to a $2 minimum very nearly matches the rate of inflation since the last minimum wage legislation was passed in 1966.

To be anxious to go far beyond that level at this point would be, I believe, courting inflation. We should provide equity now, and also provide more reasonable breathing space before the next increase.

This amendment would accomplish that. It is, I believe, good and responsible legislation taking into consideration both the needs of the working poor and the problems of inflation.

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Illinois. 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 New Mexico (Mr. ANDERSON), and the Senator from Louisiana (Mr. ELLENDER), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT) would vote "yea."

The result was announced—yeas 87, nays 6, as follows:

[No. 283 Leg.]

YEAS—87

Aiken	Gambrell	Nelson
Allen	Gravel	Packwood
Allott	Griffin	Pastore
Bayh	Gurney	Pearson
Beall	Hansen	Pell
Bellmon	Hart	Percy
Bentsen	Hartke	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Ribicoff
Brock	Hruska	Roth
Brooke	Hughes	Saxbe
Buckley	Humphrey	Schweiker
Burdick	Inouye	Scott
Byrd, Harry F., Jr.	Jackson	Smith
Byrd, Robert C.	Javits	Sparkman
Cannon	Jordan, Idaho	Spong
Chiles	Long	Stafford
Church	Magnuson	Stennis
Cook	Mansfield	Stevenson
Cooper	Mathias	Symington
Cotton	McClellan	Taft
Cranston	McGee	Talmadge
Curtis	McGovern	Thurmond
Dole	McIntyre	Tower
Eagleton	Metcalf	Tunney
Eastland	Miller	Weicker
Ervin	Mondale	Williams
Fannin	Montoya	Young
Fong	Moss	
	Muskie	

NAYS—6

Case	Goldwater	Kennedy
Dominick	Harris	Stevens

NOT VOTING—7

Anderson	Ellender	Mundt
Baker	Fulbright	
Bennett	Jordan, N.C.	

So Mr. PERCY'S amendment to Mr. JAVITS' amendment was agreed to.

Mr. PERCY. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JAVITS and Mr. STAFFORD moved to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to sundry committees, and withdrawing the nomination of Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board.

FAIR LABOR STANDARDS AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, to provide for an 8-hour workday, and for other purposes.

The PRESIDING OFFICER (Mr. STEVENSON). The question now recurs on agreeing to the amendment of the Senator from New York as amended by the Senator from Illinois.

The amendment as amended was agreed to.

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend committee substitute as follows: On page 25, line 21 strike the following: "in such subsection" and insert in lieu thereof the following: "in subsection (b) of this section".

Mr. ALLEN. Mr. President, this is merely a technical amendment, because the bill as drafted does not carry into effect the intent of the committee.

The committee substitute would provide that any restaurant or any concern having a Government service contract would have to pay all of its employees, whether involved in Government service contract work or not, the full $2 minimum, starting with the effective date of the act, whereas all competitors of such business would be at the $1.80 level. The mere fact that a company has a portion of its business in Government service contract work would require that all employees, whether engaged in Government service contract work or not, would receive the full $2, whereas the competition in the restaurant business—and I will use that business as an example—would be paid at the $1.80 level.

Mr. President, I have in mind a company that has some 250 establishments and three of those are engaged in Government service contracts. Yet in 247 of those establishments there are no Government service contract employees. They would nevertheless be paid the entire $2 an hour, whereas the competition next door would be paid at the $1.80 level.

Mr. President, I have discussed this amendment with the distinguished chairman of the committee, the manager of the bill, and I believe he will state to the Senator that he is willing to accept the amendment.

Mr. WILLIAMS. Mr. President, the Senator is correct. The bill should reflect our intention to go to coverage at the rate that newly covered employees reach the maximum rate.

Mr. ALLEN. It would put all employees on the same basis that do the same type of work.

Mr. WILLIAMS. The Senator is correct. I express my appreciation to the Senator from Alabama for pointing out this inadvertence in the bill.

Mr. President, we accept the amendment.

Mr. JAVITS. Mr. President, we accept the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the Senators.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. PERCY. Mr. President, I send to the desk an amendment on behalf of myself, and Senators MATHIAS, PEARSON, BOGGS, BENTSEN, and STAFFORD.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk read as follows:

On page 17, line 15, strike "40" and insert therein "50".

Mr. PERCY. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask for the yeas and nays on the amendment of the Senator from Illinois.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, I heartily support the amendment of the Senator from Illinois and urge its adoption.

Mr. PERCY. Mr. President, I thank the Senator from Vermont.

Mr. President, I offer the amendment to restore the tip credit from 40 percent as written in the committee bill to its current level in the law of 50 percent.

Under current law, an employer may determine the amount of tips received by a tipped employee and may credit that amount against the applicable minimum wage, but the amount so credited may not exceed 50 percent of the minimum wage.

The committee bill reduces the tip allowance against the minimum wage from 50 to 40 percent of the minimum wage, requires employer explanations to employees of the tip credit provisions, and requires that all tips received be paid out to tipped employees. In addition the committee bill establishes an overtime provision for the first time for restaurant employees. In current law there is no overtime provision of such employees. Overtime would be required from hours over 48 on the effective date of the bill, 44 hours after the first year, and 40 hours after the second year.

The combination of these committee actions imposes substantial new higher costs on restaurants and food service operations. The combination of the $2.20 minimum wage and the reduction in the tip credit alone—not even considering effects of the new overtime provisions—would increase restaurant employees' minimum wage 60 percent within the next year.

Mr. President, I feel this increase is too high. I do favor raising the minimum wage and feel that overtime provisions are justifiable for restaurant employees, but I believe that the additional requirement in the bill in changing the tip credit from 50 to 40 percent is too much of a burden for restaurants in 1 year.

Therefore, Mr. President, my amendment would simply keep the tip credit provision as it exists in current law—50 percent. This will still result in a first year minimum wage increase for restaurant employees of 37.5 percent, no slight

amount, but it will not impose a 60-percent minimum wage increase.

Mr. President, I think this brief explanation of my amendment is sufficient. It is my hope that the managers of the bill would accept this amendment as I feel that it makes good sense and is justifable.

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

Mr. PERCY. I yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I state to the Senator from Illinois that I favor his amendment. I think it is an excellent amendment. As I understand, it merely leaves in the 50-percent tip credit rather than reducing it to 40 percent.

Mr. PERCY. The Senator is correct.

Mr. ALLEN. However, it still provides the applicable minimum wage.

Mr. PERCY. The Senator is correct.

Mr. ALLEN. Mr. President, on behalf of myself and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), I ask unanimous consent that he and I be added as cosponsors of the amendment.

Mr. PERCY. Mr. President, I am delighted to have the Senator from West Virginia and the Senator from Alabama as cosponsors of my amendment.

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

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

Mr. PERCY. I yield.

Mr. JAVITS. Mr. President, does the Senator's amendment leave in that provision of the bill which requires that the tip benefits actually go to the employee. That provision was included by us in the bill. The Senator would raise the allowance figure back to what it is at the present time. We have in the bill a provision which required the actual delivery of the tip to the worker. The Senator leaves that provision in.

Mr. PERCY. The Senator is correct.

Mr. JAVITS. That is fine. Mr. President, I support the amendment and hope that the Senate will agree to it. I think again that it is one of those necessary corrections in the bill which develop when the detailed economic interests of individual States and under individual situations become clear and gives the manager of the bill a concept as to the broad field involved.

I deeply feel that the Senator had this interest in heart and I am in favor of the amendment and I support it.

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

Mr. PERCY. I yield.

Mr. WILLIAMS. Mr. President, it is important, as the Senator from New York just noted, that the notice and the delivery provisions remain as they are in the bill. This amendment would restore the tip credit to 50 percent, although we had reduced it. I believe the most important aspects are retained, and I support restoring the tip credit to 50 percent.

Mr. PERCY. Mr. President, I commend the committee for what it did in that respect. I very much appreciate the support of the managers of the bill for my amendment. I feel it is a just provision. Certainly acceptance of this amendment was very important I felt. Although it was included in the substitute I did not feel that the Dominick substitute was acceptable as a whole.

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

Mr. PERCY. I yield.

Mr. TAFT. Mr. President, I believe this amendment is very much in order and is very appropriate. From conversations I have had with employers I believe it is absolutely vital. I think it would be extremely disruptive of the entire industry.

For that reason, the Senator from Colorado and I proposed a change in committee. The substitute I would note included basically the provision that the Senator is proposing and I will support it.

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

Mr. PERCY. I yield.

Mr. DOMINICK. Mr. President, the Senator from Ohio (Mr. TAFT) said that this is another example of an amendment which we brought up in committee and tried to get through, as in the case of the small business test that the Senator from Ohio and I offered, and got voted down again.

I am happy to see that the managers of the bill are changing their minds. I wish they had done it earlier.

Mr. PERCY. Mr. President, I am aware of the fact that in committee the Senator thought this provision was important. In my remarks I commended him for the work he is carrying on and I stated why I felt the committee bill was not entirely acceptable, but I thought it was a better base from which to work than the Dominick substitute.

I appreciate the fact that the justice of this provision was fought for by the Senator from Colorado in committee and I appreciate his consistency in supporting this provision.

I have one last request to make. The three provisions I felt needed to be modified in the committee bill—one with respect to small businesses, one with regard to restaurant and food services, and one with regard to the 1-year stretchout so that the impact of the minimum wage would not be so severe—have now been provided for. I ask unanimous consent that my name be added as a cosponsor of the Stafford amendment which I supported on the floor.

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

Mr. PERCY. Mr. President, 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 Illinois. 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 Nevada (Mr. BIBLE), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Louisiana (Mr. ELLENDER) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting the Senator from Utah (Mr. BENNETT) would vote "yea."

The result was announced—yeas 89, nays 1, as follows:

[No. 284 Leg.]

YEAS—89

Aiken	Gambrell	Muskie
Allen	Goldwater	Nelson
Allott	Gravel	Packwood
Bayh	Griffin	Pastore
Beall	Gurney	Pearson
Bellmon	Hansen	Pell
Bentsen	Hart	Percy
Boggs	Hartke	Proxmire
Brock	Hatfield	Randolph
Brooke	Hollings	Ribicoff
Buckley	Hruska	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
	Inouye	Scott
Byrd, Robert C.	Jackson	Smith
Cannon	Javits	Sparkman
Case	Jordan, Idaho	Spong
Church	Long	Stafford
Cook	Magnuson	Stennis
Cooper	Mansfield	Stevens
Cotton	Mathias	Stevenson
Cranston	McClellan	Symington
Curtis	McGee	Taft
Dole	McGovern	Talmadge
Dominick	McIntyre	Thurmond
Eagleton	Metcalf	Tower
Eastland	Miller	Tunney
Ervin	Mondale	Weicker
Fannin	Montoya	Williams
Fong	Moss	Young

NAYS—1

Chiles

NOT VOTING—10

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Kennedy
Bennett	Harris	Mundt
Bible		

So Mr. PERCY's amendment on page 17, line 15, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 16, line 7, beginning with the word "including" strike all through the word "babysitter)" in line 8.

Mr. TAFT. Mr. President, this amendment which would strike the added coverage of the committee bill for domestic employees. It does so by taking out the language on page 16 which includes in the definition of employee as an individual employed by an employer, including any individual employed in domestic service other than a babysitter.

The arguments in support of this particular amendment have been made in

connection with the substitute proposed by the Senator from Colorado and myself, and I do not intend to belabor them at any great length here. I do, however, intend to ask for a rollcall vote, and at this time I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, the question of the propriety and legality of covering domestic help was raised and discussed at great length in the committee, and I would like to address myself first to the question of the constitutionality of this particular provision. I believe the Senate does have a responsibility in this connection, and I think we ought to examine the question very carefully, for I feel that if the Senate acts in this case to include domestic employees under the commerce clause, there is absolutely no limit to which the commerce clause may go in regulating the lives of every American.

I think there is no legal basis for it. I think it is unconstitutional. I realize ultimately the constitutional question is up to the Supreme Court, but I do not see why we should burden the Nation's housewives with possible sentences until the question is decided.

I have cited, in the minority views, the case of United States against Oregon State Medical Society, which was affirmed by the Supreme Court in 1952, in which the Court said:

> The practice of medicine as conducted within the State of Oregon by doctors of Oregon, including defendants, is not trade or commerce within the meaning of Section 1 of the Sherman Anti-trust Law . . . nor is it commerce within the meaning of the constitutional grant of power to Congress "to regulate commerce * * * among the several states."

Well, if physicians who are using in their practice medicines and equipment that comes across State lines, cannot be said to be affecting interstate commerce, how in the world can we arrive at the conclusion that someone who comes in to help a houswife who needs some additional assistance and help in her own home be covered?

The arguments advanced by the majority report related to a case which arose under the civil rights law, and related to a restaurant. With regard to that case, *Katzenbach* v. *McClung*, 379 U.S. 294, the Court said:

> Of course, the mere fact that Congress has said when particular activities shall be deemed to affect commerce does not preclude further examination by this Court. Where we find that the legislators, in the light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end.

I agree with that basic proposition. As a matter of fact, I was in the House of Representatives and was representing that viewpoint with regard to the application of the civil rights laws involved when we passed those laws, and I have backed that position since. But the question remaining, under this concept, is whether there is here a rational basis to extend coverage under the commerce clause.

In Katzenbach, there was an area of testimony that discrimination in restaurants had a highly restrictive effect upon interstate travel by Negroes. The restaurant in concern in the Katzenbach case, Ollie's Barbecue, was located only 11 blocks from a State highway. Additionally, 46 percent of the meats purchased by the restaurant were procured from outside the State. I think this is an open and shut case, and there is no question about its coming under the commerce clause. But that case has absolutely no relationship to the case we are talking about with regard to commerce.

Moving from the question of constitutionality, I think we have a number of other really serious practical questions involved here. I am sure all of us are familiar, as a matter of judicial notice or at least congressional notice, with the fact that the coverage of domestics under the social security law and under the Federal income tax law, which I approve of, and I think is desirable and necessary. Nevertheless the enactment of these laws have resulted in a very, very widespread degree of first, confusion; second, frustration; and third, avoidance of the tax entirely by many individuals. I believe the result of these laws have resulted in direct evasion in many instances, perhaps sometimes legal evasion, by virtue of the fact that the individual employee does not work for one employer long enough to qualify for coverage under the Social Security Act.

If we see a great degree of evasion and avoidance—there will be regulations, instructions, and bulletins, which the housewife will promptly put in the wastebasket and forget, and then feel greatly frustrated at not knowing whether she is obeying the law or whether she can or cannot hire an individual to provide services.

It is true, of course, that babysitters are excluded by the terms of the committee bill, and that is fine; they ought to be excluded. As a matter of fact, we should not even think about the situation with regard to bringing babysitters under coverage. The employment is transitory and infrequent, and I think in a way it is like that of newsboys, who also are continued to be exempted, although there is some question, I think, psychologically, whether if you cover domestics you should not cover newsboys as well.

Many of us may not realize that much of the domestic service in this country—I do not know what percentage of it—is directed toward taking care of older people, living in their own homes, who need additional help to have the proper nutrition. In this session of Congress, we have acted in our committees and on this floor to provide a hot meal program for the older citizens of America and to provide funds and encouragement for people to go into this type of activity. This would be domestic service, in large part. By adding to that cost today, we are going to increase tremendously the cost of taking care of our older people, perhaps force into nursing homes some of them who otherwise could be taken care of perfectly well in their own homes.

I feel sympathy for the domestic who is underpaid, but these problems have to be examined in balance. I think the answer, in the long run, for the domestic who is underpaid is to turn to other professions, which is what has happened. By enacting coverage of domestics, I do believe the Congress will have made a mistake.

We are talking about equitable considerations as balanced against the rights of the individual employee. Let us see how this would be discriminatory to the women of this country, because we are concerned about that. I cannot think of anything more discriminatory to the individual housewife, insofar as this is concerned, than when we say we are not going to cover establishments in which the business done is less than $250,000 a year; yet, we are going to cover every household in the country.

I think that the entire concept, while it pulls on the heartstrings, perhaps, is ill-considered and ill-timed and does not merit the favorable consideration of the Senate.

For that reason, I have offered this amendment today and have asked that the Senate vote upon it. It is not included in the House bill. I anticipate that it will be a major issue in conference, if it should remain in the Senate bill.

Mr. DOMINICK. Mr. President, will the Senator yield me some time on this amendment?

Mr. TAFT. I yield 10 minutes to the Senator.

Mr. DOMINICK. I want to start out by asking the distinguished Senator from Ohio if he would mind adding my name as a cosponsor on the amendment.

Mr. TAFT. I would be very glad to have the Senator from Colorado as a cosponsor.

Mr. President, I ask unanimous consent that the name of the Senator from Colorado be included as a cosponsor of the amendment.

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

Mr. DOMINICK. Mr. President, I am not sure how many Senators are listening carefully to this debate, and I think that is unfortunate, because it is an extremely important amendment. It seems apparent that these problems are complicated by the other work of the Senate—work in the offices, work in committees. Yet, we are dealing with things which are really of vital concern to the American public.

We are dealing here with a subject which concerns not only the domestic workers themselves but also every household which finds a need for bringing people in to assist them either in cleaning once a week or in doing laundry once a week or whatever.

The question in my mind, as the Senator from Ohio brought up originally, is this: Where does Congress get the power to say that a cleaning woman is within the interstate commerce clause? That is the only constitutional basis for extending any Fair Labor Standards Act coverage to domestics. The committee report is very interesting in this respect, and I want to read from it. It says:

> The additional question of the constitutionality of coverage of domestics was raised. The committee found that domestics and the equipment that they use in their work are directly in interstate commerce. For ex-

ample, vacuum cleaners are produced in only six States, laundry equipment is produced in only seven States, creating a tremendous flow of equipment of these items used daily by domestics.

In addition, employment of domestics in household frees time for the members of the household to themselves engage in activities in interstate commerce.

Mr. President, I have heard some farfetched statements in my career in the Senate, but I think that is about as farfetched as anything I can think of. To say that someone who may come in with a mop, not even use a vacuum cleaner, and try to help a housewife clean, or whatever it may be, and say that because that housewife has a vacuum cleaner in her house, the maid is going to be in interstate commerce, goes beyond any possible stretch of the imagination. All I can say is that if domestic workers as such are in interstate commerce by virtue of the fact that a householder has a vacuum cleaner in her house, then the commerce power has no limits whatever and the Federal Government can do whatever it wishes. I think the committee report on this is totally unbelievable.

I would say in conjunction with the distinguished Senator from Ohio, therefore, that if this question should be tested in court, there is no doubt in my mind that the court would rule on the side of the Senator from Ohio and myself.

But let me put up another question, which I do not think was even considered by the majority of the committee. We have just started an organization in Colorado—started by older, retired people—called Home Sitters, Inc. It is an incorporated business. They go to people who are going away—in this day of trouble, with crime and burglary and the rest, people do not want to leave their houses unguarded—and they sit in the house. They call themselves home sitters. This is domestic service. What do they do? They stay in the home. They water the plants and flowers, such as there are. They are supposed to get $10 per day. They are there for 24 hours, or let us say they are there for only 12 hours. Actually, they will be there 24 hours. This is considerably less than any minimum wage.

Mr. TAFT. Mr. President, will the Senator yield on that?

Mr. DOMINICK. I am happy to yield.

Mr. TAFT. In my personal experience, I have known of a similar occupation such as a pet sitter or a dog sitter or a cat sitter.

Mr. DOMINICK. That is absolutely true. The Senator is correct. They are obviously performing a domestic service, because they are taking care of the pets or the house or whatever it may be.

They get $10 a day. This is much below the minimum. And they do not want to get any more than that. Why? Because if they do, they are beyond the limit of social security, and they are penalized in their social security payment.

So if we have to pay a retired group of people of this kind the minimum wage, they are going to get over the limit during the process of the year, and thereby the social security benefits, for which they have been paying all their working lives, will be cut back, and they will not have that income, even though they have in fact been providing a useful service to the people in the country.

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

Mr. DOMINICK. I yield.

Mr. ERVIN. Does this bill bring all domestic employees under the coverage?

Mr. DOMINICK. Yes.

Mr. ERVIN. If a housewife does not keep the kind of records required by the regulations, she would be subject to criminal prosecution in the Federal courts or to a jail sentence.

Mr. DOMINICK. That is correct. I brought these points up in committee, and so did Senator TAFT. We got overruled again in committee, as we were on these fairly important amendments.

I am very much in favor of the amendment. We are totally outside our bounds in trying to include domestics within the interstate commerce clause. How anyone coming in to clean a household can be said to substantially affect interstate commerce is more than I can understand.

I urge support of the amendment.

Mr. TAFT. Mr. President, I have had called to my attention two conforming amendments which will be necessary if this amendment is to be adopted.

Therefore, at this time I ask unanimous consent to modify the amendment, to change it by adding the following language:

On page 25, line 24 strike all through line 5 on page 26.

On page 35 strike lines 3 and 4.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered. Will the Senator please send the amendments to the desk?

Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. I suggest that the time be without charge to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this is really one of the key elements of the bill. With relation to those who need it the most, it is probably the key element of the bill insofar as extension of coverage is concerned.

There is no question about the fact that these are employees who are not considered like other categories of employees—unhappily for all of us, because I think it tends to diminish the supply of this kind of help which is so urgently needed—and have suffered in many ways. For a long time they were not on social security. They have not been under the minimum wage. Even now, we are not covering them for overtime. They have many difficulties.

Like many people in the country that hire the necessary domestic help, my own family does. It has been my conviction for a long time that we should realize that they are employees and make them feel that they were no different, but call them Mr., Mrs., or Miss, as the case may be, and treat them no differently from anyone who worked in a bank or anywhere else. It would be very nice if it were handled in that way. However, we demean their work otherwise.

This is a long and tortuous step in the progress of mankind to give dignity to a calling which has every right to have dignity. They are people in one's own home. They handle the food one's family eats. They should have as much dignity and be as elevated as any other profession. This measure is an attempt to do that. What are the objections to it?

The objection cannot be that the $2 minimum wage is too high. The fact is that they are grossly underpaid.

Everyone who knows the problem of hiring help realizes that a $2 wage is not too high when one considers the amount of work done. They run around the house and stand on their feet for 5 or 6 hours a day and are serving people and cleaning the house. It is not easy work. We wish people who do this work to have a presentable appearance and to be comfortable and not feel that they have to starve or eat the remnants of the family food in order to have a decent meal.

I cannot see any argument about the minimum wage as such.

The argument is made that it is inconvenient. We have tried to deal with this by exempting these workers from the overtime provision.

The argument is made that one has to keep a lot of records. Well, one has to keep a lot of records now for social security. The fact that people do not keep those records does not excuse them. It does not mean, because they are violating the social security law, that we should exempt them from the minimum wage law.

Therefore, I believe that unless we repeal the social security coverage, the argument that it is inconvenient for a housewife to keep records falls upon very questionable grounds.

To give the Senate the benefit of my own experience, my wife does not like to keep records either. We do not have too many people employed at home. I keep the records. And every 3 months my office is under the responsibility to find out what they are paid, to look at the check book. And my office will write up the return and send it up. Sometimes I have to hand carry it to get Mrs. Javits to sign it. This is a very human experience. It is not burdensome. It takes someone with a regularized practice to keep the records. A man with an ordinary job does his own income tax return.

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

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Sen-

ator from New York is recognized for an additional 2 minutes.

Mr. JAVITS. Mr. President, it certainly is not fair to deny the benefits to the section of the population which needs it the most.

So, again I wish to repeat what I have said many times before. There is no question about the solicitude of the Senator from Ohio or any mover of such an amendment. These people go in homes and work there. The Senator from New Jersey and I and other Senators believe we should pay these people the minimum wage. We have this difference existing. That is why we have to vote. I believe that the case for coverage of these employees is very strong.

In the State of New York we have covered such employees under the minimum wage. When it was sought to cover them, the same fears were expressed concerning recordkeeping and other inconveniences. These employees have been covered for the last 2 years. I do not know of any upset or of anyone being prosecuted because the employees were not being paid inadequately or anything like that.

So, based upon experience, based upon need, and based upon practical human operations in the home, I believe that domestics should be written in under the provisions of this bill for minimum wage coverage.

I hope that the Senate will therefore reject the amendment.

Mr. WILLIAMS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 3 minutes.

Mr. WILLIAMS. Mr. President, I believe that the Senator from New York has addressed himself to all the compelling reasons for the rejection of this amendment and for the retention of domestics in coverage under this minimum wage bill.

Certainly every index of the income indicates that the people in these occupations are some of the lowest paid employees in our country today. This represents a group of people, the domestic workers, who without this legal protection added to their daily working life will increasingly become a national burden through their need to join the welfare roles.

The median income for a full-time domestic in 1969 was $1,926 a year. This is far below what an individual needs for just a minimum standard of living. Eighty-one percent of all domestics reported total cash incomes of under $2,000 a year.

In March 1970, more than 200,000 women—and I should point out that 97 percent of all domestic workers are women——

Mr. TAFT. Mr. President, will the Senator yield at that point?

Mr. WILLIAMS. I yield.

Mr. TAFT. Mr. President, I would like to ask the chairman, with regard to that figure, whether there is any indication there as to the hours of work to which that relates. I note that in the committee report it mentions the figure of $1,900 and some-odd. However, there is no indication of the hours worked.

Mr. WILLIAMS. Mr. President, the figure I have is that it represents 1,500 hours a year. And that is well under the minimum.

Mr. President, as of March 1970, more than 200,000 women, and I should point out that 97 percent of all domestics are women, were the sole aides of their families. Almost three-fifths of the female heads of families, reporting for their families and holding such occupations during the year 1969, had incomes below the Federal established poverty level of $3,743 for a family of four.

Certainly we must know that the number of persons employed as domestics is going down. As a matter of fact, within the last 12 years the number of people who are in the employment market as domestics has been halved. This is at a period when there is an increasing demand for domestic help.

We know as we work here that the number of women we rely on to staff our committees and our offices in order to come to their employment must have some domestic helping them out back in their homes.

This is true throughout the country. I believe that half of the people employed in this country are women, and in order for women to go to their employment, they are in the market for domestic help to take care of their houses. I think that this is one of the compelling reasons why we should see the domestic employee as an integral part of our national economy.

We do not have to twist and turn and fabricate a tenuous relationship with interstate commerce. Our national economy in good measure depends upon the availability of domestic workers.

Certainly, the Senator from New York has fully described the need here to bring this legal protection to a group of workers who historically have not been given the full dignity they should have. This occupation of domestics, I think, can be lifted out of the servant category and into a recognition of employment that has dignity and value. Certainly anybody working in this employment as a domestic should have an opportunity to make a living wage.

For all these reasons I hope this historical step will be taken—for the very poor, for a group of people who are mostly women, whom we all rely on so much for the stability of our households in their employment as domestic workers.

Mr. DOMINICK. Mr. President, will the Senator yield to me for 2 minutes?

Mr. TAFT. I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I listened with great care to the Senator from New York and the Senator from New Jersey. In effect what both of them were saying is, "We wish wages were higher for people." I do not think anybody would deny that. I cannot see any argument about that. An awful lot of people wish the same thing, including me. But the thing I think has not been resolved here is: What is to be done about retired people? Is it to be required that they be paid the minimum wage? They would be penalized in their social security benefits so they could not take on these jobs and pick up this extra money they need to supplement their incomes. Second, I think every housewife is going to have difficulty finding anyone who will work when they know the amount of their wages will be turned in and records kept. The Senator from New York may have an organization that keeps records and sends out checks, and many people in New Jersey are paying cash and not reporting anything. I have heard a great many of my friends say there is no way to get anybody if they paid by check because of the Internal Revenue Service.

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

Mr. DOMINICK. I urge support of the amendment.

Mr. WILLIAMS. Mr. President, S. 1861 would extend minimum wage coverage of the Fair Labor Standards Act to approximately one-and-a-quarter-million domestic service employees.

Babysitters are exempt from this coverage, and all newly covered private household domestics will be exempt from overtime coverage.

This aspect of S. 1861 is very straightforward.

It offers us an opportunity to assure a fair wage for Americans willing to work for a living, many of whom are forced to rely on welfare despite a full year's work.

It offers us a simple choice—a living wage or continued reliance upon public assistance for domestic service employees and their families; a fair and decent wage or the public dole.

In my judgment, coverage of domestics is needed as a reasonable alternative to the continuing blight of public assistance to thousands upon thousands of working Americans.

During the past 12 years, the number of domestic service employees in the country has been reduced by half at a time when the demand for domestic services rose by 33 percent.

If these trends continue, a much-demanded occupation will have been reduced to near oblivion.

In order to understand why household work is a dying occupation, all one needs is to consider the following:

The median income for a full-time domestic in 1969 was $1,926 per year.

Eighty-one percent of all domestics reported total cash incomes under $2,000 per year.

As of March 1970, more than 200,000 women—and I should point out that 97 percent of all domestics are women—were the sole heads of families.

Almost three-fifths of the female heads of families who reported private household employment as the job held longest during 1969 had incomes below the federally established poverty level of $3,743 for a family of four.

In addition, roughly 74 percent of all domestics work in urban areas where high costs of living further undercut their already meager pay.

Consider also that the fringe benefits taken for granted by most segments of the workforce are almost totally lacking for domestics.

Most fail to receive vacations, holidays, or sick leave with pay.

They have virtually no health insurance, unemployment benefits, or workmen's compensation.

Retirement plans are unheard of.

In fact, the only significant legal protection afforded domestics is minimum wage coverage in four States—Wisconsin, New York, Massachusetts, and Montana—and coverage under the Social Security Act.

The lack of nationally accepted standards of employment has also placed undue hardships on domestic employees.

Workloads and the expectations of employers fluctuate greatly from job to job.

Compounding the workers' problems is the lack of a third party intermediary to whom the workers can appeal when treated unfairly.

Faced with an employer who refuses to pay the full amount previously agreed to, or a family that forces her to accept a 3-week unpaid vacation because they have decided to take a trip to Europe, the only recourse the worker has is to quit unless, of course, as happens too often, the employer calls up suddenly in the morning and says, "we won't be needing you anymore."

Another factor of significance when talking about domestic employment is the dignity and respect that ought to come with honest work.

Many domestics are treated just as they were 150 years ago—that is, as slaves.

Two-thirds of all household workers are black and of the remaining one-third, many are Chicanos, American Indians, or members of other minority groups.

They are called "girl" and by their first names while they, themselves, must still address their employers and their employers' children as "Ma'am" or "Sir" or "Miss Jane."

In lieu of fair wages, they are often given second-hand clothing and left-over food.

The lack of respect accorded domestics is in many ways an unfortunate reflection of the value we place on the traditional role of women in our society.

The housewife's job has always been considered of secondary importance, even though it is the housewife who is entrusted with our most valuable resources and our most valuable material possession, our children and our home.

In hiring a domestic, most employers expect her to accept many of the responsibilities of the homemaker, thereby creating a situation in which a dollar value is being placed on her every day duties.

Considering the current wage for domestics, it would mean that we are placing an $0.80 an hour value on the work done by every housewife in America.

This hardly seems reasonable.

Also of significance is the fact that most household workers are blacks or members of other minority groups.

In failing to cover domestics under our basic wage and hour law, we would be turning our backs on these people.

Many who watch our legislative activities view the coverage of domestics as an effort to remedy racial and sexual discrimination.

I know that one can argue as a matter of law that these workers are not being discriminated against on a basis of sex, race, or national origin.

But the plain fact is that private household domestic workers are overwhelmingly female and members of minority groups.

I hope the Senate will respond to their legitimately felt needs.

Opponents of minimum wage coverage for these workers have presented a number of arguments.

They claim that domestics in no way affect the flow of interstate commerce.

Yet, one has only to look at the buses leaving the District of Columbia for the Maryland and Virginia suburbs every morning to see a perfect example of the flow of interstate commerce.

The Metropolitan Washington, D.C. area is in no way an exception.

Among other areas where domestics regularly cross State lines in traveling to and from work are:

The city of New York—Connecticut-New Jersey area; the Cincinnati-Kentucky locale; the St. Louis, Mo.-East St. Louis, Ill., area; and the Kansas City, Mo.-Kansas area.

In addition to the workers crossing State lines, the equipment and supplies they use are regularly distributed in interstate commerce.

Vacuum cleaners for instance, are manufactured in only six States.

Laundry equipment is produced in only seven States, creating a tremendous flow in commerce of these items used daily by domestics.

Also, it is common knowledge that every domestic handles such items as soap, wax, and other household cleaners which have moved in interstate commerce.

The employment of domestics in households also frees members of these households to engage in activities and businesses directly affecting the flow of interstate commerce.

Another argument used by those who oppose coverage for domestics is that of difficulty of enforcement, citing in particular the failures under the Social Security Act's coverage of all currently employed domestics.

There is, however, a very basic difference between social security and minimum wage coverage.

The concept of social security is one of deferring immediate gratification for later rewards.

To a woman trying to raise a family on $2,000 a year this is clearly an impossibility.

Thus, when presented by her employer with the choice of either having social security payments deducted from her paycheck or having a few extra dollars a week, the latter may be an understandably inevitable choice.

In large part, social security coverage of domestics has failed, because the wage scale is so low that the employee must operate outside of the law in order to provide for a family.

Providing workers with minimum wage coverage, however, in tantamount to directly increasing their daily earnings.

Should the domestic employer be unwilling to voluntarily adhere to the FLSA, it is unlikely that the workers would not take the necessary measures, as set forth by the law and regulations, to obtain what is rightfully theirs.

An additional reason for including domestics under FLSA coverage is that once their wages haven risen, many of them will cease to need welfare payments to supplement their income.

Raising the incomes of domestics will also have the salutory effect of increasing their buying power, thus helping to bolster the sagging economies of the inner cities where most of the workers reside.

One other factor bears noting because of its increasing importance—the fact that careers for women have become more and more common and that this occurrence is bound to lead to an increased demand for domestic help in the homes of employed wives and mothers.

If an effective and dignified domestic work force is to be developed, a living wage and respectable working conditions are vital.

Now that Congress has sent to the States the constitutional amendment guaranteeing equal rights to women, it would be hypocritical in the extreme to deny an appreciable segment of the female workforce, earning low wages, an opportunity to share in the rewards of more meaningful employment under the protection of the Fair Labor Standards Act.

Finally, the coverage of domestics involves the protection of poor women—often black—and their families.

To large numbers of these families, often fatherless; welfare, drugs, and crime have become sordid facts of life.

A fair wage for a day's labor could go a long way toward building a life for these families that is free of welfare and above the poverty standard.

There can be little doubt that the low wages now paid to domestics as a group have a substantial effect on the economy and the fiscal and tax policies of both the Federal Government and the State.

According to estimates of the Department of Labor, the minimum wage rates proposed for domestics in the committee bill will place in the hands of these low-income employees an additional $1.3 billion in each of the next 3 years.

That will represent a substantial increase in purchasing power which is bound to have salutary effects on the national economy, as well as the economy of our central cities, where many domestic employees live.

Furthermore, this additional income will serve to lessen welfare payments to this category of employees, and should also serve to upgrade the status and dignity of this type of work.

Over and above the direct impact on interstate commerce which results from the low wages received by this large group of employees there can be little doubt that the deplorably low wages received by domestics contribute substantially to the vicious poverty cycle which

has created such chaos in our central cities.

Our inability to end poverty in America has already had a pervasive impact on the population characteristics of our cities, and this in turn has already resulted in profound changes in commercial, economic, social, and educational patterns throughout the country.

These changes, and the problems they have created, are not localized, and their solution demands Federal, not merely local action as Congress has already recognized in enacting a myriad of programs dealing with such matters as housing, welfare, education, transportation, manpower training, and public service employment.

Since domestic employment is one of the prime sources of jobs for poor and unskilled workers, it is clear that there is an important national interest at stake in insuring that the wages received for such work do not fall below a minimal standard of decency.

Mr. President, the coverage of domestics is one of the most important provisions in this bill.

It epitomizes the committee's concern for the working poor and most clearly demonstrates the relationship between the minimum wage and welfare.

An annual salary of $2,000 to a head of a family is no incentive to work, in my judgment.

Furthermore, I believe that America would be outraged to realize that many working poor who are receiving welfare payments must live on public assistance because their employers are free to pay substandard wages.

There is no valid reason for the American taxpayer to have to subsidize the payment of subminimum wages by an employer who can afford to hire a private household domestic employee.

Yet, that is the effect of failure to cover domestic employees under the Fair Labor Standards Act.

The typical household domestic employee works and travels long hours for exceptionally low wages in order to raise her children to a life of decency, to provide them with the barest opportunity to escape the cycle of poverty.

Then, because she only earns $1,900 a year for a full year's work, she must turn to public assistance.

We must not cheat these hardworking Americans.

We must not deprive them of their opportunity to obtain by honest work the bare minimum necessary for a decent living.

I hope my colleagues will reject this amendment.

Mr. CRANSTON. Mr. President, I wish to call to the attention of my colleagues section 2 of S. 1861, now under consideration by this body. Section 2 amends section 3(e) of the Fair Labor Standards Act to include under the definition of "employee" any individual employed in domestic service. This amendment would bring under the minimum wage provisions of the act all employees in domestic service except babysitters and would retain the overtime exemption.

There are about 1.2 million full-time and part-time household workers in America earning an average yearly wage of $1,800 to $2,000 a year, at least $1,200 less than the minimum wage guaranteed other employees by law. Almost three-fifths of women heads of families who reported private household work as their main job had incomes below the poverty level. Minimum wage coverage would remove, for the first time, many full-time domestic workers from the welfare rolls of our country. If S. 1861 is passed, domestic workers would receive $1.80 an hour the first year of coverage and $2 an hour thereafter.

It is shocking that domestic workers do not get paid vacation, paid holidays, or sick leave. I would expect that such items as paid vacations, holidays, and sick leave will eventually come through growth of unions and the collective bargaining process. This bill would be the first real legislative labor protection that domestics would have. Domestic workers are entitled by law to social security benefits. Yet only some of them receive them. The main problem is enforcement. Housewives do not like to bother with payment and workers do not like it deducted. They earn so little to begin with that they would rather not have more money taken out of their meager salaries. Many of them do not fully understand the benefits they would be getting under social security.

The minimum wage set under the Fair Labor Standards Act is the lowest wage which may be paid employees in activities covered by the act. It is based on the assumption that it will be paid to the unskilled, untrained, inexperienced worker who frequently is a member of a minority group.

The National Committee of Household Employment indicates that women constitute 98 percent of all workers in private household employment, and that 64 percent are black. The Bureau of Labor Statistics indicates that there are 90,514 domestics in the State of California; 62,338 are white, 22,667 are black, 13,098 are chicano, and 86,397 are women. Now that Congress has sent to the States the equal rights amendment, it would be even more hypocritical to deny an appreciable segment of the female work force an opportunity to share in the rewards of more meaningful employment with a living wage and respectable working conditions.

Twelve States have Wage Board programs under which regulations can be issued setting a minimum wage in an industry or occupation, or for a designated group of workers. It appears that six of these States, California, Colorado, New Jersey, North Dakota, Utah, and Wisconsin, could issue minimum wage and overtime orders covering private household workers. However, only Wisconsin has issued a minimum wage order covering domestics. In California, a wage board has recommended the issuance of a wage order covering women and minors who are domestic employees. Presently only four States, Arkansas, Michigan, Nebraska, and West Virginia, have laws that are broad enough to cover private household workers. And with the exception of four States, Wisconsin, Massachusetts, New York, and Montana, domestics are not covered by either State or Federal minimum wage laws. Minimum wage for domestic workers is an area clearly ignored by State laws.

The Secretary of Labor testified before the Labor and Public Welfare Committee against the inclusion of domestic service workers, giving two reasons, first, difficulty of enforcement, and second, possibility of adverse effect coverage might have on employment opportunities.

However, there are no facts to show that the administration of this provision would be more complex than any other provision under the act. Difficulty of enforcement is unacceptable as a reason for denying the benefits of the act to those most in need of such benefits. I am convinced that appropriate methods to insure compliance can be fashioned within the authority of the Secretary of Labor.

There can be little doubt that the low wages now paid to domestics as a group have a substantial effect on Federal and State budgets. According to the estimates of the Department of Labor, the minimum wage rates proposed for domestics will place in the hands of these low-income employees an additional $1.3 billion in each of the next 3 years. This will represent an immense increase in purchasing power which will bound to have an enormous effect on our economy. This additional income will serve to lessen welfare payments to this category of employees, and should also serve to upgrade the status and dignity of this type of work. Since domestic employment is one of the prime sources of jobs for the poor and unskilled worker, it is clear that there is an important national interest at stake in insuring that the wages received for such work do not fall below a minimal standard of decency.

Certainly the demand for domestics will increase as more and more women enter the work force and leave the home. Discouraged by poor wages and working conditions, the total number of domestics diminished between 1960 and 1970 from 2.5 million to 1.5 million, despite the fact that during the same period the demand for domestic services rose by 33 percent. We can only insure adequate supply of workers to meet the continuing demand for assistance in the home with legislation to improve existing wage and working conditions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from Ohio as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), and the

Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT), is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is absent to attend the funeral of a friend.

The result was announced—yeas 40, nays 52, as follows:

[No. 285 Leg.]

YEAS—40

Allen	Ervin	Pearson
Beall	Fannin	Roth
Bennett	Fong	Saxbe
Brock	Gambrell	Scott
Buckley	Griffin	Sparkman
Burdick	Gurney	Spong
Byrd, Harry F., Jr.	Hansen	Stennis
Cannon	Hatfield	Taft
Cotton	Hollings	Talmadge
Curtis	Hruska	Thurmond
Dole	Long	Tower
Dominick	McClellan	Weicker
Eastland	Miller	Young
	Packwood	

NAYS—52

Aiken	Hartke	Muskie
Allott	Hughes	Nelson
Bayh	Humphrey	Pastore
Bellmon	Inouye	Pell
Bentsen	Jackson	Percy
Bible	Javits	Proxmire
Boggs	Jordan, Idaho	Randolph
Brooke	Kennedy	Ribicoff
Byrd, Robert C.	Magnuson	Schweiker
Case	Mansfield	Smith
Chiles	Mathias	Stafford
Church	McGee	Stevens
Cook	McGovern	Stevenson
Cooper	McIntyre	Symington
Cranston	Metcalf	Tunney
Eagleton	Mondale	Williams
Gravel	Montoya	
Hart	Moss	

NOT VOTING—8

Anderson	Fulbright	Jordan, N.C.
Baker	Goldwater	Mundt
Ellender	Harris	

So Mr. TAFT's amendment, as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. DOMINICK's amendment is as follows:

On page 21, line 15, strike out "$2.00" and insert in lieu thereof "$1.80".

On page 21, line 18, strike out "$2.20" and insert in lieu thereof "$2.00".

On page 21, line 22, strike out "$1.60" and insert in lieu thereof "$1.50".

On page 21, line 24, beginning with the word "not" strike out through the word "thereafter" on line 2, page 22, and insert in lieu thereof the following: "and not less than $1.70 an hour thereafter".

On page 22, line 9, strike out "1.80" and insert in lieu thereof "1.70".

On page 22, line 12, strike out "$2.00" and insert in lieu thereof "$1.80".

On page 22, line 14, strike out "$2.20" and insert in lieu thereof "$2.00".

On page 22, beginning with line 15, strike out through line 11 on page 25 and insert in lieu thereof the following:

"(d) Section 6(c) of such Act is amended by substituting the following new paragraphs 2(A) and 2(B):

"'(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor, Standards Amendments of 1972, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"'(B) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).'"

On page 25, between lines 11 and 12, insert the following new subsection:

"(e) Section 6(a) of such Act is amended by striking out the word "or" at the end of paragraph 4, by striking out the period at the end of paragraph 5 thereof and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"'(6) if such employee is employed in the Canal Zone not less than $1.60 an hour.'"

On page 25, line 12, strike out "(e)" the first time it appears in such section and insert in lieu thereof "(f)".

On page 25, line 12, insert "of such Act" before the word "is".

On page 25, line 22, strike out "(f)" and insert in lieu thereof "(g)".

Mr. DOMINICK. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, this is an important amendment, I shall explain it very briefly.

What it does is take the provisions of the substitute which establish new minimum wage rates for mainland employees, and employees in Puerto Rico, the Virgin Islands, and the Canal Zone, and offer them as a substitute package if you will, for the wage rates in the committee bill. In substance, that is what this amendment is about. I intend to use the full amount of time I have available, to try to explain this amendment at some length. I do not know how long the other side may take.

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

Mr. DOMINICK. I am happy to yield to the Senator from New York.

Mr. JAVITS. Exactly the same as the language that was contained in the Taft-Dominick substitute, is that what the Senator is offering?

Mr. DOMINICK. It is exactly the same as we had in the substitute; the Senator from New York is correct.

Mr. JAVITS. I thank the Senator.

Mr. DOMINICK. What we have done here is try to say once again to our colleagues in the Senate that we feel, with the evidence that we have before us, the comments from Mr. Rumsfeld and the comments from Mr. Grayson, the comments that we have from the State Department and from the Department of the Army with respect to the Canal Zone and Puerto Rico, the evidence that was submitted to the House of Representatives and to our committee in behalf of the Puerto Rican situation, that this is far less inflationary, and it will make a very substantial increase in the minimum wage to the people who will be covered by it, but that we will not be breaking the cost of living index, we will not be creating problems for the Price Commission, any more than they already have, and that we will not be tending to decrease the opportunities for employment of those who are unskilled by putting their employment at a minimum; and for that reason we want to go over this matter in some detail.

If I may, Mr. President, I would like to take up, to start with, the problems with the committee bill insofar as the Canal Zone is concerned.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMINICK. Mr. President, these are the comments that were made by the Department of State insofar as the committee bill is concerned, with respect to the wage rates suggested in the committee bill:

S. 1861, a bill to amend the Fair Labor Standards Act of 1938, would increase the minimum wage in stages from the current $1.60 per hour to $2.20 per hour in the U.S. and in areas under U.S. jurisdiction, including the Canal Zone. A similar House bill, H.R. 7130, excludes the Canal Zone. Senator Dominick (R. Col.) has presented Amendment 1204 to S. 1861 which, *inter alia*, exempts the Canal Zone from the applicability of the minimum wage increase.

The Department of State supports the pertinent provision of Amendment 1204 for the following reasons:

A. Application of the minimum wage increase to the Canal Zone would *adversely affect the financial condition of the Panama Canal Company* and *increase the costs of operating U.S. military bases* located there. For example, an increase to $2.20 per hour would add $9 million to annual operating costs of the Panama Canal Company and would lead to consideration of canal toll increases with attendant adverse international as well as domestic, repercussions. Such an increase could also *lead to work force reductions with consequent labor relations and political problems with the Republic of Panama.*

B. A minimum wage increase in the Canal Zone *would further accentuate the existing disparity between wage levels of better*

paid Panamanians working in the Zone and *those in the Republic of Panama.* The minimum wage in Panama City and Colon is presently $0.50–$0.75 per hour. Present wage levels of unskilled Panamanians working in the Zone (about 7000) are already well above those that would be dictated by economic need, social policy and sound management and personnel practices.

As a matter of fact, they are getting $1.60 compared to 75 cents, which is what they get outside the Canal Zone; and this bill would increase that to $2.20, which obviously would increase the problem enormously for the Government of Panama, not to speak of the Panama Canal Co.:

C. A minimum wage increase would *complicate ongoing Canal treaty negotiations.* Such an increase, by adding to Panama Canal Company's operating costs, would reduce the amount available out of toll revenues for making annual compensation payments to Panama. Such a situation could not only force toll rate increases but also raise the possibility that appropriated funds may be required to fund compensation payments, depending on the amounts of such payments ultimately agreed upon with Panama.

In addition, we are discussing in treaty negotiations the transfer of certain U.S. Government-operated commercial activities to private enterprises under Panamanian jurisdiction. Because some 2,500 Panamanian employees of the canal agencies would be affected by this action, U.S. negotiators are attempting to obtain some form of employment and salary protection for them under a new treaty. *Inasmuch as the present high wages could not be sustained under Panamanian private operations, the difficulty of negotiating guaranties for these employees would be greatly increased* if the minimum wage is raised by the new legislation.

The Panamanian employee in the Canal Zone, from the standpoint of wages, is already in a class apart from his counterpart in the Republic. One of *our ultimate goals is to integrate the Zone with Panama economically, culturally, and politically* to the maximum extent possible without jeopardy to U.S. control and defense of the Canal. *An increase in the existing wage disparity between Panama and Canal Zone wages will make this more difficult.* We are convinced that further increases in the Canal Zone minimum wage are unnecessary and would markedly hinder the accomplishment of United States objectives in its relations with the Republic of Panama.

That is from the Department of State.

The Department of the Army shares this view. In letters to me, to the distinguished Senator from Vermont (Mr. STAFFORD), and to my distinguished chairman, Senator WILLIAMS. These letters were considered but apparently did not influence the committee.

I should like to go from here to Puerto Rico, which is equally important insofar as this amendment is concerned.

There was testimony before a committee of the House of Representatives at hearings in San Juan on May 8, 1971. Under date of June 29, 1972, a copy of the testimony of the Chamber of Commerce of Puerto Rico was sent to me. I think it is of interest and should be in the RECORD, so that we will be aware of the impact on the economy of Puerto Rico. This is the testimony:

My name is Héctor Ledesma. I am the President of the Chamber of Commerce of Puerto Rico . . .

Along with every public and private body in Puerto Rico, the Chamber of Commerce endorses higher wages for the working force. Our primary concern is that unduly sharp and rapid wage increases have greatly contributed to perpetuate rates of unemployment that should never be tolerated in any society, particularly one under the American Flag. You may protest that the object of the amendment is not to perpetuate unemployment nor to raise wages in general but only to correct inequities visited upon the poorest paid workers. But in Puerto Rico, this is what it would actually do. We respectfully submit that the proposed amendment—

That is what is in the committee bill—

Will almost certainly have these effects in Puerto Rico:

Increase almost all wages.
Reduce employment.
Discourage new investment.
Increase unemployment.
Stimulate migration to the States.

At the risk of repeating some of what may already have been presented to this Committee—

Talking about the House committee—

Permit me to explain the reasoning underlying these predictions. The differences between the U.S. economy as a whole and the economy of Puerto Rico are so wide that entirely different minimum wage treatment is mandatory. The U.S. Congress recognized this principle more than 30 years ago when it established Industry Committees to recommend a minimum wage geared to the ability of each industry to sustain it. Even those subsequent amendments which provided for automatic increases incorporated a mechanism for appeal in cases of hardship. For the first time since 1940, this principle of special treatment is violated by the proposed amendment.

It is worth noting some of these great differences between the two economies that indicate the need for the selective application to Puerto Rico of the provisions of the Fair Labor Standards Act.

In the U.S., average hourly earnings in 1970 in industry were $3.32 compared with $1.71 in Puerto Rico, only 52% as much. In relation to average hourly earnings in industry, 40¢ an hour would be 12% in the U.S., but 23% in Puerto Rico, almost twice as much. Even more powerful in its impact is the number of workers affected. No figures have been released by the U.S. Department of Labor but with an average of $3.31 it may be concluded that, as in former rounds, only a small minority of workers in the U.S. will be affected by a rise to $2 an hour. On the contrary, the vast majority of wage earners in Puerto Rico will be affected by a 40¢ an hour increase. A reasonable expectation is that the experience since 1967 will be repeated.

This is the point I am trying to make in connection with our substitute. What has been the experience on this?

Hourly earnings for all of industry rose 23% as a result of automatic increases of 28% in Puerto Rico. The percentage impact of a flat 40¢ may be much greater in that 62% of the wage classifications are below $1.60. For example, the current rate of 70¢ an hour applicable to filler tobacco processing will be raised alomst 60%. The irony of the flat 40¢ increase is that the industries previously determined as least able to meet the standard minimum will suffer the highest percentage rise.

The most important single employer on the Island is the wearing apparel industry which accounts for one third of all Fomento Manufacturing employment. Average wages are $1.62. An increase of 40¢ an hour will raise wages in Puerto Rico to the level prevailing in North Carolina. No new plants will establish here because it will be cheaper to locate in foreign areas or in the U.S. mainland where all cost factors are lower. Foreign imports will displace Puerto Rican shipments to the U.S.

It goes on. I am not going to read the entire thing. I ask unanimous consent that the entire statement be printed in the RECORD.

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

AMENDMENTS TO THE FAIR LABOR STANDARDS ACT (S. 1861)

SAN JUAN, P.R.,
June 29, 1972.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: The Chamber of Commerce of Puerto Rico is most concerned that the enactment into law of minimum wage legislation which does not take into consideration the basic differences between the United States economy as a whole and the economy of Puerto Rico will have a seriously adverse impact on the welfare of our Island.

We respectfully urge that every possible support be given to legislation which will maintain the flexibility of establishing increases in minimum wages in Puerto Rico through the present system of Special Industry and Review Committees, so that wages may be increased as rapidly as is economically feasible, without substantially curtailing employment and without giving any industry in Puerto Rico a competitive advantage over any industry elsewhere in the United States.

The enclosed copy of the testimony of the Chamber of Commerce of Puerto Rico before the General Sub-Committee on Labor of the Committee on Education and Labor of the United States House of Representatives at hearings in San Juan, Puerto Rico, in May 1971, is a succinct presentation of our position on this matter and is pertinent at this time.

We will greatly appreciate any effort you might make to help the economy of Puerto Rico continue to successfully achieve its goals under the close ties of association with the people of the United States.

Most cordially,

RAÚL BUXEDA,
President.

TESTIMONY OF THE CHAMBER OF COMMERCE OF PUERTO RICO TO THE GENERAL SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON EDUCATION AND LABOR OF THE U.S. HOUSE OF REPRESENTATIVES AT HEARINGS IN SAN JUAN, PUERTO RICO, MAY 8, 1971

Mr. Chairman, Members of the Committee: My name is Héctor Ledesma. I am the President of the Chamber of Commerce of Puerto Rico. Our organization is greatful for the opportunity to present its views on the amendment to the Fair Labor Standards Act sponsored by the Honorable Mr. Dent.

Along with every public and private body in Puerto Rico, the Chamber of Commerce endorses higher wages for the working force. Our primary concern is that unduly sharp and rapid wage increases have greatly contributed to perpetuate rates of unemployment that should never be tolerated in any society, particularly one under the American Flag. You may protest that the object of the amendment is not to perpetuate unemployment nor to raise wages in general but only to correct inequities visited upon the poorest paid workers. But in Puerto Rico, this is what it would actually do. We respectfully submit that the proposed amendment will almost certainly have these effects in Puerto Rico.

Increase almost all wages.
Discourage new investment.
Increase unemployment.

Reduce employment.

Stimulate migration to the States.

At the risk of repeating some of what may already have been presented to this Committee, permit me to explain the reasoning underlying these predictions. The differences between the U.S. economy as a whole and the economy of Puerto Rico are so wide that entirely different minimum wage treatment is mandatory. The U.S. Congress recognized this principle more than 30 years ago when it established Industry Committees to recommend a minimum wage geared to the ability of each industry to sustain it. Even those subsequent amendments which provided for automatic increases incorporated a mechanism for appeal in cases of hardship. For the first time since 1940, this principle of special treatment is violated by the proposed amendment.

It is worth noting some of these great differences between the two economies that dictate the need for the selective application to Puerto Rico of the provisions of the Fair Labor Standards Act.

AVERAGE HOURLY EARNINGS

In the U.S., average hourly earnings in 1970 in industry were $3.32 compared with $1.71 in Puerto Rico, only 52% as much. In relation to average hourly earnings in industry, 40¢ an hour would be 12% in the U.S., but 23% in Puerto Rico, almost twice as much. Even more powerful in its impact is the number of workers affected. No figures have been released by the U.S. Department of Labor but with an average of $3.31 it may be concluded that, as in former rounds, only a small minority of workers in the U.S. will be affected by a rise to $2 an hour. On the contrary, the vast majority of wage earners in Puerto Rico will be affected by a 40¢ an hour increase. A reasonable expectation is that the experience since 1967 will be repeated. Hourly earnings for all of industry rose 23% as a result of automatic increases of 28% in Puerto Rico. The percentage impact of a flat 40¢ may be much greater in that 62% of the wage classifications are below $1.60. For example, the current rate of 70¢ an hour applicable to filler tobacco processing will be raised almost 60%. The irony of the flat 40¢ increase is that the industries previously determined as least able to meet the standard minimum will suffer the highest percentage rise.

The most important single employer on the Island is the wearing apparel industry which accounts for one third of all Fomento Manufacturing employment. Average wages are $1.62. An increase of 40¢ an hour will raise wages in Puerto Rico to the level prevailing in North Carolina. No new plants will establish here because it will be cheaper to locate in foreign areas or in the U.S. mainland where all cost factors are lower. Foreign imports will displace Puerto Rican shipments to the U.S.

WELFARE PAYMENTS

Public welfare payments in Puerto Rico amount to 40% of estimated necessities. A family of six with an incapacitated husband receives $67.60 per month, plus $1.25 for each child of school age. A food supplement is also provided. If the husband is fit for work and has lost his job, the family is eligible for the food supplement up to a period of three months. A family of four with the husband absent receives $46.20 per month plus $1.25 for each child of school age and a food supplement. No comparison can be made with the U.S. because of the variation among states but it is obvious that welfare payments in Puerto Rico are far lower. In contrast to the U.S., the lowest wage paid in Puerto Rico substantially exceeds the amounts available from government welfare sources.

LABOR FORCE

In the US, 38.3% of the entire population were employed in 1970; Puerto Rico, only 27.2%, only 71% as many. This has profound implications in that each worker in Puerto Rico supports 2.7 dependents, compared with only 1.6 in the US. Only more jobs can reduce this burden. Migration is not the answer to this problem because the migrant population is heavily weighted by able bodied males who would ordinarily support the young, the old, and others unable to support themselves.

UNEMPLOYMENT

For the last 20 years the annual rate of unemployment in Puerto Rico has fluctuated between 11 and 14%. If participation in the labor force were at the same level as in the US, unemployment would approximate 30%. A new plant opening in Puerto Rico is generally swamped by eager job applicants. Only the hopelessness of finding jobs keeps about 200,000 people out of the labor force. A current unemployment rate of 6% in the US has stimulated extraordinary efforts to reduce unemployment. Given the full employment policy in the US, Puerto Ricans may legitimately raise the question whether the same policy is applied to all American citizens. We wonder whether the US Congress would be complacent if threatened with a potential loss of 30% of all manufacturing jobs in the US, yet this is the figure calculated by Fomento for Puerto Rico if H.R. 7130 is not modified.

COST OF LIVING

The Speaker of the US House of Representatives spoke eloquently in support of the bill in question, and I quote: "It has been five years since we raised the minimum wage to the prevailing $1.60 an hour. The Consumer Price Index has risen 23% in the meantime and completely wiped out any gain in real earning power". These remarks are addressed to the economy of the US. But in Puerto Rico, the cost of living has risen 17.5% in that time while hourly earnings rose by 38%. Unlike the US, then, earnings in Puerto Rico increased more than twice as fast as in the US. Obviously, an increase of 40c an hour in Puerto Rico would have to be justified on other grounds.

EXTERNAL TRADE

Merchandise external trade in 1969 amounted to 7.8% of US Gross National Product. The comparable figure for Puerto Rico in 1970 is 92.5%, or proportionately 12 times as high. Puerto Rico is an extremely open economy, and as such must maintain a competitive posture in order to survive. Puerto Rican producers are pitted against low price foreign competition to a much greater degree than in the US. The 40c an hour increase is well above the total hourly earnings of workers in competitive areas such as the Philippines, Japan, Taiwan, Haiti, and other low wage areas. Puerto Rico has been able to sustain previous increases in minimum wages only at the expense of profits. This conclusion is borne out by the steady decline in profits over the last decade, when Puerto Rico showed a decrease of 20% while profits in the US rose by 43%.

RETAIL SALES AND SERVICES

Perhaps most bewildering of all is the application of the contemplated wage increases to purely local activities such as retail operations. Per capita retail sales in Puerto Rico for 1970 were $656 compared with $1,576 for the US, substantially less than half. It is true that this is an area where increases in cost can be passed on to the consumer. The impact on the cost of living, nevertheless, is unduly severe for the low income population, particularly since 31% of total expenditures goes for food, a proportion one-third higher than in the US. Surely the concern about unfair competitive advantage vis a vis the US does not apply here.

Please bear in mind that Puerto Rico must compete for new investment as well as for markets. Of total gross domestic investment in fiscal 1970, 76%, or three-fourths, came from external areas, mostly the US. All costs of doing business in Puerto Rico are higher than on the mainland with the single exception of labor costs. When labor costs far exceed those in foreign areas, and approach too closely those prevailing in lower paying industries of the US, investment in Puerto Rico will dry up. Without investment there will be no jobs.

I could go on for hours noting significant differences between the two economies. For example, I could note legislative fringe benefits of 20% and the operations of the local minimum wage boards. I sincerely trust that I have presented enough to demonstrate that the consequences for Puerto Rico of H.R. 7130 as presently written do not conform to the purposes of the bill, however praiseworthy they may be for the US.

The Chamber of Commerce of Puerto Rico respectfully requests that the principle of selectivity be continued. This can only be accomplished by the restoration of Industry Committees empowered to establish the wage appropriate to individual sectors.

Mr. DOMINICK. In general, what we have done here is not to say that we will leave it just where it is. Sixty days after enactment, or 1 year after the most recent wage order in each industry, whichever is later, minimum wages in Puerto Rico would be raised 12½ percent, on an industry-by-industry basis. One year later they will be raised another 12½ percent for a total of 25 percent over 2 years. This, therefore, would insure that we are not, just trying to maintain a substandard level but we are trying to do something about giving them a level which will not increase unemployment, as previous raises have done, but that we will give that island an opportunity to continue development and keep it in line with the percentage increases we are giving on the mainland.

The increases in mainland wages under the amendment which I have offered would amount to 25 percent over 2 years. It goes from $1.60 to $1.80 in 60 days and then $2 a year later. It is a substantial increase in the minimum wage. To those people who are saying we need an increase, I am saying, "OK, I agree."

We have to take care of the inflationary factor which has occurred from 1966. It has not been more than 25 percent. This will take care of that over the next 2 years. If we go to $2.20, as the amendment in the committee bill and as the Percy amendment asks, then we have the situation where we are getting totally out of line insofar as the Cost-of-Living Council is concerned, insofar as the Price Commission is concerned, and insofar as the effort to control inflation is concerned.

The difficulty all the way through here is that a majority of the committee has apparently taken the position that if we raise the minimum wage what we do will be, thereby, to increase employment and to increase the level of earning.

However, history has shown over and over again that it does exactly like the opposite, and that those people who are least skilled, least employable, handicapped, do not get the jobs because they do not have the productivity to warrant higher wages. So we lose employment opportunities for the very people we want to employ.

Puerto Rican history in the 1966 raise is a classic example of this. If we do it now again to the degree we have in this

bill, I believe it will be totally disastrous insofar as the Puerto Rican economy is concerned. I am sure it will insofar as the Canal Zone is concerned, and I am equally sure that it will be insofar as this country itself is concerned.

Mr. PASTORE. Mr. President, will the Senator from Colorado yield for questions?

Mr. DOMINICK. I yield.

Mr. PASTORE. As I understand it, the Senator's amendment applies only to the Panama Canal Zone, to Puerto Rico and the Virgin Islands; is that correct?

Mr. DOMINICK. It applies to those and also I put in figures for the mainland.

Mr. PASTORE. I mean when the Senator shapes up the reduction, does that apply to the mainland as well?

Mr. DOMINICK. Yes, it does.

Mr. PASTORE. Why does the Senator keep talking about the Canal Zone and Puerto Rico and the Virgin Islands when it involves Rhode Island, too; does it not?

Mr. DOMINICK. It involves Rhode Island, too.

Mr. PASTORE. Then what we are actually saying is that while we are dramatizing what will happen in the Canal Zone, the Virgin Islands and Puerto Rico, the same thing will happen in Colorado; is that not right?

Mr. DOMINICK. Yes; that is right—in Colorado and in Rhode Island—in both we will be giving a 25-percent increase in the minimum wage.

Mr. PASTORE. That is right. I understand what the Senator is saying. He was emphasizing the situation in Puerto Rico, the situation in the Virgin Islands and the situation in the Canal Zone; but he did not mention our own States on the mainland.

Mr. DOMINICK. Yes—I did not mention them by State but I said that minimum wage rate for the entire mainland would be increased to $1.80 in 60 days and to $2 1 year later.

Mr. PASTORE. Well the Senator has said there is a difference between the economic status of employees on the mainland as against the Canal Zone.

Mr. DOMINICK. Absolutely.

Mr. PASTORE. There is a difference.

Mr. DOMINICK. Absolutely.

Mr. PASTORE. Why then does the Senator from Colorado package them all together? Why does not the Senator make a distinction in the law? As I understand the letter he read from the State Department, we did do it with the Canal Zone——

Mr. DOMINICK. Absolutely correct——

Mr. PASTORE. And the information he got from the Defense Department, we did do it in the Canal Zone——

Mr. DOMINICK. Correct.

Mr. PASTORE. But the Defense Department is not complaining about the minimum wage.

Mr. DOMINICK. The Defense Department is not and neither is the State Department because this does not fall in their jurisdiction.

Mr. PASTORE. My next question is this: If the committee did consider making a distinction between the Canal Zone and let us say, the mainland——

Mr. DOMINICK. I offered an amendment in committee which would have retained the present $1.60 rate for Canal Zone employees. It was not accepted.

Mr. PASTORE. The Senator did try to make that distinction?

Mr. DOMINICK. The committee bill would increase the Canal Zone rate to $1.80 immediately, $2 a year later, and $2.20 thereafter.

Mr. PASTORE. Then why does not the Senator from Colorado shape up his amendment to conform with that argument which he made to the committee, by making an exemption as to the Canal Zone, Puerto Rico, and the Virgin Islands?

Mr. DOMINICK. If I may say to the Senator from Rhode Island, I not only talked about the Canal Zone, Puerto Rico, and the Virgin Islands in the committee, but I also talked about the wage rates which I am now proposing for the mainland. I am offering it as a package.

Mr. PASTORE. Well, from the standpoint of $2 an hour for 40 hours a week, that is $80 a week. When you pay your several taxes out of it, how much is left to pay for food, for shoes for your children? I mean, let us look at it realistically. The $2 an hour may be something in the Canal Zone, but it is nothing in Rhode Island. When you go to the market you have to spend $3.50 just to buy a morsel of steak, or you find that something that used to be 35 cents a pound is 59 cents a pound today. We can well imagine what happens to those people working for $1.60 an hour. They have to go on relief.

Mr. DOMINICK. That is exactly why I raise the minimum wage by 25 percent, as I said to begin with.

Mr. PASTORE. While 25 percent may sound impressive, I repeat, in the Canal Zone, it is minuscule in Rhode Island or wherever a low wage prevails at the present time. We are being unrealistic about this minimum wage. When we say $1.60 an hour, we are talking about slave wages—slave wages.

Mr. DOMINICK. Then what the Senator from Rhode Island is saying is that the rate should be somewhere in the neighborhood of $6 or $7 an hour. That is really what he is saying.

Mr. PASTORE. I am not saying that at all. I am saying $2.20 an hour. I did not say $6 an hour. The bill says $2.20 an hour, not $6 an hour. It is for this moderate bill I am speaking.

Mr. DOMINICK. Sure, I know it. It says $2 in mine, as opposed to the $2.20. I would say to the Senator, as I have said before—whether the Senator from Rhode Island does not agree or does not believe it—that if you take a look at the 37½-percent increase in minimum wage, we will have over $7.2 billion in direct costs added to the labor costs. Those are direct costs not counting the rippling effect.

All I can say to the Senator is that the poverty level is connected closely with the consumer price index. When the consumer price index goes up, the poverty level goes with it. So, as excessive minimum wage increases push up the cost of living; they make it more difficult for the working poor to stay above the line.

We are trying to stabilize prices now. And to the degree that we legislate a 37.5-percent increase in wages, it will break the cycle.

Mr. PASTORE. Mr. President, it all depends on who gets the 37.5-percent increase. If they are earning $30,000 a year, maybe that is too much. I am not arguing for them. However, if they are making $60 a week and we give them a 37.5-percent increase, I say God bless them. Does the Senator know what that means? It means that if they are getting $60 a week, we increase them to $80 a week. If the Senator is familiar with the rent costs today, he will know how these people are struggling—almost strangled by inflated prices over which they have no control.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Mr. President, is the Senator from Rhode Island speaking on his own time?

Mr. PASTORE. I do not care whose time it is, it is good time.

Mr. DOMINICK. Mr. President, I always enjoy talking with the Senator from Rhode Island. We have disagreements. I do not care how emotional the Senator wants to make the matter, it is better to have $2 an hour than not to have a job. If a person does not have a job, he is really in trouble. He is then locked into the welfare system.

Mr. PASTORE. What is wrong with having $2 an hour and having a job, too? I do not think we are going to put all of these people out of work if we give them an honest day's pay for an honest day's work. The simple fact—and authorities prove it—raising the minimum wage has never had a discernible adverse effect on employment levels.

All I am saying today is that when a married individual is only entitled to even $80 a week, we have no concept of what it costs to keep a family alive and together. I do not know about the Senator from Colorado, but I know that these people——

Mr. DOMINICK. Mr. President, I believe I have the floor. The Senator from Rhode Island can get the floor on his own time.

Mr. PASTORE. Mr. President, the Senator yielded to me.

Mr. DOMINICK. Mr. President, I will repeat once more what I have said over and over again. When we have a sharp increase in the minimum wage, what happens is that the teenagers, nonwhites, and women tend to lose their jobs and tend to be crowded out of the job market.

This is exactly what we are doing here. I have said it over and over again. Apparently I have not gotten through to the Senator.

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

The Senator from New Jersey has 1 minute remaining.

Mr. WILLIAMS. Mr. President, I think that the Senator from Rhode Island has certainly made crystal clear what the amendment is all about. What we are trying to do here is to just get the people up to the barest minimum. And as we reduce the amount in this bill, we do not reach our objective. People will still be working full time and getting wages that

do not even get them up to the poverty level.

I am impressed with the fact that we have really had two opportunities to vote on this matter of hourly rates. Certainly this was a major concern in the substitute. And we voted on it.

The mainland rates were the substance of the Percy amendment. We stretched out the last stage for another year before they could go to $2.20.

If there were special treatments here that have not been taken care of, there should be a better way to do it than to blunderbuss through the whole business.

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

Mr. WILLIAMS. I yield.

Mr. PASTORE. Mr. President, the one thing that especially irks the Senator from Rhode Island is this. Some time ago it was brought to my attention that one of the major networks hired a new president. What does the distinguished manager of the bill think his salary is? It is $300,000 a year.

Yet, every time we try to give a 20-cent increase to a poor fellow who is working for $1.60 an hour the economy is in danger. It is said that we are breaking the price index. Every time we talk about giving a poor fellow a 10-cent-an-hour increase, we are said to be breaking the price index. Yet, when they hire someone in one of the major networks and pay him $300,000 a year, we do not break any price index.

This is what is happening in America. We are forgetting the plight of the poor. And I think that the time has come to look at this whole matter. It is not the poor who create the inflation. The inflation is creating the poor. We have to understand that. That is what we are trying to bring home.

We are trying to give a reasonable honest and decent pay to an individual who now is working for $1.60 an hour. The Senator can figure it out. Forty hours a week for $1.60 an hour. How much does a man bring home? What can he buy with it? Where and how is he supposed to live? The rents back in Rhode Island for a tenement house, I believe, are $145 a month. And everyone reckons that rent should require approximately one-fourth of the monthly wages.

What happens when a person goes to the supermarket—I do not know whether the Senator from Colorado goes, but I do—he should go and take a look at those prices. Every time they put a new can on the shelf, the price goes up. The Senator cannot tell me that the man making $1.60 an hour is doing that. He is not doing the marking up—but he has to pay up—or go without.

Consider some of the news commentators and the salaries they receive. Take a look at some of the salaries paid to the entertainers in Hollywood. They are the people who are creating inflation—not the poor people. The inflation is creating the poor. And I hope that today we do something about it.

Mr. WILLIAMS. Mr. President, I certainly could not agree more with the Senator from Rhode Island than I do. I have here a list of the highest paid U.S. manufacturing executives in 1971. And no one really is expressing great concern about the inflationary effect of Mr. James A. Roach making $550,000 in 1971, which is an increase of 123 percent. And it goes down through the various executive levels.

Again we do not hear this hue and cry about inflation with respect to the salaries at the executive level and we do not hear questions as to why they do not retrench. Their record is increasing on remuneration.

We are talking about a little struggling man with $80 a week.

Mr. PASTORE. The Senator is correct.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS. Mr. President, I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I would say that the Senator has proven a point. What I have said all the way through was that it is the consumer price index that determines whether we have inflation. It is not a question of whether we are raising minimum wages to a level where they can operate. I totally agree with the Senator. I do not think there is any right for the executives to be raising their rates of pay. In fact, it is my understanding that they cannot do it any longer, since the wage guidelines went in effect.

So I would ask why in the world are we doing it by raising the rate by 37.5 percent.

I do not know what the Senator from New Jersey did, but I voted against my own salary increase here. And I have done it every time.

Mr. WILLIAMS. Mr. President, I would say that we have made it legal in the Economic Stabilization Act and specified in that law a provision whereby we could do this.

And I will say that the executive that earns $100,000 a year under the guidelines should be permitted a 5.5 percent increase a year. That is $5,500 a year for that individual.

We feel the guideline of 5.5 percent is effective for those who are well above, so far above the poverty line. But under other provisions we have made it possible here to bring minimum wage working people up to the poverty level and that is what this phased-in approach does. We do not treat all citizens in the same way. Puerto Rico phases up to the mainland figure over a period of 7 years. The Canal Zone period is over a 3-year term in phasing up to the mainland figure. It seems to me we have had two votes already on this issue.

In my judgment, the minimum wage provisions of S. 1861 are both reasonable and necessary. Working Americans simply must be assured of a living wage for their daily efforts. Short of this, welfare will be the rule rather than the exception. Therefore, I strongly urge that the amendment be rejected.

The committee bill provides for a statutory minimum wage of $2.20 an hour for all covered workers but establishes different time schedules for achieving this standard for various categories of employment to ensure ease of adjustment. Fundamental to the committee's deliberations was the notion of parity—that all workers should be treated alike for purposes of minimum wage. However, mindful of the historical development of the Fair Labor Standards Act and in line with the need to mitigate the initial impact of expanded coverage, the committee provided for staged increases in the minimum wage depending upon when specific workers were first brought under the act. All mainland nonfarm workers covered prior to 1966 will attain a $2.20 minimum wage 1 year after enactment. An additional step is provided for nonfarm workers newly under the 1966 and 1972 amendments. They will reach parity with other workers at the $2.20 rate 2 years after enactment. Farmworkers will achieve parity at the $2.20 rate 3 years following enactment.

In addition, special provision is made for achieving minimum wage parity for workers in Puerto Rico and the Virgin Islands.

First. On the effective date—60 days after enactment—the bill requires that first, employees in activities covered prior to the 1966 amendment—and Federal Government employees covered by the 1966 amendments, other than employees of the Canal Zone—will be paid at least $2 an hour, second, nonfarm employees in activities covered by the 1966 and the 1972 amendments will be paid $1.80 an hour—including Federal Government employees in the Canal Zone—and third, farmworkers will be paid at least $1.60 an hour.

The implementation of the first stage of the proposed 1972 amendments will mean that 6.1 million workers or almost 12 percent of the almost 54 million covered workers—including workers who would be covered for the first time by the proposed 1972 amendments—are to receive wage increases on the effective date, although the annual wage bill will be increased by only eight-tenths of one percent—or $2.8 billion—in order to comply with the statute.

Second. One year from the effective date, the bill requires that first, employees in pre-1966 coverage activities and employees of the Federal Government—other than Canal Zone employees—will be paid at least $2.20 an hour, second, employees covered by the 1966 and 1972 amendments—except farmworkers will be paid at least $2 an hour, and third, farmworkers will be paid at least $1.80 an hour.

The second stage of the proposed 1972 amendments will mean wage increases for about 8.4 million workers but will require an increase in the annual wage bill of only seven-tenths of 1 percent—or $2.4 billion—1 year after the effective date.

Third. Two years from the effective date, the bill requires that the statutory minimum wage of $2.20 an hour applied to all employees—except farmworkers—covered by the act including employees in 1966 and 1972 coverage activities. Farmworkers are required to be paid at least $2 an hour.

This stage of the proposed 1972 amendments will require wage increases for more than 56 million workers and an increase in the annual wage bill of one-half of 1 percent—or $1.8 billion.

Fourth. Three years from the effective date the bill requires that a minimum wage of $2.20 apply to farmworkers. This stage will require increases for approximately 400,000 workers at an annual

wage bill increase of only four one-hundreths of 1 percent.

Mr. President, many of the reasons for this increase have been stated previously during these debates. There is no need to reiterate the devastating effects inflation has had on the minimum wage worker.

It has been argued that the minimum wage increases and expansions of coverage will lead to increased unemployment. Frankly, I am shocked to hear economists arguing this issue. Although we all recognize that minimum wage increases may have short-term effects in localized areas, on the national basis, there has never been an increase in the unemployment rate following an increase in the minimum wage. To the contrary, as the chart at page 8 of the committee report and at the back of this Chamber reflects, the unemployment rate has decreased or remained stable after each minimum wage increase. I will say that I am tempted from this empirical data to draw the conclusion that minimum wage increases lead to declining unemployment. But I will not. It is incomprehensible to me, however, that some argue in the face of this proven history that minimum wage increases cause unemployment.

It has been argued that the increases will be inflationary. This argument I find to be the most disturbing morally. The head of the President's Cost of Living Council has put himself in the vanguard of those who make this charge. Well, let us look at the facts. Under the Economic Stabilization Act, as implemented by the Cost of Living Council and the Pay Board, a corporate executive earning $100,000 a year would be authorized a $5,500-a-year increase in salary; that is, a 5.5-percent increase.

Yet, we stand in this body arguing over whether to allow a $200 to $300 dollar a year increase to the Nation's low-wage workers. This is outrageous.

We allow 5.5 percent increases under phase II. Indeed, according to the Pay Board increases have been averaging 4.9 percent annually. But, under S. 1861, the annual wage bill increase required is only eight-tenths of 1 percent. And yet we argue about inflation.

Mr. President, I am not an economist. But I know the economists who argue against minimum wage increases. They are the same economists who gave this country the amazing phenomenon of a recession during a period of inflation. They are economists who have opposed the entire concept of minimum wage legislation for the past three and a half decades.

Mr. President, the provisions of S. 1861 seem neither radical nor unreasonable to me. I believe that they meet a pressing need in a manner that is economically and morally sound.

I support S. 1861 because it provides for a statutory minimum wage of $2.20 an hour for all covered workers. It provides different time schedules for achieving this standard for various groupings of employees, but it clearly sets forth a basic principle—one minimum wage for all covered workers. By phasing in the minimum, ease of adjustment is ensured.

I take particular pride in supporting S. 1861 because it gives all covered workers an equal start—whether they work in factories or on farms, whether they are old or young, black or white, men or women. The bill clearly sets forth a minimum wage for each and every covered job, regardless of whether the worker who is performing the job is white, black, brown, or red-skinned, old or young, male or female.

The bill does not require that all workers regardless of their ability or productivity must be paid identical wages. It does require however, that a decent floor be placed under the wages of all covered workers.

A review of the hearings on this bill indicates that witnesses before the Committee on Labor and Public Welfare were overwhelmingly in favor of an increase in the minimum wage at this time.

Most recognized that the minimum wage worker and his family could not live in decency on a wage of $1.60 an hour, while prices continue to climb at a rapid rate. Even elementary arithmetic indicates that an increase in the cost of living of 27 percent between 1966, when the $1.60 rate was legislated by the Congress, and April 1972, would require that the minimum wage be raised above $2 an hour.

This bill is moderate in that it sets a $2 rate on the effective date for most covered workers, even though a higher rate is easily justified. A rate of $2.20 an hour is set for 1 year later in order to insure that the minimum wage workers will not slide back into poverty.

A rejection of the pending amendment would signal the fact that the Senate of the United States refuses to fight inflation by relegating millions of workers to poverty. It will show the "forgotten little man," who is convinced that no one speaks for him, that Congress fully accepts responsibility for protecting his interests when laws are written.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables prepared by the Department of Labor relating to this matter.

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

SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Employees subject to FLSA prior to 1966 paid less than $2.00 an hour: 2,541,000.

Annual wage bill increase required to raise wage to $2.00 an hour: $622,000,000.00.

Average annual wage bill increase per employee: $244.79.

Average hourly increase per employee: 11.7 cents.

Based on statistics provided by U.S. Department of Labor.

SUBCOMMITTEE ON LABOR OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Employees (other than household domestic) subject to FLSA as result of 1966 & 1972 amendments paid less than $1.80 an hour (or $1.60 an hour for farmworkers): 2,421,000.

Annual wage bill increase required to raise wage to $1.80 an hour (or $1.60 for farmworkers): $820,000,000.00.

Average annual wage bill increase per employee: $338.71.

Average hourly increase per employee: 16.3 cents.

Based on statistics provided by U.S. Department of Labor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. 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. WILLIAMS. Mr. President, I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I thank the Senator from New Jersey for yielding.

If we are to pursue the line advocated by those who argue against the Dominick amendment, we can only come to the logical conclusion that in this country we should have a system of not paying a man according to his ability, but to pay each according to his need.

I do not think that is the kind of system we want in this country, Yes, corporate salaries are high and well they should be because, Mr. President, you pay for a great deal of managerial talent when you pay high corporate salaries.

It seems to me that clouds the issue and it should not actually be included in this debate.

The fact of the matter is in my State the raising of the minimum wage is going to result in a loss of jobs because there are some marginal businesses that simply cannot afford to pay the increase. Already industries in my State are moving to Mexico because of labor costs.

It occurs to me that we do not do any favor to a man making $1.60 an hour if his employer is compelled to pay him $1.80 an hour or $2 an hour and the employer then has to do away with his job because he cannot afford to pay that salary. In the case of marginal businesses, if the employee must be paid $2 an hour that may be the reason the employee cannot go to work. That is something that should be understood.

Mr. President, I support the amendment of the Senator from Colorado and I hope the Senate will agree to it.

Mr. WILLIAMS. Mr. President, it should be pointed out that under the Percy amendment the date for reaching $2.20 an hour was increased another year. So we have dealt with this subject matter of the rate specifically through the Percy amendment, and more generally in the substitute that was offered by the Senators from Ohio and Colorado for continuing the basic rate now that would go from $1.60 to $2 and then, an additional year thereafter, to $2.20.

I think that basically we have had this question twice and I gather that we are going to have the opportunity to express ourselves one more time.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. All time is yielded back or used. The question is on agreeing to the amendment. 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) and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 42, nays 52, as follows:

[No. 286 Leg.]

YEAS—42

Allen	Dole	McClellan
Allott	Dominick	Miller
Beall	Eastland	Packwood
Bellmon	Ervin	Roth
Bennett	Fannin	Saxbe
Bentsen	Fong	Sparkman
Brock	Gambrell	Spong
Buckley	Goldwater	Stennis
Byrd, Harry F., Jr.	Griffin	Taft
	Gurney	Talmadge
Chiles	Hansen	Thurmond
Cook	Hatfield	Tower
Cooper	Hollings	Young
Cotton	Hruska	
Curtis	Jordan, Idaho	

NAYS—52

Aiken	Inouye	Pearson
Bayh	Jackson	Pell
Bible	Javits	Percy
Boggs	Kennedy	Proxmire
Brooke	Long	Randolph
Burdick	Magnuson	Ribicoff
Byrd, Robert C.	Mansfield	Schweiker
Cannon	Mathias	Scott
Case	McGee	Smith
Church	McGovern	Stafford
Cranston	McIntyre	Stevens
Eagleton	Metcalf	Stevenson
Gravel	Mondale	Symington
Harris	Montoya	Tunney
Hart	Moss	Weicker
Hartke	Muskie	Williams
Hughes	Nelson	
Humphrey	Pastore	

NOT VOTING—6

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt

So Mr. DOMINICK's amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMINICK. Mr. President, if the Senator from New Jersey will give me his attention for a moment——

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Who yields time?

Mr. DOMINICK. I would like to ask for some time from the Senator from New York on the bill, if I might have 10 minutes.

Mr. JAVITS. Mr. President, I yield the Senator 10 minutes on the bill.

Mr. DOMINICK. Mr. President, I bring up this question: In the committee bill as it now stands, there is an amendment which was sponsored, I believe, by the Senator from Illinois (Mr. STEVENSON), making it a crime to hire knowingly an illegal alien.

There have been repercussions about this from all over the country, particularly from the Spanish-speaking people, who claim very strongly that it will be discriminatory in its effect, in that anyone is going to avoid hiring the Spanish totally, or try to avoid doing it at all. Second, it is very, very difficult, insofar as enforcement is concerned, to determine whether people do in fact know that a person is an alien when they hire him. Third, as all of us know, there are many citizens with no proof of birth who have great difficulty in establishing that they are in fact citizens.

I have here in my hand a letter dated January 27 from the Spanish International Network, signed by Mr. Rene Anselmo, who is the executive vice president, protesting very strongly against this procedure and this provision which is in the bill, from which I shall just quote a few sections. I have heretofore put the whole letter in the RECORD.

He says:

For this reason, we are disturbed beyond measure at the consequences that Sec. 214, Section 4(g) of H.R. 7130 ("Fair Labor Standards Amendments of 1971") will have on the minority groups in this country. This subsection of H.R. 7130 provides criminal penalties for employers who "knowingly" hire illegal aliens.

First, let us assure you that we are concerned about the situation with illegals.

I think this would be true of all of us.

However, as we will demonstrate later in this letter, effective remedies exist under present law. The immediate question is if, in an attempt to protect American jobs, the Congress will approve legislation that turns life into a nightmare of identification, restriction and legalized discrimination, first for minority citizens and ultimately for all Americans. If this amendment becomes law, it can only be enforced in two ways in a nation with the heterogeneous population of the United States.

Spanish, Oriental and most other minority Americans as well as the millions of naturalized citizens who still retain accents in their speech or other characteristics which distinguish them from "Anglo" Americans will have to prove they are citizens when applying for a job. Since employers are clearly not going to go through the expense and bother of substantiating the national background of prospective employees, job opportunities for minorities will descend even lower than they are now.

He goes on to say, in another sentence:

Certainly, no Congressman would have dared propose a law that placed this discriminatory burden exclusively on white Americans.

Then he goes further by saying:

The United States Code already provides severe penalties for smuggling illegals, . . . harboring aliens, various passport and document forgeries and, most particularly, for willfully concealing information from any United States Department or Agency enforcing the laws under its jurisdiction. Since many of the worst employers either have their own smuggling operations or have devised elaborate techniques to protect themselves . . . a few major prosecutions would certainly make the point.

He concludes:

This subsection of H.R. 7130, while potentially the most dangerous and discriminatory legislation before Congress, will not be as effective in stopping the problem as would be the enforcement of present law.

As I say, this is in the committee bill at the present time, and I am concerned over the trend of the votes, and therefore do not want to bring this up and lock the Senate into position, because I am afraid that many Members who have not heard the debate will misunderstand what I am trying to do.

I know that I have heard from many members of the House Judiciary Committee, including my own Congressman, in opposition to the proposition, saying that it should have been a matter before the Committee on the Judiciary, and should never have been incorporated as a part of the Fair Labor Standards Act. I think we brought this up in committee, but no point was really made about it, and I would ask the chairman at this point what his viewpoint is about this particular provision.

Mr. WILLIAMS. Mr. President, the provision that the Senator from Colorado refers to, as he knows particularly as a member of the committee, was offered by the Senator from Illinois. This question of the employment of illegal aliens, of course, was not specifically germane to the minimum wage legislation that we have had before our committee for well over a year, that has had many days of hearings and many days of executive write-up sessions.

I believe it is fair to say that it was offered by the Senator from Illinois as an opportunity to express the concern that he felt and that many of us feel about the employment of aliens who are not legally in this country, with all of the hardships and problems that follow the fact of their employment. As chairman of the committee, I confess that I felt some discomfort because it is not our primary responsibility as the Labor and Public Welfare Committee. This is basically a matter of legislative jurisdiction for the Committee on the Judiciary, so, as I say, I felt some discomfort; but it was put in the bill, and it is here now.

I understand that those committees with primary responsibility, the judiciary committees here and in the other body, are fully aware of this interim action by the Senate Committee on Labor and Public Welfare, have had discussions, and it is my understanding are still considering ways that this issue can appropriately be brought before both Houses of Congress. It was suggested to me that it might be appropriate to leave this in the bill, not to excise it at this point, and to see whether, in the regular order, it might not be dealt with between now and final consideration.

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

Mr. WILLIAMS. I yield.

Mr. DOMINICK. I gather, in terms of a compromise matter, it may be taken to conference, using this as some kind of a position we could have in conference, is that right?

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS. I yield.

Mr. PASTORE. What does the provision actually do?

Mr. WILLIAMS. It makes it—well, let us read it. It is brief enough that I can read the whole thing:

Any employer subject to this Act, including any person acting as an agent of such employer . . .

This is on page 20 of the bill. It is under the heading "Employment of Illegal Aliens," section 3. It makes it a misdemeanor upon conviction of knowingly employing aliens who are here illegally, and it imposes a $1,000 fine and imprisonment of not exceeding 1 year. This is basically an immigration question.

The PRESIDING OFFICER. The 10 minutes of the Senator from Colorado have expired.

Mr. DOMINICK. Mr. President, will the Senator yield me a little more time on the bill?

Mr. WILLIAMS. I yield to the Senator on my time.

Mr. DOMINICK. I hesitated to bring this matter up in the form of an amendment, because I was concerned, by the way the votes have ben going, about the possibility of it being agreed to, and I was afraid many Senators might misunderstand it.

I think that if we could take the position in conference that we would at least reconsider this—because it is not in the House bill, as I understand it—then I think we would be making a step ahead in favor of the jurisdictional problems of both committees and in favor of not discriminating against minorities in this country. It appears to be the reverse, but it really is not, that we eliminate this.

Mr. WILLIAMS. I would appreciate it if the Senator would withdraw the amendment, with the understandings we have developed in this colloquy.

Mr. DOMINICK. I say to the Senator that I have not offered an amendment on this matter. We are just talking on the bill.

My understanding is that Senator TOWER would like to make a few comments on this matter, too, and I yield to him.

Mr. TOWER. Mr. President, the primary effect of this would be to deny many Mexican-Americans jobs, because small employers, having the prospect of a stiff fine and a prison sentence, simply would not employ Mexican-Americans, by virtue of the fear that the one they employed might be an illegal immigrant. This is the problem, because many of them are hired to work in agriculture, for nurseries, and for landscaping operations. I think of my brother-in-law who has a little nursery operation. He hires about 20 people. He said that if he were confronted with this, he would not hire any more Mexican-Americans, because he could not be sure whether there might be an illegal alien in the group.

I think the No. 1 effect of this is going to be to deny jobs to many Mexican-Americans.

Mr. DOMINICK. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I hope that at some time, at some place, the problems that will be originated by the language in the bill pertaining to this matter can be eliminated.

It is very easy for one to overlook the problems we face down on the Mexican border, where some of our States have as many as 20 percent of their people with Mexican names. Many of these people have never learned to speak English. Many of them find it difficult now to prove that they are American citizens. These people take jobs that many other people will not take. In the large cities of Los Angeles, San Diego, Las Vegas, Phoenix, and Tucson, you will find the majority of the workers in kitchens, doing maid work, and so forth. Menial type work which the white American more and more is refusing to take is being occupied by these people, whose origins stem from Mexico.

The employer really has no way of telling whether a man who speaks no English or speaks very poor English, broken English, or even perfect English, but carries a Mexican name, is in truth an American citizen.

As I say, many of these people would find it difficult to prove their citizenship, just as many of us would if we were confronted with the task of doing so very quickly. It would be very discriminatory on the Mexican border, where we depend upon these people not only for the types of jobs I have enumerated but also for many other jobs which they are capable of doing—and doing in an excellent way and a much better way than the Anglo brother who lives to the north.

I think, for example, of the areas of crops we grow along the border, such as lettuce—I understand they had quite a bit of trouble with lettuce in Miami, but that is beside the point—carrots, cantaloupes, and many other crops that the Anglo is more and more refusing to pick, because it is stoop labor, it is difficult labor, and I have to admit that the hourly wages are not the most attractive in the world. Yet, the crops have to be harvested, and many people out there will hire an applicant not knowing whether he is an American citizen, but being interested in getting the job done.

So I would hope, in order to prevent undue hardship on people who have no intention of violating the law, that we could eliminate this language or at least refer it to the Committee on the Judiciary, where it might be ironed out. I think that in its present form it will work a great deal of hardship on people on whom hardships should not be worked. At the same time, I recognize that we do have people who will willingly and knowingly hire an alien because most aliens will work for lower wages. So far as we can, we are trying to weed out that kind of employer.

Mr. DOMINICK. I thank the Senator. I share his concern.

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

Mr. DOMINICK. I yield.

Mr. PASTORE. Following up what the distinguished Senator from Arizona (Mr. GOLDWATER) has said, it strikes me that we are putting the burden on the wrong people. After all, a businessman has a right to presume and to assume that any person who is here is here legitimately, and if a person is not here legitimately, it is somebody else's fault, not the businessman's. With respect to the idea that the businessman becomes responsible and is a guarantor that everyone he hires is here legally, and so forth, it strikes me that the burden is being shifted. I realize that the word here is "knowingly," but that can be stretched to mean almost anything.

A person knocks on your door, and you are looking for help, and he says, "My name is So-and-So." What kind of cross-examination is to be imposed upon the employer, to subject the prospective employee to, in order to determine whether or not the person is here legally?

I think it is in the wrong bill. I would hope that they would do something about this in conference to tone down this responsibility. I do not think that the cat ought to be put on the back of the businessman.

Mr. DOMINICK. I say to the Senator that with this series of different viewpoints from both sides of the aisle, perhaps we could get it stricken if we offered an amendment, but I have not offered one yet.

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

Mr. DOMINICK. I yield.

Mr. BENNETT. To add to what the Senator from Rhode Island has said, these people can walk in and get a social security number, and they present themselves to the employer with a bona fide social security number. That makes it all the more difficult for the employer to insist on some kind of examination to determine whether or not they are here legally or illegally.

Mr. DOMINICK. The Senator from Utah is correct. There is not only the legal social security card but also quite a flourishing deal now in fraudulent social security cards, as I am sure the Senator knows, in order to cover the fact that they are working here, even though they are aliens. They get a fraudulent social security card and send in it, and it takes quite a while before the Social Security Administration can catch up with them by computer.

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

Mr. DOMINICK. I yield.

Mr. TAFT. Mr. President, I think the points made by the distinguished Senator from Rhode Island are excellent. They are the same points I raised in committee when the measure was considered. I am not going to reargue the matter here.

I think it might be helpful, however, at this point to put in the RECORD certain documents that have come to my attention. I have a telegram from the Association of Immigration and Nationality Lawyers, a 600-member nationwide bar association, vigorously opposing this section. I also have a letter to the chairman of the House Judiciary Committee from the Acting Attorney General of the United States, dated April 12, vigorously opposing the measure and setting out the reasons for this. I also have a letter to the chairman of the House Judiciary Committee from the Assistant Secretary for Manpower of the Department of Labor. I ask unanimous consent to have the letters and the telegram printed in the RECORD.

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

NEW YORK, N.Y.,
July 14, 1972.

U.S. SENATOR ROBERT TAFT, Jr.,
Senate Office Building,
Washington, D.C.:

The Association of Immigration and Nationality Lawyers, a 600-member nationwide bar association, vigorously opposes the adoption of section 3 of S. 1861 (cal .805) which

would make it a crime to knowingly employ certain aliens and which prohibits the Attorney General who administers the immigration laws, from exempting by regulation any class of employers or employees under any circumstances, including housewives. H.R. 14831, amended after extensive hearings by the House subcommittee concerned with immigration proposes no such drastic prohibition. Amendment 1204 would delete section 3.

We believe legislation of this serious nature should not be tacked on to a major minimum wage bill sponsored by the Committee on Labor. As to the minimum wage provisions of the bill we express no opinion.

LEON ROSEN, *President.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., April 12, 1972.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to your request for comments on section 214 of H.R. 7130, which is now pending before the House Rules Committee. This Department has not previously been asked to comment on this bill.

Section 214 would impose sanctions on an employer who knowingly employs an alien who is illegally in the United States or is in an immigration status in which such employment is not authorized. The objectives of this legislation are sound and this Department has urged a similar proposal in section 26 of the Administration Immigration Bill, H.R. 2328.

I believe, however, the proposal in H.R. 7130 is defective in a number of respects. Most importantly its coverage is limited to employers subject to the Fair Labor Standards Act, and apparently this may exclude most of the illegal entrants who engage in agricultural employment. Moreover, I believe the bill has given inadequate consideration to the type of sanction, the manner of proving violations, and the employers who would be covered.

Subcommittee No. 1 of your Committee has been conducting extensive hearings on the problem of illegal aliens and is currently engaged in drafting a comprehensive bill. While I welcome any measure to deal with this urgent problem, I believe it preferable to await the comprehensive bill now being drafted by Subcommittee No. 1 of your Committee.

Sincerely,

RICHARD G. KLEINDIENST,
Acting Attorney General.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., April 12, 1972.

Hon. EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is an expression of our concern over a provision in H.R. 7130, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increase of imports from low-wage areas, and for other purposes. This bill is now pending before the House Rules Committee.

The provision that concerns us is section 214. It provides that any employer subject to the FLSA including any person acting as an agent for the employer who employs an alien in violation of the law or his immigration status is subject to criminal penalty.

It also provides that contracts subject to the Davis-Bacon Act, the Walsh-Healey Act or the Service Contract Act must contain a provision by which the contractor agrees not to employ in the performance of such contract any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized. Violation will be subject to penalties provided under these laws.

I favor the imposition of criminal sanctions against employers of five or more who knowingly employ aliens who are not authorized to work and against those who arrange such employment. Robert Brown, Associate Manpower Administrator for the U. S. Employment Service of the Department of Labor has indicated our strong support for such sanctions in the Immigration and Nationality Act when he testified recently before the Subcommittee on Immigration and Nationality of the House Judiciary Committee on H. R. 2328. It is noted that the criminal provisions of section 214 of H. R. 7130 apply only to employers subject to the Fair Labor Standards Act.

I seriously question the use of the Government procurement laws as a method of enforcement of our immigration laws. Such blacklisting of firms as prescribed by this provision would not effectively get at the root of the problem which involves law enforcement. It would be far more appropriate to enact the legislation that correctly deals with this problem within the context of the immigration laws.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

Mr. DOMINICK. Mr. President, I ask unanimous consent to have printed in the RECORD the entire letter from the Spanish International Network protesting vigorously.

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

SPANISH INTERNATIONAL NETWORK,
January 27, 1972.

DEAR CONGRESSMAN ERLENBORN: Spanish International is a network of Spanish language television stations throughout the United States with an audience of some 5 million people. Because our viewers sometimes have difficulties adjusting to American culture, our relationship with them is more personal than usual between a station and its audience. They often call us to aid them with individual problems and to assist the Spanish community as a whole. For this reason, we are disturbed beyond measure at the consequences that Sec. 214 Section 4(g) of H.R. 7130 ("Fair Labor Standards Amendments of 1971") will have on the minority groups in this country. This subsection of H.R. 7130 provides criminal penalties for employers who "knowingly" hire illegal aliens.

First, let us assure you that we are concerned about the situation with illegals. However, as we will demonstrate later in this letter, effective remedies exist under present law. The immediate question is if, in an attempt to protect American jobs, the Congress will approve legislation that turns life into a nightmare of identification, restriction and legalized discrimination, first for minority citizens and ultimately for all Americans.

If this amendment becomes law, it can only be enforced in two ways in a nation with the heterogeneous population of the United States:

1. Spanish, Oriental and most other minority Americans as well as the millions of naturalized citizens who still retain accents in their speech or other characteristics which distinguish them from "Anglo" Americans will have to prove they are citizens when applying for a job. Since employers are clearly not going to go through the expense and bother of substantiating the national background of prospective employees, job opportunities for minorities will descend even lower than they are now. This legislation will also be a windfall for discriminatory employers. (Furthermore, there are still millions of people of working age in this country who did not have their births registered and thus have no readily available documents to substantiate their citizenship.)

Certainly, no Congressman would have dared propose a law that placed this discriminatory burden exclusively on white Americans. And yet, despite the terrible effects this approach will have on millions and millions of minority citizens, it will be of doubtful value in halting the employment of illegals. Dishonest employers need only to have aliens declare they are American citizens to get around the technicality of "knowingly" hiring an illegal.

2. Since it seems unlikely the courts will ultimately allow any law to be enforced so discriminatorily, there is only one other method. Every citizen and legal resident of the United States will have to be identified and filed and given some document which proves he exists "legally" for the purpose of being employed. Most suggestions along this line center on making the Social Security card into what essentially amounts to an internal passport—and requiring that card applicants be investigated, fingerprinted or otherwise "nailed." In the age of computers we are sure you must be aware of the extreme danger of instituting any system of this sort. Further, even the cost of administering this horrendous bureaucratic monster would be much more than the cost of deporting illegals.

Compared to H.R. 7130, Sec. 214, Section 4(g), which is so expensive in terms of human dignity, personal freedom and administrative machinery, the government can take several rather simple steps to halt abuses in the employment of illegals.

1. If the federal and state Departments of Labor would ever get around to enforcing the minimum wage, decent working conditions, fair labor practices and other things they are supposed to enforce, exploitative employers could not use illegals to undercut Americans.

2. The United States Code already provides severe penalties for smuggling illegals (5 years in jail and a $5,000 fine), harboring aliens, various passport and document forgeries and, most particularly, for willfully concealing information from any United States Department or Agency enforcing the laws under its jurisdiction. Since many of the worst employers either have their own smuggling operations or have devised elaborate techniques to protect themselves (we have even read of one farm in the Southwest that stations lookouts with walkie-talkies to warn of the approach of Immigration agents) a few major prosecutions would certainly make the point. We recognize that many of the people involved in these practices are well-connected politically. However, if the law enforcement agencies are sincere, there is no doubt that strict application of present law would minimize abuses.

3. There are a variety of ways in which visa procedures could be tightened. Just a few examples: The loose administration of undated border passes gives many aliens the means to enter the United States legally and then just disappear. Applicants for student visas could be checked to see that they have registered at an accredited institution in the United States and paid their tuition. Clearly, no one wishes to hamper visitors from foreign countries, but some of the current methods invite abuse.

In conclusion, this subsection of H.R. 7130, while potentially the most dangerous and discriminatory legislation before Congress, will not be as effective in stopping the problem as would be the enforcement of present law. We are particularly disturbed that this subsection was added to "The Fair Labor Standards Amendments of 1971" at a closed session of the Education and Labor Committee. Surely the Congress will not consider passing a law with such overwhelming implications without even opening it to public

consideration. How can the Congress, in attempting to protect American jobs, undermine the very freedoms and dignity which Americans value above all else?

Sincerely,

RENE ANSELMO,
Executive Vice President.

Mr. ALLOTT. Mr. President, let me refer to the fact how concerned the people in the western part of the United States are, particularly those living in the two tiers of States above Mexico about this subject. If one walks down the street, he could not find one person out of 10,000 bearing a Spanish surname who could produce his birth certificate. I do not carry my birth certificate with me. It would be impossible to tell. What bothers me very much about this, and the Senator from Rhode Island (Mr. PASTORE) put his finger right on it, is that one would knowingly—because knowing can be either actual or constructive, and, God knows, what we will get into if they accuse a man and they are depending on him for constructive knowledge, the individual being an alien.

Actually, where the circumstances would arise the most would be among the fruit growers, the melon growers, and the vegetable growers. They go out and on a given morning their crop is ready to harvest. They let it be known at the labor or employment center that they need men. They go out there. They have got to move then, not next day, but they have to move then, if they are going to salvage their economic life for that year.

I really am sorry that the distinguished Senator from Illinois is not in the Chamber because I think if he heard this discussion—and people in all areas of the country do not have to deal with this specific problem, where much of the language is actually bilingual—he might be willing to join in striking this from the bill. It really should be stricken.

I will abide by the wishes of my colleague from Colorado, and others, but this is a nefarious scheme. It puts the responsibility on the wrong man. God knows, these people are bad enough off as it is.

Mr. PASTORE. The Senator from Illinois has drawn the distinction as to those individuals who are willfully or knowingly illegally in this country. This means that there are employers who would take advantage of those persons and pay them low wages. That is the fellow the Senator from Illinois is trying to pin down.

Mr. ALLOTT. There is no question about that.

Mr. PASTORE. The reason he has written this into the bill is that it could include anyone. A person who did not conduct a proper investigation could be accused of knowledge of the illegal employment. If this should remain in the bill, any employer would be subject to this act, including any person acting as an agent, who willfully employs any alien knowing him to be in the country illegally.

I mean, we are thinking of getting at someone actually trying to take advantage of these people who are here illegally. They pay them slave wages and the worker dare not complain. I guess that is the reason it was put in here. However, the Senator's amendment is much too broad. It could hurt the businessman who is inadvertently employing illegal labor.

Mr. ALLOTT. I want to thank my colleague from Colorado for allowing me to say these few words.

Mr. MONTOYA. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. MONTOYA. Mr. President, I want to express my agreement with the colloquy which is taking place at this moment with respect to this particular provision. It will create more injustice than it is designed to eliminate.

The usual case is where an alien comes into this country illegally and finds a job somewhere, and then the Immigration Office or its investigators contact the alien and ask him, "Now, did your employer know that you were in this country illegally?"

Invariably the alien, because of lack of educational attainment, will answer the question that the employer knew. So in almost every case under this provision, upon the testimony of that particular alien, the employer would be in violation of this particular provision of the law.

So I say that to allow this provision to remain in the bill is to enable the immigration office to file charges against almost every employer who employs aliens irrespective of whether he knew they were in the country illegally or not.

So I say that the particular provision of the law in this bill should be fully evaluated by the Judiciary Committee and under the immigration laws and amendments thereto should not belong in this particular bill, because right today we have over 300,000 aliens who are in this country illegally. They are working in this country. This provision would subject the employers to charges of violation of this particular provision and it would create an enormous injustice among the employers of this country.

Thus, I rise to voice agreement with the concern that is being expressed here today by the Senators from Colorado, the Senators from Arizona, and the Senator from Rhode Island.

I would hope that the committee, of its own volition, would move to strike this particular provision from the bill pending a thorough investigation by the Judiciary Committee as to what kind of wording should go into a specific law to take care of this specific problem so as not to perpetuate an injustice.

Mr. DOMINICK. I want to thank the distinguished Senator from New Mexico. I was intending originally to offer such an amendment, but I told the chairman that I would have a colloquy on this first to see what support we could get, because I do not want to lock the Senate conferees in, by being beaten.

Mr. GOLDWATER. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. GOLDWATER. I should like to point to one other problem that not many Members of the Senate may be aware of, that on the borders, on border towns such as Yuma, Mexicali, along the Mexican border, there are issued what we call green cards. This allows a Mexican national officially to move into the United States at a certain time each morning to work for an American company and return across the border into Mexico at a certain time. That worker is not a naturalized citizen of the United States. Nevertheless, he is legally allowed to work in the United States.

I can see all kinds of havoc being wrought by the language in the present bill which, in my opinion, would make the hiring of a green card user illegal and make the employer responsible and subject to penalties.

I might say that without the green card labor from Mexico, many businesses along the American border could not exist because we do not have sufficient labor of that kind along the borders to provide enough for the businesses there. It is getting so bad, in fact, that American businesses are building factories across the border in Mexico just to insure that they can get the kind of labor and the abundant labor pool they need to conduct their business.

So I wanted to mention this one fact which would add to the chaos that this bill would create with the language in it.

In passing, I might remind my good friend from Colorado that New York City is now the sixth largest Spanish-speaking city in the Western Hemisphere. And they have a lot of trouble.

Mr. DOMINICK. Mr. President, I had not thought of it in those terms. However, the Senator from Arizona is certainly right. I hope that before we get through with this measure that we can offer an amendment and have it stricken. However, I do not want to jump in and do it before talking to the chairman of the committee.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 20, 1972, he presented to the President of the United States the enrolled bill (S. 473) to amend the Automobile Information Disclosure Act to make its provisions applicable to the possessions of the United States.

INCREASE OF AUTHORIZATION FOR CONTINUING WORK IN THE UPPER COLORADO RIVER BASIN—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on 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.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BUCKLEY). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The Committee of Conference on the disagreeing votes of the two Houses on 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, having met, after full and free conference, have agreed to recommend and do

recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the bill, and agree to the same.

HENRY M. JACKSON,
CLINTON P. ANDERSON,
FRANK E. MOSS,
QUENTIN BURDICK,
LEE METCALF,
GORDON ALLOTT,
LEN B. JORDAN,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
HAROLD T. JOHNSON,
CRAIG HOSMER,
SHERMAN P. LLOYD,
Managers on the Part of the House.

Mr. MOSS. Mr. President, the only difference between the Senate and House version of this legislation, the purpose of which is to continue the authorization for completing the development of the Upper Colorado River Basin, is that the House had limited the funds for the next 5 fiscal years. The Senate agreed with the request of the administration and amended the bill to grant the full amount requested to complete the project. The House has agreed to this position in conference. The joint statement of the conference committee explains the differences in detail.

Mr. ALLOTT. Mr. President, this conference report has been worked out satisfactorily between the House and Senate and those of us on this side of the aisle with respect to this particular problem. I think that it was worked out very ably by the Senator from Utah and the conferees.

Mr. MOSS. Mr. President, I thank the Senator.

Mr President, I move the adoption of the conference report.

The motion was agreed to.

The PRESIDING OFFICER. Does the Senator from Utah wish the conference report to be printed as a Senate report?

Mr. MOSS. Mr. President, I believe that the House has already had it printed as a report. Therefore we waive that request.

AUTHORIZATION FOR FOREIGN RELATIONS COMMITTEE TO FILE REPORT ON THE ABM TREATY BEFORE MIDNIGHT TOMORROW

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Foreign Relations Committee may have until midnight tomorrow to file a report on the ABM treaty.

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

FAIR LABOR STANDARDS AMENDMENTS OF 1972

The Senate resumed the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.25 an hour, to provide for an 8-hour workday, and for other purposes.

Mr. AIKEN. Mr. President, it has been represented to me that section 5 of the pending bill would delete provisions of existing law which permits the Secretary of Agriculture to designate industries of a seasonal nature and entitle the employers of seasonal labor to employ such labor for 10 to 14 weeks for not more than 10 hours per day or 50 hours per week without requiring overtime for such employment beyond 40 hours.

It has also been represented to me that this provision is vital to the agricultural industry and to unskilled and untrained employees. The retention of existing law will slow down mechanization of certain harvesting and processing of fruits and vegetables and other agricultural commodities, and would thereby maintain jobs for the unskilled and untrained labor.

Mr. President, that is as the situation has been explained to me concerning the language in section 5 from line 7 on page 26 through line 4 on page 27. I would like to have the manager of the bill, the Senator from New Jersey, make it clear as to just what the purpose of this change in the existing law means and whether it applies to the harvesting of crops. I have in mind particularly apple crops where harvesting is so dependent on weather conditions, and surely there are other crops as well.

Would the Senator from New Jersey explain for the record just what the changes provided for in section 5 of the existing law would do? As I understand, it is not intended to apply to the actual production or harvesting of crops.

Mr. WILLIAMS. The harvesting of crops is not to be disturbed in any way. That is currently under the law exempted from the overtime provisions. This bill does not disturb that overtime exemption at all.

Mr. AIKEN. It does not provide any allowance for crops which have to be processed almost immediately after harvesting or for people engaged in the processing or handling.

Mr. WILLIAMS. That is another question. Harvesting and processing are two different jobs. Processing is covered and phased into the overtime provisions. However, harvesting or, for example, the picking of apples in the apple orchards of the country is not subject to the overtime provisions.

Mr. AIKEN. That is what I had in mind. Now as to the processing of these commodities, I am not so familiar with that situation as I am with the production and harvesting of crops. I assume that this measure will go to conference and that if the Senator from New Jersey, the manager of the bill, finds that there is some provision in there that is unfair to agriculture, he will try to correct that.

Mr. WILLIAMS. Certainly I am fully aware of the needs of the farming community and the harvesting of the crops. That is why I have not made any move to change the overtime provisions. We do know that the workers who are included in the lower level under the minimum wage over a period of time will have their wages improved. In the processing, for many reasons, it was suggested to the committee originally by Secretary Shultz that the processing operation was more analogous to a factory operation and it was recommended that we not include those in any exemption as to overtime.

Mr. AIKEN. Mr. President, I do not know so much about certain other crops. There are some crops which have to be processed almost immediately after harvesting. Others can be kept for a rather long period of time. However, the Senator from New Jersey assures me then that this change will not apply to the harvesting of crops.

Mr. WILLIAMS. It certainly will not.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, beginning with line 9 strike all through line 21.

On page 31, line 20, beginning with "and" strike all through line 4 on page 32.

Mr. TAFT. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, this is a so-called transit exemption for local bus operators and motormen presently in the law.

The Fair Labor Standards Act currently contains an overtime exemption for local bus operators and motormen. The committee bill reduces and ultimately repeals the local transit overtime exemption.

The committee completely ignores the economic realities of our Nation's mass transit system. Since 1954, 268 transit systems in this country have failed financially. The operating deficit for the American transit industry was $332 million in 1970, $427 million in 1971, and is projected to exceed one-half billion dollars this year. This estimate does not include the $30 million in additional costs imposed on the transit industry by the provisions of S. 1861.

We have considered various ways and we are engaged in various methods to subsidize the transit industry. Now, we would come along in this bill and despite the arguments here and the argument I made in committee—and we had a close vote which was 6 to 10—the bill still contains provisions which would bring the local transit industry under the coverage of the act.

What this is all about has nothing to do with minimum wages. Supporters of the committee provisions argue that transit workers need financial protection under the Fair Labor Standards Act. The Bureau of Labor Statistics indicates, however, that the average annual wage of transit employees was $10,014 on December 31, 1971.

Their average hourly wage on that date exceeded $4 an hour, without including fringe benefits. Additionally, wage rates for local transit employees rose 8.5 percent between July 1, 1970, and July 1, 1971. During this period the consumer price index rose only 4.5 percent.

The committee provisions regarding transit employees are defective in their consideration of charter work. The committee bill states that "voluntary" hours would not be included in a computation of overtime hours. This measure gives employees a financial incentive collectively to refrain from volunteering for charter work and thereby force the com-

panies to pay time and a half for the same work. The bill provides that charter work would not be used in computation of overtime hours if such work was not a part of the employee's regular employment and he volunteered. This requirement is meaningless where charter work is a regular part of the employees business. In effect the bill may require transit companies to pay time and a half for nondriving time during a charter trip.

The committee did not consider the fact that a large number of bus companies have worked out by collective bargaining the concept of a standard workday and workweek. This establishes a range of hours without the imposition of overtime penalty. Often these agreements provide that report and turn-in—or pull-in—time at the beginning and end of a run is to be an arbitrary addition to the pay at straight time—irrespective of the active length of the run. Thus, if a run is only 7 hours in driving time, the employer must pay 1 hour of guarantee or make-up time to the 8-hour minimum plus the daily allowances for report and turn-in time.

The committee demonstrates an alarming lack of awareness of the financial problems facing our Nation's transit systems. If the committee provision were to be adopted, transit fares would be increased, additional transit firms would be forced out of business, and service would be greatly curtailed. These actions would most severely affect low income and minority group citizens who depend on transit services to go to work each day. The committee bill can only be interpreted as a severe blow to the Nation's goals of reducing auto pollution and channeling more commuter traffic into mass transit systems.

Mr. President, I will not belabor the matter further. I have placed in the committee report starting at page 104 a long list of transit systems which have been abandoned since January 1, 1954.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TAFT. Mr. President, if this provision is not stricken from the act it will have the effect of accelerating the process of cutting down on transit service so necessary to the people of this country.

The PRESIDING OFFICER. Who yields time?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New Jersey yield me 1 minute?

Mr. WILLIAMS. I yield 1 minute to the Senator.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on all remaining rollcalls during this afternoon—this has been cleared with the leadership on both sides—there be a limitation of 10 minutes on each rollcall, with the warning bells to be sounded midway.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the first two amendments which the distinguished junior Senator from New York (Mr. BUCKLEY), now presiding, will later call up this afternoon—he has four amendments, I understand—there being a time limitation on each of 10 minutes, to be equally divided between the distinguished mover of the amendment (Mr. BUCKLEY) and the distinguished manager of the bill (Mr. WILLIAMS).

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment which will be proposed by the distinguished Senator from Arizona (Mr. FANNIN) later today, there be a time limitation of 20 minutes, to be equally divided between the distinguished mover of the amendment (Mr. FANNIN) and the distinguished manager of the bill (Mr. WILLIAMS).

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment to be proposed by the distinguished Senator from Ohio (Mr. TAFT) this afternoon, there be a time limitation of 30 minutes, to be equally divided between the distinguished author of the amendment (Mr. TAFT) and the distinguished manager of the bill (Mr. WILLIAMS).

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

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

The amendment pending, as I understand it, strikes all of the provisions for overtime dealing with busdrivers. Is that what it does?

Mr. TAFT. The chairman of the committee is correct.

Mr. WILLIAMS. In other words, there are no overtime provisions at all. The Senator is mindful of the fact that we have, in bringing the busdrivers into overtime coverage, been mindful of the fact that they are not geared in at this time to the regular 40-hour week, and we have approached this matter on a phasing basis—that overtime provisions would begin at 48 hours, then go to 46, to 44, and ultimately to 40 hours.

Then, in response to the request of bus company operators, we included total exemption on overtime for charter work where the busdriver voluntarily agrees to come in and work extra time on charters.

I think, for a multitude of reasons—and I will deal with just one here and now, the safety factor—we would find that this is an encouragement not to have busdrivers overdriving to the point where it is tiring and unsafe. This is one way to do it.

I will say, before I yield, however, that it seems to me that if any work is entitled to extra compensation for longer hours, it is the driving of buses through traffic that the busdriver has to deal with today. It approaches me as unsafe and unsound to encourage busdrivers to be on the road for longer hours than what we would consider to be a regular working period.

Mr. TAFT. Mr. President, let me take a moment to respond to the chairman.

It seems to me that if we are going to regulate safety provisions as to transit companies—and I believe we should—where this is a matter within the jurisdiction of the Interstate Commerce Commission, regardless of what the pay provisions might be, the Interstate Commerce Commission, or some such regulatory commission, should have the duty of imposing safety precautions.

With regard to those regulated by State and local authorities, they have a duty to do that which has nothing to do with the compensation involved. Indeed, to bring compensation in as a factor to determine safety protections would be a complicating factor and would militate against what the safety provisions should be.

The chairman has talked about the incentive to work long hours with regard to overtime pay. I am sure the chairman is aware that there are many cases in which employees who have seniority sometimes beg their employers to give them overtime. Indeed, I wonder if that is not happening in view of the fact that, as I indicated earlier, the average employee involved here receives over $10,000.

I think the real question is whether we are going to interfere with the bargaining process. Most of these employees are organized. The working conditions are worked out in a bargaining situation. Under those circumstances I think it is wrong for us to say that they are going to be forced into a pattern that does not necessarily meet transportation patterns under the particular circumstances obtaining in a particular part of the country or the particular transportation functions being carried out.

That is why I feel that the arguments of the Senator from New Jersey on this point are not sound, and I would be glad to have his comments.

Mr. WILLIAMS. All I know is, you read the headlines and you hear about these busdrivers going over the bank and taking a lot of people to injury, after working far longer than 8 hours.

Mr. TAFT. But those are not local drivers, ordinarily. Nine out of 10 times they are directly engaged in interstate commerce.

Mr. WILLIAMS. Well, basic overtime is in there to encourage broader employment. The provisions were put in there for just that reason. In a period of high unemployment, it was felt that if there were, in a sense, a penalty on the employer for overtime, he would spread out the employment and more people would have jobs. That is still good theory and good practice.

The other part of it is that where you are working beyond the regular working period, I think you are entitled to extra compensation, and I do not think there is anything very profound about that.

The economics are there, the busdriver is going to stand there as a worker with the same opportunity and the same legal protection as other workers. I think in his job particularly he is entitled to it. I have often ridden in those buses through the traffic they have to contend with, through the hazards of the highways. It seems to me that they ought to be full citizens in terms of the minimum wage and overtime provisions.

Mindful of the fact that adjustment is difficult, we have legislated here in the bill 48 hours for the first year, 44 hours for the second year, and only then, thereafter, will they go to 40 hours.

I do not have anything further to state. If there are no other requests for time, I am prepared to yield back the remainder of my time.

Mr. TAFT. I have no further requests for time at this time. I might say, before I yield back my time, there is one point that the chairman has made that I might answer on my own time, and that is the question whether overtime really does result in spreading employment.

I know of no instance that would really indicate this. I participated in the double time overtime hearings which were held through long sessions in the House of Representatives several years ago, and we were unable at that time, after reviewing the entire history of the act, to show that the requirement of payment of overtime actually did anything to spread the work, which was the theory involved.

I do not think that theory has been carried out in practice, and as a matter of fact, as I have indicated, very often because of the seniority situations we run into within an employment situation where a union is involved, there is almost a requirement made by the employees and the unions themselves that overtime be paid and the advantages of overtime be provided; and often, as a matter of fact, from the standpoint of economics, from the point of view of the employer, considering the additional costs involved in hiring and training new men and paying the fringe benefits involved, it is often far more economical for the employer to pay considerable overtime rather than go to the expense of these additional fringe benefits and training problems, and the other additional expenses involved in employment.

From the point of view also of good labor relations, the employer will often feel, as a matter of policy, that he should go ahead and pay a good deal of overtime. So the argument that overtime is somehow going to be eliminated by making it a time-and-a-half matter, or double time, as some have proposed from time to time, does not add up. It has not worked out in the past, and I do not think it is going to work out in the future, as a method of providing additional jobs. The question is whether we are going to force a pattern upon the local transit industry, thus adding to the already heavy burden of those local transit companies.

I am prepared to yield back such time as I have remaining.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BUCKLEY). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from New Mexico (Mr. ANDERSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Nevada (Mr. CANNON) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necesarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 24, nays 68, as follows:

[No. 287 Leg.]

YEAS—24

Allott	Dole	Hruska
Bennett	Dominick	Jordan, Idaho
Brock	Fannin	Roth
Buckley	Gambrell	Scott
Byrd, Harry F., Jr.	Goldwater	Taft
Cooper	Griffin	Thurmond
Cotton	Gurney	Tower
Curtis	Hansen	
	Hatfield	

NAYS—68

Aiken	Hartke	Pastore
Allen	Hollings	Pearson
Bayh	Hughes	Pell
Beall	Humphrey	Percy
Bellmon	Inouye	Proxmire
Bentsen	Jackson	Randolph
Bible	Javits	Ribicoff
Boggs	Kennedy	Saxbe
Brooke	Long	Schweiker
Burdick	Magnuson	Smith
Byrd, Robert C.	Mansfield	Sparkman
Case	Mathias	Spong
Chiles	McClellan	Stafford
Church	McGee	Stennis
Cook	McIntyre	Stevens
Cranston	Metcalf	Stevenson
Eagleton	Miller	Symington
Eastland	Mondale	Talmadge
Ervin	Montoya	Tunney
Fong	Moss	Weicker
Gravel	Muskie	Williams
Harris	Nelson	Young
Hart	Packwood	

NOT VOTING—8

Anderson	Ellender	McGovern
Baker	Fulbright	Mundt
Cannon	Jordan, N.C.	

So Mr. TAFT's amendment was rejected.

Mr. FANNIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 43, line 11, insert the following:

"SEC. 15. Section 13 of the Fair Labor Standards Act of 1938, is amended by adding the following new subsection:

"(g) the amendments of this Act that are effected by the Fair Labor Standards Amendments of 1972 shall not apply to the Canal Zone."

The PRESIDING OFFICER. Time on this amendment is limited to 20 minutes, 10 minutes to each side.

Mr. FANNIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, this is a very much-needed amendment, but it is not complicated.

The committee bill raises the minimum for Canal Zone employees to $1.80 per hour immediately, to $2 at the end of 1 year, and $2.20 at the end of the second year.

This amendment simply eliminates jobs in the Canal Zone from the proposed increases. It does not eliminate the present minimum wage standard in the zone, which was first applied in 1967 with a rate of $1, and progressively raised by FLSA to its present minimum of $1.60.

The employees affected are almost entirely Panamanians. Their present average minimum wage in the zone is already three times the minimum wage in Panama. I should emphasize that this does have a serious effect because, as I repeat, the present average minimum wage in the zone is already three times the minimum wage in Panama.

Because of the pay structure of the company, raising the legal minimum raises the effective minimum—due to seniority, and so forth—much higher. The present legal minimum is $1.60; the present average minimum is $2.19.

Canal Zone employees fall in two categories: Those paid in appropriated funds—such as employees of military agencies—and those paid from nonappropriated funds.

Under law, the Panama Canal Company must have a balanced budget based on income from tolls and services; it does not operate on appropriated funds. Hence the 75-percent increase in salary costs since the introduction of the minimum wage has meant a reduction in services and employees. This increase is entirely salaries paid to non-U.S. citizen employees. Seven hundred and seventeen semi-skilled and unskilled jobs have been eliminated since the introduction of the minimum wage. If the rate increase is passed, more jobs will be eliminated.

Mr. President, the distinguished Senator from Colorado (Mr. DOMINICK) brought out the position that has been taken by the military in regard to the situation. I have in my hand a letter from the State Department from David M. Abshire, Secretary for Congressional Relations, explaining the position. This is a letter to the distinguished manager of the bill.

Just to bring out one part of the position that they take as to the adverse affect it would have, I read the following excerpt:

It would adversely affect the financial condition of the Panama Canal Company and might give rise to consideration of Canal toll increases with the attendant economic and political repercussions.

So, Mr. President, I think that we should consider just what is involved when the economy of that country is so tied to the Panama Canal. I feel that it would disrupt the economy to the extent that it would and if we proceeded with what is presently provided in the bill, it would be highly detrimental.

Mr. DOMINICK. Mr. President, will the Senator from Arizona yield?

Mr. FANNIN. I yield.

Mr. DOMINICK. As I understand this amendment, it deals with the situation in which the Canal Zone finds itself now; is that not correct?

Mr. FANNIN. That is correct.

Mr. DOMINICK. I incorporated that subject in some comments I made in my overall talk on the need for a different wage rate than we have in Puerto Rico, the Canal Zone, the Virgin Islands, and here.

I thoroughly support the amendment of the Senator from Arizona.

I see no possibility of making any progress in our treaty negotiations, or in trying to improve our relationships with Panama if we are going to put their economy still further out of gear. This is the position which the State Department and the Army have taken strongly, and I sincerely hope that the amendment will be supported.

Mr. FANNIN. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. MONTOYA). Five minutes remain to the Senator from Arizona and 10 minutes to the Senator from New Jersey (Mr. WILLIAMS).

Mr. FANNIN. I thank the Presiding Officer.

I suggest the absence of quorum and ask unanimous consent that the time for the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FANNIN. 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. FANNIN. Mr. President, I ask unanimous consent to modify my amendment, to raise the minimum from $1.60 to $1.70 at the end of 1 year.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, reads as follows:

On page 43, line 11, insert the following: "SEC. 15. Section 13 of the Fair Labor Standards Act of 1938, is a mended by adding the following new subsection:

"(g) the amendments of this Act that are effected by the Fair Labor Standards Amendments of 1972 shall not apply to the Canal Zone," except the minimum wage of $1.60 is to be raised to $1.70 at the expiration of 1 year.

Mr. JAVITS. Mr. President, on that basis, I think that the Senator has made a very desirable decision. I would support the amendment as modified.

The PRESIDING OFFICER. Is all time yielded back?

Mr. FANNIN. Mr. President, I yield back my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. JAVITS. Mr. President, does the Senator still desire the yeas and nays?

Mr. FANNIN. Mr. President, I would like to have the yeas and nays.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Arizona (Mr. FANNIN), as modified. 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 Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 69, nays 23, as follows:

[No. 288 Leg.]

YEAS—69

Aiken	Ervin	Pastore
Allen	Fannin	Pearson
Allott	Fong	Percy
Bayh	Gambrell	Proxmire
Beall	Griffin	Randolph
Bellmon	Gurney	Roth
Bennett	Hansen	Saxbe
Bentsen	Hatfield	Scott
Bible	Hollings	Sparkman
Boggs	Hruska	Spong
Brock	Inouye	Stafford
Buckley	Javits	Stennis
Byrd, Harry F., Jr.	Jordan, Idaho	Stevens
	Long	Stevenson
Byrd, Robert C.	Magnuson	Symington
Chiles	Mansfield	Taft
Church	Mathias	Talmadge
Cook	McClellan	Thurmond
Cotton	McGee	Tower
Curtis	McIntyre	Tunney
Dole	Miller	Weicker
Dominick	Montoya	Young
Eagleton	Moss	
Eastland	Packwood	

NAYS—23

Brooke	Hartke	Muskie
Burdick	Hughes	Nelson
Case	Humphrey	Pell
Cooper	Jackson	Ribicoff
Cranston	Kennedy	Schweiker
Gravel	McGovern	Smith
Harris	Metcalf	Williams
Hart	Mondale	

NOT VOTING—8

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Cannon	Goldwater	

So Mr. FANNIN's amendment, as modified, was agreed to.

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will please be seated so that we can get to the business of the Senate.

AMENDMENT NO. 1320

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1320.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 38, line 1, strike out "and" the second time it appears.

On page 38, line 3, strike out the period and insert in lieu thereof the following: ", and (4) by inserting immediately after the first sentence the following: 'For the purposes of this subsection, the term "student hours of employment" means services performed at wages of not more than $1.05 per hour during the period specified in clause (1), (2), or (3) of the preceding sentence as appropriate.'."

Mr. BUCKLEY. Mr. President, this is an amendment which is technical in nature, and I hope very much that the sponsors of the bill will agree to accept it. It affects a situation in New York.

Section 14(b) of the Fair Labor Standards Act contains a provision for certification of full-time students for employment at a wage rate not less than 85 percent of the applicable minimum wage. Regulations to this section stipulate that only establishments that employed students during the base year from May 1960 to April 1961 at less than $1 an hour are eligible to receive these certificates. However, during this base year, the New York State minimum wage ranged from $1 to $1.05 an hour. Therefore, no student certificates can or have been issued in New York State.

My amendment No. 1320 would permit New York State to join with the rest of the States in providing an extra incentive to hire students.

This measure would not open the floodgates for student employees simply because the dollar base is raised. Student certificates have not been used extensively; a Bureau of Labor statistics study found that only 42 percent of the student man-hours certified under section 14(b) have been used.

However, I still feel that this means to reduce unemployment for our young people is of sufficient importance that students in New York State should be able to benefit from it.

Mr. JAVITS. Mr. President, I yield myself 2 minutes in opposition to the amendment.

This is by no means a technical amendment, with all respect to my colleague from New York. It will very materially open up the certificating proposition as far as youth employment is concerned, and goes to the essence of the fundamental question which we have to answer for ourselves here, as to whether or not we wish to oper. up the youth employment certification program materially beyond the point where we have it now. The Senate has turned down a number of amendments on that score.

As I understand it—and it is not easy to understand it, because I personally had no notice of this amendment—it is supposedly hinged to the New York situation. In the first place, I am not aware of any demand in New York for this particular provision. Perhaps my colleague is, but I am not. In any case, be that as it may, it would be universally applicable not only to New York but to every other State.

Under present law, in order to qualify for a youth differential certificate, one would have to have an antecedent history of having employed youth at a rate lower than the Federal minimum, and the date which has been chosen, to wit, the 1961 date, upon which these certifi-

cations are based in New York, relates to a time when we in New York had a dollar minimum, and so there was no justification for certification because there was a $1 minimum.

Now, if we raise that to $1.05, as proposed by this amendment though it does not seem to amount to anything, it immediately breaks itself so the jurisdictional qualification for giving certificates arises now, when it did not arise before. If it were made $1.01 or $1.02, it would have exactly the same effect.

I am unable, I must represent to the Senate, to say how many certifications would be implied or what is the ambit of this amendment.

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

Mr. JAVITS. I yield myself 2 minutes.

So I must, at least until I can get a minute to look into the situation, rely upon the question of principle which is involved here, that this is a change. It is not a technical amendment; it is a substantive change in how many may be certified, and therefore opens up the question of youth differential. It does it in a kind of highly legalistic way, but it does it, and on that question of principle I must, for the moment, oppose the amendment.

If the Senator is willing, I shall be glad to suggest the absence of a quorum without time cost to either side in order to take a harder look at it, but I am giving the Senate my view on first impression. While it was put on the desk as a technical amendment, I do not so consider it for the reasons I have stated.

Mr. BUCKLEY. Mr. President, I have no objection to the suggestion of the absence of a quorum if it is not chargeable to either side.

Mr. JAVITS. I thank my colleague.

I ask unanimous consent that I may ask for a quorum call without its being charged against either side.

Mr. SYMINGTON. Mr. President, reserving the right to object, I would like to ask how long it will be.

Mr. JAVITS. Just a minute, I may say to the Senator, to look into this.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUCKLEY. 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. BUCKLEY. My senior colleague and I have agreed that while he considers information which apparently is new to him, I may move on to my next amendment.

The PRESIDING OFFICER. Do I understand that the Senator now asks that his amendment be withdrawn?

Mr. BUCKLEY. I ask unanimous consent that my pending amendment be set aside, with the remaining time still available, with the privilege of calling it up later.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1324

Mr. BUCKLEY. Mr. President, I now call up my amendment No. 1324.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the further reading of my amendment be dispensed with.

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

Mr. BUCKLEY's amendment (No. 1324) is as follows:

On page 37, strike out all after line 17, over to and including line 3 on page 38, and in lieu thereof, insert the following:

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

Special Minimum Wages for Employees Under 18 and Students

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(b)(1) Notwithstanding the minimum wage rate required by section 6(a)(1) or 6(b) any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) 18 or 19 years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.60 per hour, whichever is higher.

"(2) Notwithstanding the minimum wage rates required by section 6(a)(5), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) 18 or 19 years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is higher.

"(3) The special minimum wage for such employees in Puerto Rico, the Virgin Islands, and American Samoa shall be 80 per centum of the industry wage order rate otherwise applicable to them: *Provided*, That in no case shall such special minimum wage be less than that provided for under a wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1972.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable."

Mr. BUCKLEY. This amendment, Mr. President, is not one which was covered by the agreement to limit the debate to 10 minutes, so I believe the full hour is available. I hope we shall not use very much of that hour.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. BUCKLEY. I yield myself 10 minutes.

Mr. President, this amendment is an attempt to preserve a feature which I thought was one of the most important features of the Dominick amendment. I am conscious of the fact that that amendment was defeated by the narrowest of margins. On the other hand, it had so many parts to it that it is impossible to sort out the reasons why it was defeated, even if by one vote.

The amendment seeks to create a significant, meaningful differential for young people. As I said earlier, I think that this goes to one of the most critical social problems which we have at this time. We are faced with the certificable fact that hundreds of thousands of unskilled teenagers, particularly those from disadvantaged backgrounds, are seeking entry into the labor market for the first time, and are unable to find jobs. Jobs simply are not there at the wages which the existing minimum wage laws require be paid.

The effect of this is that these young people are unable to find employment and place themselves in a position where they can most effectively acquire the skills and the habits which will increase their productivity and enable them to take their full place in our labor force.

The specific effect of this amendment would be to make an exemption for young men and women below the age of 18, providing that they be paid at least $1.60 an hour or 80 percent of the applicable minimum wage rate, whichever is larger. As to students who are 18 years of age or 19 years of age, it would provide them an exemption for a limited time only—namely, 6 months—to give them access to a job, and to give them the time on the job to acquire those habits and skills which will enable them to join that particular work force.

The hard, well-documented facts demonstrate that since World War II, every rise in the minimum wage level has been accompanied by an increase in the gap between the teenage and general rates of unemployment, and between white teenage rates of unemployment and those for their nonwhite contemporaries. This steady deterioration has reached the point where, for the year 1971, teenage unemployment attained a level of 31.7 percent for nonwhites, and 15.5 percent for whites, while the general unemployment rate stood at 5.9 percent.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD two tables which demonstrate the extraordinary rate at which the employability of our youngsters, particularly those from disadvantaged backgrounds, has been deteriorating. The tables are taken from an article by Prof. Yale Brozen, entitled "The Effect of Statutory Minimum Wage Increases on Teenage Employment," which appeared in the April 1969 issue of the Journal of Law and Economics. The two tables appear on pages S. 11149 and S. 1150 in the RECORD of last Tuesday. I think that an examination of those tables will demonstrate far more effectively than I can in words the problem we are facing.

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

TABLE I.— RATIO OF TEENAGE UNEMPLOYMENT INCIDENCE TO GENERAL UNEMPLOYMENT INCIDENCE [AVERAGES OF MONTHLY SEASONALLY ADJUSTED DATA; 1949-68]

12 months	Unemployment rates: Ages 16–19	Unemployment rates: General	Ratio	Minimum wage
February 1949–January 1950	13.9	6.2	2.2	$0.40
February 1950–January 1951	11.6	5.0	2.3	.75
March 1955–February 1956	11.0	4.2	2.6	.75
March 1956–February 1957	11.0	4.1	2.7	1.00
September 1960–August 1961	16.4	6.6	2.5	1.00
September 1961–August 1962	15.4	5.8	2.7	1.15[1] ($1.00)
September 1962–August 1963	16.4	5.6	2.9	1.15 (1.00)
September 1963–August 1964	16.6	5.4	3.1	$1.25 ($1.00)
September 1964–August 1965	15.6	4.8	3.3	(1.15)
September 1965–August 1966	13.2	3.8	3.5	(1.25)
February 1966–January 1967	12.6	3.8	3.3	1.25
February 1967–January 1968[2]	12.9	3.8	3.4	1.40 (1.00)
February 1968–December 1968	12.7	3.6	3.6	1.60 (1.15)

[1] Minimum wage figure in parentheses is for jobs not covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25 (March 1968); id., 13, at 21 (March 1967); id., 15, at 53 (January 1969); A. Howard Myers, Labor Law and Legislation 774, 805.

TABLE II.—TEENAGE UNEMPLOYMENT RATIOS: NONWHITE/WHITE, BOTH SEXES 16–19, 1949–68

	Unemployment rate (Percent): Nonwhite	Unemployment rate (Percent): White	Ratio
February 1949–January 1950	17.4	13.4	1.3
February 1950–January 1951	14.8	11.2	1.3
March 1955–February 1956	15.8	10.2	1.5
March 1956–February 1957	18.1	10.0	1.8
September 1960–August 1961	27.4	15.0	1.8
September 1961–August 1962	25.3	13.9	1.8
September 1962–August 1963	29.2	14.9	2.0
September 1963–August 1964	28.4	15.0	1.9
September 1964–August 1965	26.1	14.2	1.8
September 1965–August 1966	26.5	11.6	2.3
February 1966–January 1967	25.1	11.1	2.3
February 1967–January 1968[1]	26.3	11.0	2.4
February 1968–December 1968	25.4	11.0	2.3

[1] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 13, at 14–16 (March 1967); id. 15, at 51 (January 1969); Manpower Report of the President 225, 237 (April 1968).

Mr. BUCKLEY. Mr. President, there is nothing surprising in the fact that our teenagers find it more difficult to enter the labor market than do the more seasoned workers. They simply have not yet been exposed to the circumstances where they can learn the elementary work skills—the importance of turning up on time day after day, the importance of following instructions the first or second time instead of having to require total and continuing supervision.

Furthermore, it is not surprising, although it is lamentable, that there should be such a growing disparity between the employment of our nonwhite teenagers and the white teenagers. The fact is that as of the present time, nonwhites generally have lower levels of education than whites, and those from disadvantaged homes often are lacking some of the habits of punctuality, and so forth, which are essential to productivity and to making them attractive in the labor market.

Mr. President, I spoke on this subject at some length last Tuesday. Once again, I want to express the dimensions of the problem which the rigid application of minimum wage laws has created for young persons trying to cross the threshold into the ranks of the steadily employed. I review the cold statistics in my remarks on the floor of the Senate last Tuesday, and I want to touch again on the principal points I then made in order to emphasize the urgent need for a youth differential in our minimum wage legislation.

Mr. President, I recently came across a newspaper item that so impressed me with its insight into one of our Nation's most grave problems that I think it worth while to quote it in full:

ADOLESCENTS HAVE LOST "ETHIC OF WORK"

Dr. Francis Braceland, a distinguished psychiatrist and senior consultant at the institute to living in Hartford, Conn., said in an interview that it's twice as difficult to be an adolescent today.

One of the signs of the troubled times is the change in the proportion of young people in the patient population at the institute, the world's largest, nonprofit mental hospital.

Dr. Braceland said for the first time half the patients are under the age of 25. There are so many under the age of 20 that a regular secondary school has been set up at the institute.

"The adolescents are in rebellion," Dr. Braceland says. "Many have cut loose all the moorings and are floating free in a world that is in a mess."

Among the moorings that have been lost, Dr. Braceland cited these: the value of thrift, the ethic of work, the values of family, the worth of church, marriage, a belief in values handed down by parents.

The value of thrift, the ethic of work—how many times have we heard these derided by those who have assured us that such qualities were outmoded and perhaps even harmful? Yet we now see that what we learn by working is not just a trade but a way of looking at the world, a way that is totally necessary for the full development of our capabilities.

I mention this because there is considerable evidence to show that many young Americans are being denied the chance to work because minimum wage laws price them out of the market. A minimum wage law can guarantee higher wages—but only to those who are working. What of those who are not hired because, among other reasons, an employer no longer finds it economically possible to hire them? It is this situation I would like to discuss.

Authorities as diverse as Dr. Samuel Johnson and Karl Marx have reminded us that hell or the road to hell is paved with good intentions. This thought has become part of our accepted folk wisdom.

I mention it because in speaking of what I feel to be great harm that would stem from the pending revisions of the minimum wage law, I do not question the good intentions of those who propose them. I must however, point out that these good intentions in all probability will lead to the very private hell of unemployment for still larger numbers of young Americans who need a chance to learn basic work habits and the satisfaction and self-respect which comes with self-support far more than they need a higher starting wage.

The case which is made for an increased minimum wage without a meaningful youth differential is too well known to need amplification from me. Those who favor such legislation point to what most people would accept as an obvious—and highly desirable—benefit arising from an increased minimum wage: those at the beginning of their work careers or those in low-paying jobs would make more money. From this base point, it is argued, benefits would accrue to the economy as a whole. "To eliminate low wages without eliminating jobs" is the usual description of the goal of minimum wage laws.

Now as that argument stands, it is extremely attractive and displays an admirable compassion for the young and the poor. But, as I have pointed out, good intentions are not enough. The history and effects of minimum wage laws have been studied by many of the most prominent economists in our country and it seems evident that there is at the very minimum a large doubt in their minds concerning the benefits to be derived by the poor and the young from minimum wage laws. Indeed, in light of the documented experience of the past 20 years, a proposal for a significant increase in minimum wages during a period of high unemployment ought to be greeted with suspicion if not downright animosity by those who are supposed to benefit from it.

What must not be forgotten in any discussion of minimum wage laws is that pet economic theories or altruistic motives or idealistic conceptions of the economic world are not the main issue. Instead, the main issue is the impact such laws would have on individual human beings. The downcast look on the face of a black teenager who has been laid off or denied employment because a minimum wage law has priced him out of the market is infinitely more instructive than even the most sophisticated of theoretical economic arguments. That look speaks volumes, and all the good intentions in the world are not going to ease the frustrations and the rage which justifiably accompanies such a look.

The PRESIDING OFFICER. The 10 minutes of the Senator have expired.

Mr. BUCKLEY. I yield myself 5 additional minutes.

What, then, are the arguments against

raising the minimum wage? They are as follows and, I believe, they combine good intentions with a good understanding of economic and social reality.

They are not in any sense meant to be dogmatic, but are meant to be arguments which must be considered when any raise in the minimum wage is proposed. In a field as complex as this, no arguments can claim to have answered all objections—yet it is precisely because the field is such a complex one that we must not dismiss such arguments simply because they appear at first glance to be contrary to prevailing attitudes.

The original Fair Labor Standards Act of 1938 fixed minimum wages at 25 cents an hour and overtime pay for hours worked in excess of 40 hours at one and a half times the employee's regular rate. Since then the Congress has raised the minimum four times: In January 1950 to 75 cents hourly; in March 1956 to $1 hourly. In 1961 amendments led to a $1.25 minimum wage by September of 1963 and in 1966 further amendments led to a $1.60 minimum by February 1968.

After a history of over 30 years, we have accumulated enough data to make the following conclusions concerning minimum wage laws:

First, according to an article in Business Week for May 15, 1971, it is widely held among a growing and diverse number of economists that the minimum wage eliminates marginal job opportunities.

Prof. Paul Samuelson put this argument most succinctly when he said:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that much keeps him from getting a job?

Tinnis Welch of the National Bureau of Economic Research, and Mann Kosters of the Council of Economic Advisors, conclude in a Rand study:

> Minimum wage legislation has apparently played an important role in increasing the cyclical sensitivity of teenage unemployment. As the minimum rises "teens are able to obtain fewer jobs and their jobs are less secure over the business cycle. This is disproportionate among nonwhite teens.

An article from a prominent monthly economic newsletter stated:

> Women, teenagers, nonwhites and particularly nonwhite teenagers are especially hard hit. Before 1956, when the minimum wage was 75 cents, the quarterly unemployment rate among nonwhite teenagers ranged between 13% and 18%, several percentage points above the rate for whites. However, within two years, after the minumum wage went up 33%, the unemployment rate for white teens rose to 14% while the rate for nonwhite teens jumped to 27%. Since then, three more increases in the minimum have been introduced. And the nonwhite teenage unemployment rate has risen to over 30%, more than twice that for whites.

Lest it be cited against me, let me turn now to the conclusion of a study made by the Bureau of Labor Statistics which states:

> Increases in the level of coverage of the Federal minimum wage may have contributed to the employment problems of teenagers, but it is difficult to disentangle such effects from numerous other influences.

It may seem that by inclusion of such a statement I am "weakening my case." Yet it by no means effectively rebuts the conclusions drawn by a host of serious economists.

If the Bureau of Labor Statistics study is not as unqualified in its rejection of minimum wage laws as other authorities I have quote, that in no way should imply that grave doubts are not warranted whenever legislation calling for a substantial increase in the minimum wage is proposed. On the contrary, the Bureau of Labor Statistics study seems to me to make almost compulsory an effort on the part of the Congress to disentangle those other effects before proceeding with another rise in the minimum wage applicable to teenagers. If minimum wage "may" have contributed to teenage unemployment there is distinct possibility that it does. I do not think we can afford to gamble the well-being of hundreds of thousands of teenagers and the future health of our society on the hunch that it does not.

Mr. President, lest my resistance to an increase in the minimum wage conjure up visions of youngsters returning to the sweatshop conditions of the 19th century, or lest I appear to be a 20th-century scrooge, let me hasten to point out that holding the line for teenagers at $1.60 per hour, as the Dominick amendment would have done, would hardly condemn them to subhuman earnings. The overwhelming majority of teenagers are single, and many, if not most, are living with their families. A youngster working at $1.60 per hour, 40 hours per week, and 50 weeks per year will earn $3,200 per annum or $1,200 more than the Government defined poverty line of $2,000 for single persons living in the city.

Under these circumstances, and at a time of unparalleled unemployment among teenagers, especially nonwhites, it is, to me, unthinkable that we should raise the barriers still higher which stand between them and employment by again raising the minimum wage which an employer is allowed to pay them. Our best intentions might work against our good sense and that "ethic of work" about which Dr. Braceland wrote might be irrevocably damaged precisely at a time when young people need it most—and when our Nation needs young people who embody the work ethics.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

Mr. President, I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator from Ohio (Mr. TAFT) is recognized for 2 minutes.

Mr. TAFT. Mr. President, I thank the Senator from New York for yielding me this time. I want to subscribe and give heartiest approval to the amendment which he has proposed and the statement he has made in support of it.

Certainly there is no single social concern that should be more seriously regarded today in America than the growing rate of unemployment among our youth, especially among our minority youth.

I do not think there is any consideration in the entire minimum wage bill that measures in comparison to the seriousness of this problem.

There are many other programs, as I have mentioned before in discussions on the substitute, which contain a provision with respect to this amendment but I believe that the Senator from New York has come up with a number of additional factors that perhaps are superior to the provisions of the youth differential included in the substitute.

I feel that some action along this line is absolutely vital unless we are to see a minimum wage bill under the Fair Labor Standards Act have the contrary effect of many other programs we are working on, trying to encourage American youth employment today.

This is an amendment that is worthy of full support and I hope that it certainly will receive the full support by the Senate tonight. I believe it can do much to move in this very difficult area of youth—unemployment.

Mr. DOMINICK. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I gladly yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, the Senator's amendment, to me, makes great common sense. It is very difficult for young people to make the transition into the adult job world.

This is limited, as I understand it, to 6 months and then it goes to the regular minimum.

Mr. BUCKLEY. That is right, except for those under the age of 18.

Mr. DOMINICK. Except for those under the age of 18. In this connection, it would be interesting to recite one or two excerpts which I believe will be helpful.

This one comes from Nation's Business of September 1971, long before we started this debate—hope—I think.

It states in part:

> The Dean & Barry Co. paint store in Urbana, Ohio, doesn't hire part-time teen-age help any more.
>
> But it used to.
>
> So did all the other 39 Dean & Barry retail stores. Now only the larger ones do.
>
> "Most of our paint stores are in small, county-seat towns," says Robert S. McKay II, president.
>
> "In the summer, almost all used to hire high-school boys. They stocked shelves, swept up and did other chores.
>
> "We used to pay them $1 to $1.25 an hour.
>
> "Usually, they worked full time in summer. The rest of the year, they worked a few hours after school and on Saturdays. Maybe 10 to 15 hours a week. They were just extra, supplemental help.
>
> "Then the minimum wage law made us pay them $1.60 an hour. So we stopped hiring most of them. That took away about 15 to 20 jobs.
>
> "But the smaller stores just couldn't take the tab."
>
> In Chicago, the same law has helped dry up job opportunities for other young people.
>
> Carson, Pirie, Scott & Co., a giant Chicago department store, used to hire several hundred of them to fill summer jobs.
>
> "We hired girls for our College Boards, for example," says C. V. Martin, board chairman. "They were sort of assistant clerks,

models and fashion coordinators. We hired boys for jobs like stock boy or to work at our soda fountain.

"But we didn't have nearly as many this summer as we did before.

"One factor is the economy. But another is the minimum wage. It's just too high for these marginal, nonadult jobs."

This next excerpt comes from Business Week for May 15, 1971, before we started this debate:

A growing and politically diverse number of them are convinced that, by eliminating marginal job opportunities, the minimum wage is hurting people it is supposed to help, striking hardest at blacks and teen-agers.

Mr. President, I ask unanimous consent that both articles be printed in full in the RECORD.

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

[From Nation's Business, September 1971]

MAKING MORE JOBS FOR YOUNG AMERICANS

The Dean & Barry Co. paint store in Urbana, Ohio, doesn't hire part-time teen-age help any more.

But it used to.

So did all the other 39 Dean & Barry retail stores. Now only the larger ones do.

"Most of our paint stores are in small, county-seat towns," says Robert S. McKay II, president.

"In the summer, almost all used to hire high-school boys. They stocked shelves, swept up and did other chores.

"We used to pay them $1 to $1.25 an hour.

"Usually, they worked full time in summer. The rest of the year, they worked a few hours after school and on Saturday. Maybe 10 to 15 hours a week. They were just extra, supplemental help.

"Then the minimum wage law made us pay them $1.60 an hour. So we stopped hiring most of them. That took away about 15 to 20 jobs.

"But the smaller stores just couldn't take the tab."

In Chicago, the same law has helped dry up job opportunities for other young people.

Carson, Pirie, Scott & Co., a giant Chicago department store, used to hire several hundred of them to fill summer jobs.

"We hired girls for our College Boards, for example," says C. V. Martin, board chairman. "They were sort of assistant clerks, models and fashion coordinators. We hired boys for jobs like stock boy or to work at our soda fountain.

"But we didn't have nearly as many this summer as we did before.

"One factor is the economy. But another is the minimum wage. It's just too high for these marginal, non-adult jobs."

He adds: "It's a tragedy, on two counts.

"Not only do young people lose the chance to earn some money. They also miss an opportunity to learn what it is to work in a department store—and perhaps decide they'd like to become merchants.

"It was kind of a vocational training."

OLD STORY FOR THE YOUNG

The unadjusted jobless rate for teen-agers has climbed to 19.7 per cent.

In inner city poverty areas, it has skyrocketed, from 23.2 per cent in the first quarter of 1971 to 28.5 in the second.

For those areas' black teen-agers, the rate was even worse—from 34.2 per cent in the first three months to 39.1 in the second. Nor is this just a recent phenomenon.

"This is a problem that goes back 40 years," says Secretary of Labor James D. Hodgson.

In 1930, he points out, the U.S. teen-age unemployment rate was one and a half times as high as the total unemployment rate. By 1948, it was two and a half times as high. In 1963, it was three times as high, and by 1969 four times as high.

Many economists, statisticians and social scientists are sure they know the reason why: The minimum wage law.

"It may help some workers," says Prof. Charles T. Stewart Jr., noted George Washington University economist.

"But it doesn't help the marginal people—the inexperienced, the unskilled or handicapped workers.

"It hurts them. And teen-agers make up the largest pool of marginal workers in the nation."

LIKE A SORE THUMB

He adds: "Look at the right statistics, and that fact sticks out like a sore thumb.

"Take the per cent of jobless teenagers in any year. Then compare that with the total per cent of all unemployed—mostly adults.

"That ratio is a sensitive index.

"Nearly every year the minimum wage goes up, that ratio goes right up with it."

Labor Department economists don't dispute the statistics, but say that they don't prove much.

Their view is reflected in a recent article, "Young Workers and Their Earnings," which appeared in the Department's *Monthly Labor Review*. Author Vera C. Perrella, a Labor Department economist says:

"According to one theory, minimum wages have unemployment and disemployment effects for the youngest workers because their productivity is low and employers are less willing to hire them than older, more productive workers, even when older workers have to be paid appreciably higher wages.

"The data neither support nor contradict this argument."

"But the Labor Department studies are faulty," says economist Stewart.

"Its statistics don't give an adequate 'before and after' picture.

"What happens in this country is that the economy—and employment—are usually growing. So if you look merely at employment figures, you find they're growing, even after the minimum wage goes up.

"But that doesn't prove the minimum wage has no impact.

"To find out if it does or not, you have to do this. Ask what would have happened if you didn't have a minimum wage. That's a harder question to answer. But it's the right one to ask.

"And many independent studies do show that federal minimum wage rates have an adverse effect on employment."

Arthur F. Burns, now chairman of the Federal Reserve Board, once made the same point. In his book, "The Management of Prosperity," he said:

"The ratio of the unemployment rate of teen-agers to that of male adults was invariably higher during the six months following an increase of the minimum wage than it was in the preceding half year."

Then he posed this question.

What would happen if the economy stayed on an even keel—and the minimum wage were boosted?

A 25 per cent increase would hike white teen-age unemployment by as much as 8 per cent, he estimated.

THE END OF THE LINE

Why does a law that promises more pay mean fewer jobs for some workers?

The National Commission on Technology, Automation and Economic Progress explains it this way:

"We have found it useful to view the labor market as a gigantic 'shapeup', with members of the labor force queued up in order of their relative attractiveness to employers.

"If the labor market operates efficiently, employers will start at the head of the line, selecting as many as they need of employees most attractive to them. Their choice may be based on objective standards relating to ability or on dubious standards of race, sex, or age; wage differentials may also be important; and formal education may be used as a rough screening device.

"The total number employed and unemployed depends primarily on the general state of economic activity.

"The employed tend to be those near the beginning and the unemployed those near the end of the line."

But that's true, it notes, only if those at the head of the line—and those at the end—all cost the same.

If the price is right, tail-enders stand as good a chance of landing the job as the front-runners.

"The choice between low-skill and high-skill manpower," it says, "is made on the basis of relative costs."

Lack of jobs for young, inexperienced workers hits black and white alike.

But it hits black young people hardest.

"Minority teen-agers, mostly black, suffer more than anyone," says Yale Brozen, professor of business economics, University of Chicago.

"In 1950, 1956, 1961, the minimum wage was raised by Congress. There were a series of increases between 1967 and 1971.

"Every time, black teen-age unemployment rose too.

"This year, it has reached a shocking level.

"It's not racial discrimination that's causing this. Otherwise, we'd have to argue that every time the minimum wage goes up, anti-black feeling intensifies, too."

Prof. Paul A. Samuelson of Massachusetts Institute of Technology is equally critical of the law's effect.

"What good does it do to a black youth to know that an employer must pay him $1.60 an hour—or $2.00," he asks, "if the fact that he must be paid that amount is what keeps him from getting a job?"

ANOTHER BOOST?

Congress is now considering raising that minimum to at least $2 an hour—for youngsters as well as adults—as soon as Jan. 1, 1972.

That would simply compound the felony, critics say.

Black unemployment may be one of the most explosive consequences of pricing "those near the end of the line" out of the labor market.

Earlier this year, a task force of The Twentieth Century Fund took a look at this "urgent problem," which, it says, "is daily growing more acute."

In a report called "Youth Unemployment: Crisis in the Cities," it took this grim look at the future:

"More young black people will enter the job market in the decade ahead, and they will represent a higher proportion of all new entrants than they did in the past. Teen-agers among blacks and other minority groups will increase from about 2.1 million in 1970 to 2.6 million in 1980—a gain of 24 per cent. . . .

"Only at the gravest peril to our society can the American people continue to ignore the growing frustration, despair and hostility that characterize more and more young black people. After a childhood and adolescence stunned by deprivation, rejection, and neglect, these young people want the opportunity to support themselves and live useful lives."

Jobs are the cure, it says, although a lower minimum wage for young workers is not one of the remedies.

Sar A. Levitan, one of the task force members who produced the report, feels differently. Mr. Levitan, head of the Center for Manpower Policy Studies, says:

"I tried to persuade the task force to come out for a dual minimum wage a lower mini-

mum for young people, a higher one for adults.

"Our focus was on black youth.

"In lots of cases, the minimum doesn't help them. Sometimes they're beat out of jobs covered by the law—or pushed out into uncovered employment.

"I think it has a similar—if less severe—effect on white youths, too."

Would teen-agers work for $1.60 an hour or less?

As a mattter of fact, many of them do now. Or did at the time of the latest Labor Department survey in October, 1969.

More than half—51 per cent—of all working- and 17-year-olds made less than $1.60. Seventy-six per cent made less than $1.75. The median pay for all of them was $1.58.

Older teen-agers made more. Of employed 18- and 19-year-olds only 21 per cent made less than $1.60. But 41 per cent made less than $1.75. Their median pay was $1.87. Teen-agers without work evidently eyed jobs like these enviously. Of those 16 and 17 years old, nearly 6 out of 10—58 per cent—said they'd be glad to take one that paid less than $1.60 an hour.

Nearly 9 out of 10—85 per cent—were willing to work for less than $1.75.

Experts say the Labor Department's own statistics show that a boost to $2 an hour, as some bills in Congress propose, is unnecessary and probably harmful.

"I'm sure a dual minimum wage, pegged at $1.60, for teen-agers is not a cure-all for youth unemployment," says Mr. Levitan.

"But I think it's a worthwhile experiment."

HODGSON'S CHOICE

Labor Secretary Hodgson takes a similar slant. He has urged Congress to keep a $1.60-an-hour rate for workers under 18 and for full-time students under 20.

In his huge, panelled office on the third floor of the Labor Department building in downtown Washington, he discusses the issue.

"The man who is new on the job," he says, "is worth less than the man who is experienced."

"The worker who is skilled is worth more than the unskilled. And the mature adult who has disciplined himself to work is worth more to an employer than the youngster who hasn't. That's the way the world of work works.

"We want to give an employer an incentive to give these younger people their first job. And the way to do it is to have a wage differential that makes hiring them attractive.

"The Labor Department has figures which show that when there's pay differential of about 20 per cent, it will stimulate the hiring of youth."

"A youth differential," he says flatly, "will have the effect of encouraging employment opportunities for young people."

Many other countries have the kind of "youth differential" which Secretary Hodgson describes.

That's true, for example, in Western Europe and Japan.

There, youngsters have had far better luck at landing jobs than American teen-agers.

The latest period for which complete published figures are available is 1960–64. The table, below, from the Bureau of Labor Statistics, shows youth unemployment rates, at that time.

Is this cause and effect?

"The evidence from abroad," the Labor Department concedes, "indicates that low wages for youth are an inducement to employers to seek young workers eagerly. The relatively low youth unemployment rates abroad are partially a reflection of that fact."

Any questions?

[From Business Week, May 15, 1971]

WHEN MINIMUM WAGE MEANS NO WAGE AT ALL

Shortly before Christmas, 1929, Harvard University fired, without notice, Mrs. Katherine Donahue, Mrs. Hannah Hogan, and 18 other scrubwomen in the Widener Library rather than raise their pay from 35¢ to 37¢ an hour as demanded by the Massachusetts Minimum Wage Commission. To avoid paying the extra 2¢, Harvard replaced the women with men, who were not covered by the state's pioneering but weak minimum wage law.

As recounted by labor historian Irving Bernstein in *The Lean Years*, the case of the Harvard charwomen ended on a brighter note. Denouncing the university as "harsh, stingy, socially insensitive, and considerably short of the highest ethical standards of the time," a group of 268 students and alumni, headed by Corliss Lamont, raised $3,880 to compensate the discharged scrubwomen.

Minimum wage laws have come a long way since the early decades of this century, when they were first devised to halt exploitation of "the poor working girl." Now a federal minimum wage of $1.60 an hour covers some 46-million workers, and pressures are building to raise it to $2 and extend coverage to the rest of the labor force.

INFLATION AT WORK

On the basis on which the minimum wage has generally been debated, there are good grounds for an upward shift. Inflation has wiped out nearly 17% of purchasing power since the floor was last raised in February, 1968. Today's minimum wage is less than half of average hourly earnings and provides the full-time worker with an income substantially below the federal poverty line.

But the debate has shifted in recent years, particularly among economists. A growing and politically diverse number of them are convinced that, by eliminating marginal job opportunities, the minimum wage is hurting people it is supposed to help, striking hardest at blacks and teen-agers.

"What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?" asks Paul A. Samuelson. And Milton Friedman refers to the Fair Labor Standards Act of 1938, the base of the minimum wage, as "the most anti-Negro law on our statute books—in its effect, not its intent."

WHERE IT HURTS

Samuelson's rhetorical question and Friedman's questionable rhetoric point up the kind of emotion generated by the minimum wage issue. But economists using the rigorously clinical, computerized techniques of econometrics come up with the same general idea. As Gene L. Chapin and Douglas K. Adie of Ohio University put it: "Increases in the federal minimum wage cause unemployment among teen-agers. The effects tend to persist for considerable periods of time. And the effects seem to be strengthening as coverage is increased and enforcement of the laws becomes more rigorous."

The techniques, language, and variables used in their mathematical models may vary, but most other econometricians get the same result: a strong correlation, confirmed by repeated observations in the 1950s and 1960s, between youth unemployment and the minimum wage.

Finis Welch of the National Bureau of Economic Research and Marvin Kosters, now a senior staff economist with the Council of Economic Advisers, concluded in a Rand Corp. study last year that "minimum wage legislation has apparently played an important role in increasing the cyclical sensitivity of teen-age employment." They found that as minimums rise, "teen-agers are able to obtain fewer jobs, and their jobs are less secure over the business cycle. A disproportionate share of these unfavorable employment effects accrues to nonwhite teen-agers."

The econometricians concede that the raw figures from the Bureau of Labor Statistics do not show these correlations. They note that the minimum wage usually has been raised when the economy has been swinging upward, which "washes out" much of the disemployment effect. Chapin adds that this phenomenon gives "politicians a chance to appear to be doing something the public wants with little cost." But a study by economists Jacob Mincer and Masanori Hashimoto at the NBER warns that many teen-agers are scared out of the labor force by lack of job opportunities and vanish into the gray area of hidden unemployment.

The BLS has shown deep concern about these findings and run its own econometric check of the results. In a Labor Dept. study titled "Youth Unemployment and Minimum Wages," Assistant BLS Commissioner Thomas W. Gavett notes that "while there is a significant relationship . . . where other variables are excluded, a look at the whole set of variables casts doubt upon the importance of minimum wages as an explanatory variable." But Gavett finds the lack of clear evidence "discouraging." He fears there is some basis for inferring that extensions of minimum wage coverage, not the rate itself, tended in the 1960s to offset benefits of federal manpower programs.

OPPOSING VIEWS

Not all econometricians, to be sure, subscribe flatout to the minimum wage-disemployment hypothesis. Ruth Fabricant of New York's City Planning Dept. found in a study at the Federal Reserve Board that the effect of minimum wage boosts on hours of work from 1954 to 1968 was "strongly negative," but the impact on the number of persons employed was "significantly positive" before the large increases in coverage and rates that took effect in 1967. Miss Fabricant explained that since minimum wage hikes are permanent and anticipated, "employers view them differently from other wage increases."

There is still another way to view minimum wage increases, and this is the approach taken by advocates. They find the econometric case unproven or too limited in scope. Gavett cites demographic changes that may far outweigh the wage factor.

The post-World War II baby boom, which swelled the teen-age civilian labor force by 49% between 1948 and 1968, compared with 30% growth in the entire work force.

A sharp decline in teen-age employment in agriculture from 734,000 to 394,000, with farm mechanization pushing large numbers of youths, especially blacks, into urban labor markets.

Of crucial significance are employers' own attitudes toward youth. A BLS survey in 10 metropolitan areas showed that employers shied away from hiring teen-agers because of limits on hazardous work, the military draft, and "undependability and lack of training." Others felt that youths have unrealistic wage expectations." But the most striking finding was that a majority of the employers in nine areas did not consider the minimum wage important in affecting their decisions" on hiring teen-agers.

Daniel H. Kruger, professor of industrial relations at Michigan State University, finds in his own experience as head of Michigan's Manpower Commission that if an employer needs additional workers, he hires them even at the going minimum wage." Kruger adds that the FLAS already allows a lower minimum for full-time students. But BLS

figures show that in 1969 employers availed themselves of only 42% of the 36-million man-hours authorized at the 85% student rate.

SOLVING THE DILEMMA

Kruger proposes a wide array of manpower and educational programs for dealing with youth unemployment, but he insists that the problem cannot be solved without coping with over-all joblessness. And this, he says, requires changes in the nation's monetary and fiscal policies.

The same theme is resoundingly voiced by an old war-horse of the Roosevelt and Truman Administrations, Leon H. Keyserling, second chairman of the CEA. Keyserling, who wrote a study that provided the basis for the Employment Act of 1946, believes that higher minimums are essential to provide the consumer purchasing power needed to put steam in the present recovery.

Noting that House Ways & Means Chairman Wilbur Mills is said to be promoting the $2 minimum as an adjunct to President Keyserling says: "It is an anomaly and economically ridiculous to set a minimum wage for full-time employed people lower than what you are coming to accept as a national consensus of what people should get if they can't be employed. The $2 minimum is much better than paying people to do nothing."

Mr. DOMINICK. Mr. President, what I am saying in general is this: If we are really interested in trying to provide job opportunities for young people, we should give them an opportunity to acquire on-the-job training.

Mr. BUCKLEY. I thank the Senator from Colorado very much.

Mr. President, I yield myself 1 minute to say that I want to thank my colleagues from Ohio and Colorado for their remarks. They go directly to the point. The evidence, through study after study on this particular feature, is just too overwhelming to be ignored.

I, for one, do not want to be responsible for legislation which will have the direct and predictable effect of putting more teenagers on the streets looking for jobs and not finding them—especially those who need jobs, those in the inner cities, those from disadvantaged homes. These are the ones who will be affected most if we do not pass this amendment.

Mr. President, if we do not adopt this amendment, I predict that next year we will have requests for still more hundreds of millions of dollars to manufacture artificial jobs during the summers in the major urban cities for the same kids who could have had an opportunity of learning a job, so that they could put their feet on the first rung of the economic ladder.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS. Mr. President, we had this question in substantially the same form yesterday or today. As I understand the amendment offered by the Senator from New York, it is the youth differential contained in the Dominick-Taft substitute. However, it goes further in permitting youth employment at subminimal levels. Is that correct?

Mr. BUCKLEY. The Senator is correct.

Mr. WILLIAMS. Mr. President, the same arguments apply here right now and with even greater force than that used before. In this period of high unemployment, we should, in my judgment, not jeopardize the employment of adults with subminimal wage rate employment by young people.

We have put the rifle shot at the need of the young people, students for example. The pending bill deals with the young people, the kids who are students, and permits a special lower rate for young people who are students, not only in repair and service establishments, but also in an area where they are needed the most.

We have heard in our hearings and have heard in so many ways, in the universities and in the colleges and in the educational institutions where they study, that they can work. And this is a key advantage if they are students. And these are people that require special attention.

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

Mr. WILLIAMS. Mr. President, that young person in the job market who is not a student and is doing the work of a man should be paid the wages of a man. It is as simple as that.

Mr. BUCKLEY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. BUCKLEY. Mr. President, I would like to call the attention of the distinguished chairman of the committee to the final clause of my amendment, which reads:

> The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

In other words, the older workers, will be protected.

The Senator from New Jersey spoke about the fact that we have a provision for students to have odd-time jobs. Students who are in jobs while in their teens and early twenties are young people learning skills which will enable them, when they come into the job market, to get jobs because their productivity will be sufficient to justify the minimum wage and more.

I think we should concentrate on the high schoool dropouts. There are hundreds of thousands of them in this country today. Among black teenagers, the unemployment rate is 31.5 percent. The unemployment rate of their white counterparts is 15.5 percent.

These facts cannot be ignored or shoved under the carpet. In my judgment, it is nothing less than irresponsible to ignore the institution of a theory which will have the effect of aggravating the already desperate situation of young citizens who need to take part in our society.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I am constrained to agree with the manager of the bill. We have been over this ground a number of times. The arguments have been heard pro and con. The difficulty we have in the committee is in drawing bounds between our solicitude for general employment and our concern for helping with the youth situation.

No one knows the situation better than I, having fought on the floor for years for money for the Neighborhood Youth Corps.

I support the manager of the bill in opposing the youth differential amendments. I cannot bring myself to draw the employment picture beyond the point where we have already allowed certification under the bill.

I deeply believe that the other things which we are doing in the various youth employment programs which we are carrying on, including the on-the-job training programs, poverty programs, Neighborhood Youth Corps, and the other programs, represent a reasonable balance between the requirement that we should not preempt jobs which would otherwise go to adult citizens not subject to the youth differentials. This is after all a labor bill, a Fair Labor Standards Act. It is not a bill dealing with youth problems especially. I am all for doing that in whatever bill we have. And I have demonstrated my good faith in that regard by being probably the hardest worker among the proponents of those measures on the floor.

Mr. President, it is for those reasons that while I deeply appreciate the views which have been expressed here, I must oppose the amendment. I would like also to make this point. I would like to hear those same views backed by votes when we are talking about increasing the Neighborhood Youth Corps $200 million or $250 million and when we are talking about increasing the manpower development programs, the poverty programs, and the other youth programs which come before us for authorization and appropriation. It seems to me that those are the proper channels in which to act.

I hope very much that my colleague, whom I greatly respect, and those others who use various guises, and this is one of them—the youth differential—will have this in mind when their turn comes to vote on legislation which will very materially promote the opportunities for youth without in any way prejudicing the opportunity of adults in terms of employment.

For those reasons I am constrained to join with the manager of the bill in opposing the amendment.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. DOMINICK. Mr. President, I just want to say to the senior Senator from New York that what he has just said exemplifies the problem we have. The Senator mentioned about the Neighborhood Youth Corps and the other pro-

grams. All of this comes directly out of the Treasury. Why are they necessary? They are necessary because they cannot get a job.

What the junior Senator from New York is trying to do is to let them get a job so that we do not have to put them in the youth program and spend a lot of the taxpayers' money on the other programs, but give them a chance to get employment. What in the world is the matter with that?

I do not know how many Senators have had their own children at the teenage level trying to get a job. I know from my own kids and so does everyone else. They can go and get a part-time job for 6 months or whatever period it may be in the summertime at less than the minimum wage. However, if they have to be paid the minimum wage, they cannot be hired because they do not know anything about the job or about the business, and cannot compete with adult workers. It is that simple.

Mr. President, for the life of me I cannot understand why we cannot get a grasp on this problem and move the kids into the working cycle instead of sending them to the Youth Corps and all the rest of the programs. We simply spend the taxpayers' money.

Mr. BUCKLEY. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I endorse wholeheartedly what the Senator from Colorado has said. It is just commonsense.

I agree with my distinguished colleague from New York and with the distinguished Senator from New Jersey that the arguments on both sides have been stated.

What has not happened until this moment is that we have not had a clear vote on this particular issue.

I therefore yield back the remainder of my time so that we will have a vote and get on with it.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. BUCKLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered, and the Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Tennessee (Mr. BAKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 36, nays 54, as follows:

[No. 289 Leg.]

YEAS—36

Allott	Eastland	Miller
Beall	Fannin	Packwood
Bellmon	Fong	Pearson
Bennett	Gambrell	Roth
Brock	Griffin	Saxbe
Buckley	Gurney	Spong
Byrd, Harry F., Jr.	Hansen	Taft
	Hatfield	Talmadge
Chiles	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Jordan, Idaho	Young
Dole	Long	
Dominick	McIntyre	

NAYS—54

Aiken	Hartke	Nelson
Allen	Hughes	Pastore
Bayh	Humphrey	Pell
Bentsen	Inouye	Percy
Bible	Jackson	Proxmire
Boggs	Javits	Randolph
Brooke	Kennedy	Ribicoff
Burdick	Magnuson	Schweiker
Byrd, Robert C.	Mansfield	Scott
Case	Mathias	Smith
Church	McClellan	Sparkman
Cook	McGee	Stafford
Cooper	McGovern	Stevens
Cranston	Metcalf	Stevenson
Eagleton	Mondale	Symington
Ervin	Montoya	Tunney
Gravel	Moss	Weicker
Hart	Muskie	Williams

NOT VOTING—10

Anderson	Fulbright	Mundt
Baker	Goldwater	Stennis
Cannon	Harris	
Ellender	Jordan, N.C.	

So Mr. BUCKLEY's amendment (No. 1324) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on amendment No. 1320, proposed by the Senator from New York (Mr. BUCKLEY).

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

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a very brief quorum call.

Mr. SYMINGTON. Mr. President, reserving the right to object, we are on a time limitation. It seems to me we ought to be able to handle this in the time limitation.

The PRESIDING OFFICER. A quorum call is in order at any time.

Mr. SYMINGTON. Why ask unanimous consent for it? Just suggest the absence of a quorum. I thought we were on controlled time.

Mr. JAVITS. We are.

Mr. SYMINGTON. Let us take it out of the controlled time.

Mr. JAVITS. If the Senator objects, that is entirely up to him.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition to the amendment, and I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from New York has 4 minutes.

Mr. JAVITS. I yield myself 5 minutes on the bill, and I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I realize this is a prerogative which usually rests with the minority leader when he has occasion to ask the majority leader about what the situation is and where we expect to be.

Is there any way we can determine at this juncture just how many amendments we are going to have and how many rollcall votes we are going to have so we can make plans as to whether or not we are going to be here until 10 o'clock or whether or not there is a possibility we can eliminate some of the charades that have been taking place and get down to actual business and really work on this legislation and pass on it one way or the other?

Mr. JAVITS. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from New York.

In response to the able Senator from Rhode Island, the distinguished Senator from Ohio (Mr. TAFT) has one additional amendment on which there is a time limitation of 30 minutes. The distinguished Senator from New York (Mr. BUCKLEY) has one amendment on which there is a time limitation, but he has just told me he would be willing to reduce that to 40 minutes, to be equally divided.

There is another amendment on this side of the aisle, and I understand that the time on that amendment can be reduced.

The distinguished Senator from Colorado (Mr. DOMINICK) indicated he had one or two more amendments—maybe.

My distinguished senior colleague has an amendment, on which he would be willing to reduce the time thereon to perhaps 10 minutes, to be equally divided.

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

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. Could we move from "maybe" to being sure?

Mr. ROBERT C. BYRD. Yes, we can, when the distinguished Senator from Colorado (Mr. DOMINICK) puts it on that basis, but when I last consulted with him, he was not sure.

So I would say, it now being 25 minutes of 7, 8:30 to 9 o'clock is a very fair guess.

Mr. PASTORE. That is again "maybe"?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Mr. President, I yield myself the 4 minutes I have in opposition to the amendment.

May I say that, analyzing the situation with respect to this amendment, which is highly complex legally and relates to the historical background of a given employer who justifies the number of employees he can get certificated to work for less than the minimum wage

because of their youth, we come to the conclusion about this amendment that it does represent, in a rather subtle guise—and I am not speaking invidiously at all—another way to open up the youth differential question to a very large number of additional certificates.

My colleague the Senator from New York (Mr. BUCKLEY) believes, in good faith, that it would represent only a very small degree of the opening up of that question, especially related, he feels, to a unique situation which occurred in our own State because of the fact that our own State had a $1 minimum at the time the Federal Government had a $1 minimum, whereas, many other States did not, and therefore, historically, we were not entitled to any certificates based on the standards which were established under the Federal law.

My colleague has been very gracious and kind and has deferred to the Senate, and has said that if the Senator from New Jersey (Mr. WILLIAMS) and I would assure him that we would very carefully look into this question with the view that, if we found there was equity in it, would propose a remedy in another bill he would be glad to forego this amendment.

I give him that assurance and also, I know, what would be the appreciation of the Senate that we would have one less issue to deal with in this bill, which has already had so many issues in it. I hope that the Senator from New Jersey would do the same.

May I point out, too, that I believe, because the House has established a differential and the House authority broadened it, we could look at the matter in conference. I promise to consult with my colleague about the details and any suggestions he may have for a conference solution.

Under those cirumstances, and in the absence of the Senator from New Jersey (Mr. WILLIAMS), I know he would allow me to make the same commitment for him. I think my colleague will feel that that would accomplish the purpose, and would not press the amendment.

Mr. BUCKLEY. Mr. President, I want to thank my colleague for his consideration, and based on those assurances, I hereby withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1322

Mr. BUCKLEY. I have another amendment which I should like to call up at this time. I call up my amendment No. 1322.

The PRESIDING OFFICER. The clerk will read the amendments.

The second assistant legislative clerk read the amendment (No. 1322) as follows:

On page 19, beginning with line 17, strike out through line 7 on page 20.

On page 22, beginning with line 15, strike out through line 11 on page 25.

On page 25, line 12, strike out "(e)" the first time it appears in such line and insert in lieu thereof "(d)".

On page 25, line 22, strike out "(f)" and insert in lieu thereof "(e)".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I yield.

Mr. ROBERT C. BYRD. Is this the amendment which the distinguished Senator discussed with me a little earlier with respect to a time reduction?

Mr. BUCKLEY. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on this amendment—and I am taking a little liberty here—be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill.

May I say to the mover of the amendment that if 30 minutes is not enough, we can get time on the bill.

Mr. BUCKLEY. I certainly would not object to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

How much time does the Senator yield himself?

Mr. BUCKLEY. Mr. President, I yield myself such time as I may require.

This amendment was involved in the original Dominick package, and concerns an issue which we never had an opportunity to really get the views of the Senate. It again involves an attempt to avert what could be economic catastrophe. What it does, in effect, is eliminate those sections in the pending bill which would, for the first time in history, bring Puerto Rico and the Virgin Islands under its umbrella. It seeks to accomplish what the Senator from Arizona (Mr. FANNIN) accomplished for the Canal Zone by his amendment which was approved by the Senate.

The situations in Puerto Rico, and also in the Canal Zone and the Virgin Islands, are simply too different from those which prevail here on the mainland to make it possible, without economic dislocations, to try to bring them under the same umbrella of legislation, even in gradual stages.

Matters concerning Puerto Rico are of particular interest to me. The large Puerto Rican population in New York is naturally vitally interested in any legislation that would affect their relatives and friends in Puerto Rico. The contact that I have had with Puerto Ricans both in New York and Puerto Rico has encouraged me to work to maintain Puerto Rico's current status with respect to our minimum wage laws.

In debating whether or not to extend the U.S. minimum wage to Puerto Rico, I cannot help but feel that we have the very future of Puerto Rico in our hands. When considering this legislation, there is one thing that we should not forget: Congress cannot legislate prosperity for an area like Puerto Rico. The most it can do is to provide an environment that will encourage economic development. My fear is that extending the mainland's minimum wage rate to Puerto Rico, even in stages over a number of years, will not stimulate its economy but rather retard it disastrously; it will not help Puerto Rican workers, but rather greatly aggravate the current excessively high rate of unemployment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. ROBERT C. BYRD. Does the Senator want the yeas and nays?

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BUCKLEY. The chronic unemployment situation in Puerto Rico makes the mainland's problems seem insignificant. Puerto Rico's official unemployment rate in May 1972 was 11.6 percent. The actual situation is even more critical when one realizes that the unemployment pattern in Puerto Rico is similar to that on the mainland—that is, young people experience much higher rates than adults. Disemployment—the number of people able to work who do not have jobs—is 55 percent for men 16 to 19 years old and 13 percent for men 25 to 44. To have over half the youth unemployed threatens to create a culture of the unemployed—a culture that is out of touch with how a productive, meaningful life is led. This situation is tragic for those tens of thousands of people unable to find employment, and its implications for the economic future of the island are extremely grave.

Puerto Rico does not have mineral deposits or extensive forest or farmland—it is without the natural resources that could attract business investments. The one resource that Puerto Rico does have is its abundant labor supply. Therefore, Puerto Rico is interested in attracting industries that can utilize very labor-intensive methods of production.

Puerto Rico must vie with other areas of the world to keep and attract industry. It does not compete significantly with the United States mainland's highly trained labor force. However, it does compete with such extremely low-wage countries as Korea, Taiwan, Portugal, and the Dominican Republic. Puerto Rico has been feeling the bite of this competition quite acutely, and recently has been experiencing some difficulty in attracting new investments and even in keeping those industries which it has. For example, between 1969 and 1971, it lost 82 firms and a net of 4,641 jobs in the leather and textile industries to countries with lower wages than its own. Puerto Rico clearly cannot afford to lose more of its job-producing industry. Yet, this will be the result if it prices itself out of the low-skill labor market by having the minimum wage of the mainland United States forced upon it.

If the Senate decides to impose the Federal minimum wages on Puerto Rico, it will in effect be saying that the Puerto Rican Government has not been acting to attain the highest possible wages for its people compatible with high employment. Puerto Rico currently sets its own minimum wages industry by industry. Under this system, Puerto Rico's wages have risen significantly—by about twice the rate of the mainland's increases in the past 20 years. Careful industry-by-industry studies are conducted to determine the optimal wages, and there can be no doubt that these minimums are much better tailored to the situations in Puerto Rico than a wage selected with

the continental United States in mind. We should also remember that Puerto Rico's industrial committees cannot be called organs of the business community. Each committee has three members each from management, labor, and the public. This prevents domination by any one interest.

The correspondence that I have had with those in Puerto Rico shows that the sentiment there is overwhelmingly in favor of maintaining its autonomy in determining minimum wages. Puerto Ricans of the major political parties and from all sectors of the economy are joining together in opposition to the provisions dealing with Puerto Rico in the Williams bill.

In his testimony before the General Subcommittee on Labor of the House Committee on Education and Labor at San Juan on May 7, 1971, Mr. Hernandez Colon, President of the Senate of the Commonwealth of Puerto Rico and of the popular Democratic party said:

The position sustained by our party in regard to the application of the minimum wage provisions of the Fair Labor Standards Act of Puerto Rico has been expressed by our past administration and legislatures every time that proposals have been made to amend this law . . . We also feel that it is imperative for the protection and expansion of our industry and the availability of jobs, that these [minimum wage] rates continue to be set through the flexible system. Such system assures that the economic situation of each and every industry is carefully considered before its particular minimum rates are raised in order to protect the industry and workers from the evils of unemployment.

In addition, the House of Representatives of the Commonwealth of Puerto Rico in its session of May 21, 1972, adopted a resolution which included the following:

Be it resolved by the House of Representatives of the Commonwealth of Puerto Rico: . . . to ask the President and the Congress of the United States that no change be made in the present provisions of the Federal Minimum Wage Act, and that the system of special industry committees be kept, as presently provided by the Act, in its applicability to the Commonwealth of Puerto Rico.

Finally, there is considerable union opposition in Puerto Rico to the Williams bill. An editorial entitled "Crisis in Puerto Rico" in the monthly publication of the Seafarer's International Union in June 1971 states in part:

The simple fact is that Puerto Rico's economy at this stage of history cannot take the burden of the Federal minimum wage without very substantial loss of employment . . . to show the Puerto Rican situation in full context, it should be noted that 26 unions in a resolution fully supported the SIU [Seafarer's International Union] stand on the minimum wages in Puerto Rico. Those who spoke for the Dent bill represented only a small fraction of organized labor in the island.

The economic facts and the sentiments of the Puerto Ricans are very unambiguous on this point. Extension of coverage of the Federal minimum wage to Puerto Rico would have disastrous effects on the already too high unemployment rate in Puerto Rico. Those who wish to extend coverage to Puerto Rico are experiencing a serious misdirection of their concerns for the island. As Jorge L. Córdova, Resident Commissioner from Puerto Rico has stated:

Puerto Rico's political leaders . . . are no less sensitive to labor issues, or to the labor vote, than political leaders here, hence their openly voiced concensus on this point [that is, against the Williams bill as it applies to Puerto Rico] seems to me particularly eloquent, and deserving of consideration by the Congress.

To vote to permit Puerto Rico to maintain autonomy in determining its minimum wages is to act in the best interest of both the workers and the economy of Puerto Rico.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks, a letter I received from the Resident Commissioner of Puerto Rico, Mr. Jorge L. Córdova, under date of June 14, 1972, together with the attachments thereto, which document, although not specifically, the sentiment in favor of the provisions of my amendment by many responsible groups on the island.

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

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

EXHIBIT 1

WASHINGTON, D.C.,
June 14, 1972.

Hon. JAMES L. BUCKLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUCKLEY: In order that you may have before you Puerto Rico's position on the pending minimum wage legislation, I enclose copy of the letter I addressed on July 28, 1971, to Chairman Perkins of the House Education and Labor Committee on the subject, and of the enclosures which accompanied that letter. As you will see, these documents show that both Houses of the Legislature of Puerto Rico, both major political parties, and the Governor and I as the two top elected officials, agree on the position that the review committees which have provided flexibility to the application of the Federal minimum wage in Puerto Rico from the inception of this legislation, should be preserved in order to avoid the unemployment that would result from indiscriminate wage increases.

I also enclose a copy of the editorial of the Seafarers International Union's monthly publication in Puerto Rico for June 1971 entitled "Crisis in Puerto Rico". Also enclosed is copy of the cable sent to me by Keith Terpe, President of the SIU in Puerto Rico, and also Chairman of the labor council made up of the AFL–CIO unions in Puerto Rico.

I appreciate very much your readiness to cooperate with us in the matter of this very important legislation.

Sincerely yours,

JORGE L. CÓRDOVA.

WASHINGTON, D.C., *July 28, 1971.*

Hon. CARL D. PERKINS,
Chairman, Education and Labor Committee, House of Representatives, Washington, D.C.

DEAR CHAIRMAN PERKINS: As you consider H.R. 7130, I wish to bring to your attention that both Houses of the Legislature of Puerto Rico, and both of the major parties in Puerto Rico, are agreed in opposing the indiscriminate wage increases provided in Puerto Rico by Section 104 of H.R. 7130.

I enclose copy of the resolution approved May 21 of this year by the Puerto Rico House of Representatives, controlled by the New Progressive Party which elected Governor Ferré. An identical resolution was approved May 25 by the Senate of Puerto Rico, controlled by the opposition Popular Democratic Party. I also enclose a portion of the testimony of Rafael Hernández Colón, President of the Senate of Puerto Rico and President of the Popular Democratic Party, before the General Subcommittee on Labor, which summarizes his position.

I respectfully submit to you that the position of the Legislature of Puerto Rico, and of the leadership of both major parties, insisting on the opportunity for a review of each industry in Puerto Rico before automatic increases are made applicable to that industry (as has always been done heretofore) deserves your careful and sympathetic consideration. Puerto Rico's political leaders are concerned about the threat to employment in Puerto Rico which Section 104 of H.R. 7130 poses. They are no less sensitive to labor issues, or to the labor vote, than political leaders here, hence their openly voiced consensus on this point seems to me particularly eloquent, and deserving of consideration by the Congress.

With best wishes.

Sincerely,

JORGE L. CÓRDOVA.

EXCERPT FROM TESTIMONY OF RAFAEL HERNANDEZ COLON BEFORE THE GENERAL SUBCOMMITTEE ON LABOR OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR AT SAN JUAN, PUERTO RICO, MAY 7, 1971

Mr. HERNANDEZ COLON. My name is Rafael Hernández Colón, and I am the President of the Senate of the Commonwealth of Puerto Rico. I am also President of the Popular Democratic Party, which was the majority party from 1941 to 1968, the period during which the economic development program that has transformed the economy of Puerto Rico was conceived and developed. I am here to testify in relation to the House Resolution 7130 whose purpose is to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under the act and to extend its coverage.

Both, the Senate of the Commonwealth of Puerto Rico and the Popular Democratic Party, believe in high wages and the protection of the rights of the Puerto Rican workers and of all workers. Our administrative and legislative history gives ample proof of this. Our labor legislation, including the Puerto Rico Minimum Wage Act, is one of the most liberal under the American Flag. However, we are also aware of the great incidence and persistence of unemployment among our people and for that reason the creation of an adequate number of jobs by our economy is of utmost concern to us.

The position sustained by our party in regard to the application of the minimum wage provisions of the Fair Labor Standards Act of Puerto Rico has been impressed by our past administrations and legislatures every time that proposals have been made to amend this law. This position can be summarized as follows: We favor increases in minimum wages by law. We also feel that it is imperative for the protection and expansion of our industry and the availability of jobs, that these rates continue to be set through the flexible system. Such system assures that the economic situation of each and every industry is carefully considered before its particular minimum rates are raised in order to protect the industry and the workers from the evils of unemployment. We reiterate this position again today because we believe that it is the only responsible alternative under the present system.

I, Pedro Torres Díaz, Secretary of the House of Representatives of the Commonwealth of Puerto Rico, hereby certify that the House of Representatives in its session of May 21 adopted the following Resolution:

RESOLUTION

To ask the President and the Congress of the United States to keep in effect the federal Minimum Wage Act provisions applicable to Puerto Rico, concerning the special industry committees, and for other purposes:

Whereas, the Congress of the United States is considering various proposals to amend the federal Minimum Wage Act which, if passed, would eliminate the special provisions applicable to Puerto Rico, concerning the Industry Review Committees, and would further impose automatic increases without the intervention of these Committees, thereby resulting in the loss of the necessary flexibility to establish wages in conformity with the proven maximum economic capacity of the different industries to pay them.

Whereas, these industry committees were wisely established by the Congress abiding the expressed wish of the legitimate representatives of the People of Puerto Rico and taking into account the obvious local needs of Puerto Rico, the state of its economy, and the need for wage standards which may not lead to greater unemployment or decrease the Puerto Rican capacity for development and production;

Whereas, the elimination of such Industry Committees and the establishment of rigid federal wage standards—which could be justified in a developed economy such as that of the United States, but not in Puerto Rico which is presently undergoing the process of developing its manufacturing industry—would have the actual effect of decreasing our production capacity, and result in the closing of factories, the discouraging of new investments and the creation of greater unemployment, bringing about an undesirable, dangerous situation of economic, social and political instability in Puerto Rico;

Whereas, it has always been the policy of the Commonwealth of Puerto Rico, already effected, to support the highest wage levels compatible with the economic capacity of the industries, for the purpose of achieving at the earliest possible moment a minimum wage that would be equal to that prevailing in the continental United States; and it being a fact that wages not conforming to this reality have the effect of closing factories and discouraging the industrial development which Puerto Rico needs so much to face its high unemployment levels and increase its living standards;

Therefore, be it resolved by the House of Representatives of the Commonwealth of Puerto Rico:

First: To ask the President and the Congress of the United States that no change be made in the present provisions of the federal Minimum Wage Act, and that the system of Special Industry Committees on Wages be kept, as presently provided by the Act, in its applicability to the Commonwealth of Puerto Rico.

Second: To ask the President and the Congress of the United States that no automatic increases be put in effect in the federal minimum wage applicable to Puerto Rico, which might be arbitrary, without being reviewed first by the Industry Committees created by the Act.

Third: The Resident Commissioner in Washington will be notified by cable of the approval of this Resolution, so that he likewise may notify the Chairmen of the Labor Committees and Subcommittees in the Senate and the House of Representatives, the Secretary of Labor and the President of the United States.

In testimony thereof, and to transmit to the Hon. Luis A. Ferré, Governor of Puerto Rico, I hereby sign and seal this document in my office, in the State Capitol of Puerto Rico, today, June 1, 1971.

PEDRO TORRES DÍAZ,
Secretary.

[Senado de Puerto Rico, 25 de Mayo de 1971]

R. DEL S. 345

Resolucion para requerir del Presidente y del Congreso de los Estados Unidos que mantengan vigentes las cláusulas aplicables a Puerto Rico sobre los comites especiales industriales de la actual Ley Federal de Salario Minimo y otros extremos

EXPOSICION DE MOTIVOS

Por cuanto: están bajo consideractión del Congreso de los Estados Unidos varias proposiciones de enmiendas a la Ley Federal de Salario Minimo que, de ser aprobadas, eliminacion las cláusulas especiales aplicables a Puerto Rico sobre los Comités Industriales de Revisión e imponen, ademis, aumentos automaticos sin la intervención de estos comités resultando ello en in pérdida de la flexibilidad necesaria para fijar salarios conforme a la comprobade maxima capacidad económica de las distintas industrias para poder pagarlos;

Por quanto: estos Comités Industriales fueron sabiameine establecidos por el Congreso respetando la expresión de los legitmos representantes del Pueblo de Puerto Rico y teniendo en cuenta les obvias necesidades locales de Puerto Rico, la situación de su economia, la necesidad de un régimen de salarios que no conduzca a un mayor dessamplao y que no reduzca la capacidad de desarrollo y produció de Puerto Rico;

Por quanto: la eliminación de tales Comités Industriales y el establecimiento de salarios federales Rigidos, que pueden justificarse en una economia desarrollada como la de Estados Unidos, pero no en Puerto Rico que está actualmente en proceso de desarrollo manufacturero, tendria el efecto real de reduoir nuestra capacidad de producción, el cierre da fábricas, el desaliento de nueuvas inversiones y la creación de un mayor desempopleo, lo eual crearia una indeseable y peligrosa situación de inestabilidad económica social y politica un Puerto Rico;

Por cuanto: He sido siempre la politica del Estado Libre Asociado de Puerto Rico, in cual se ha llevado a cabo, la de mantenerse los mas altos niveles de salarios compatibles con la capacidad economica de las industrias con el proposito de que pueda legrarse a la mayor brevedad posible un salario minimo ilgual al que rige en los Estados Unides Continentales. I que es un hecho que salarios que no se ajustan a una realidad tienan el efecto de cerrar fabricas y desalentar el deserrible industrial que Puerto Rico tauto necesita para afrontar sus altos niveles de desemple y para aumentar su nivel de vida;

Por tanto: Resulvasa por el Senado de Puerto Rico:

Primaro: Solicitar del Presidente y del Congreso de los Estados Unidos que no se cambien las actuales clauanlas de la Ley Federal de Salario Minimo y que se mantenga el sistema de Comites Industriales Especities sabre Salaries tal como ahore rigen dichas clausulan en su aplicabiliad al Estado libre Asociado de Puerto Rico.

Segundo: Solicitar del presidente y del Congreso de los Estados Unidos que no se pongan en efecto aumentos automaticos en el salario minimo federal aplicabla a Puerto Rico, que pueden ser arbitrarios, sin antes ser eslos revisados por los Comites Industriales que esiableca la ley.

Tercaro: Se notificara de esta resolucion por cable al Comisonado Residente de Puerto Rico en Washington para que este a su vez notifque a los Presidente de los Comitis y Subcomitis del Trabajo del Senado y de la Camara de Representates, al Secretario del Tarbajo y al Presidente de los Estados Unidos.

[From the La Voz da la SIU, June 1971]

CRISIS IN PUERTO RICO

Puerto Ricans have grown used to crisis in hundreds of years of constant struggle since Christopher Columbus first landed on this sunny island of the Caribe in 1493.

First, the Caribe Indians themselves all but vanished, leaving only their name by which our whole area is still remembered—The Caribbean.

Endless strife has taken place through all these islands in the long years since Columbus, but especially this has been true in Puerto Rico.

From 1863, when slavery was abolished in Puerto Rico, until 1952, the island was principally an agricultural economy with the emphasis on sugar. A most unstable economy we might add and one that earned Puerto Rico the title of "Poor House of the Caribbean". No more abject poverty could be found most anywhere in the world than that suffered by Puerto Rico in those years.

Realization came that if an ever-growing population were to be decently fed, housed, clothed, educated and employed in a country that was among the most densely populated on the face of the earth, it could be done by cutting cane alone.

So was born "Operation Bootstrap", Fomento—Puerto Rico's Industrial Development Agency coined the phrase—and using Puerto Rico's only natural resource, man and woman power, it went to work to produce an industrial economy. Tax freedoms, government constructed factories, special training programs, even modern resort hotels all went into the Fomento promotion to attract industrial investments concerns to Puerto Rico.

From often no wages at all to regular pay days is a big jump, but the benefits of employment brought by no means ended with a pay envelope. Illiteracy was wiped out totally in the first 10 years of the program. Puerto Rican life expectancy rose from 46 years in 1940 to 70 years for males in 1969. Broad social changes took place across the board—it was hoped that "the poor house of the Caribbean" would never be again.

However, history may yet record that Puerto Rico's valiant and dramatic battle to achieve the "good way of life" for its citizens in fact failed.

This can happen if an answer is not soon found in the current conflict over application of Federal Minimum Wages to Puerto Rico. This measure is being pushed by well-intentioned but very poorly informed, as it relates to Puerto Rico, individuals a few of whom we regret to say are among labor's leadership in Puerto Rico. Too frequently these poor souls are prone to be hypnotized by their own rhetoric without regard to the conditions prevailing in Puerto Rico.

The simple fact is that Puerto Rico's economy at this stage of history cannot take the burden of the Federal Minimum Wage without very substantial loss of employment.

We at the SIU of Puerto Rico are well acquainted with the scene in the island, having been in the area since 1938 and having won, in often times bitter struggle, good contracts for our members.

Indeed, it would be most desirable to have every worker in Puerto Rico get the full Federal minimum wage and we are diligently at work to achieve this. But we cannot insist as long as jobs would be cancelled out as a result of our success. We are in the business of improving the lot of workers and helping create new jobs, not in the business of creating unemployment.

Under present legislation, Special Industrial Review Committees set the wage standards for workers in Puerto Rico and it must be added that all SIU contracts in Puerto Rico provide for wages well above the minimum set for all categories in the island.

The Dent and Williams Bills would eliminate these Review Committees—and some less enlightened island labor leaders as well as other ill-informed officials back this bill. For those from off-island, we urge that they

read up on the facts in Puerto Rico. For the handful of the less enlightened PR labor leaders, we suggest that they are covering up their own incapability to get good wages by clamoring for legislated wages.

To show the Puerto Rican situation in full context, it should be noted that 26 unions in a resolution fully supported the SIU stand on the minimum wages in Puerto Rico. Those who spoke for the Dent Bill represent only a small fraction of organized labor in the Island.

Our view is simply that of the AFL–CIO, namely that the Review Committees be abolished at a future date—and full Federal minimum wages extended to Puerto Rico—when Puerto Rico can afford it, and no jobs will be lost as a result of that action.

This is the only way that Puerto Rico can progress. Pulling the rug from under those trying to improve the lot of the people can only bring chaos.

We have to win this one to insure the continued upward spiral of the Puerto Rico workers. They deserve better than to be made the victims of stateside "experts," who come to the island to "solve" problems affecting the lives and wages of tens of thousands of workers from lush deluxe oceanfront cabanas. Or for that matter, victims of a few local headline-seeking demagogues. who, at that, may be politically motivated.

MINIMUM WAGES

MAY 14, 1972.

Hon. JORGE L. CÓRDOVA DIAZ,
Resident Commissioner in Washington,
House of Representatives
Washington, D.C.

DEAR DON JORGE: Congratulations on a job magnificently done. We know the substitute bill on federal minimum wages was created and passed Congress almost exclusively due to the hard work and vigorous efforts of yourself and your very fine staff. We feel sure that this will do more than anything else to revitalize industry and commerce in Puerto Rico, aid in creating new employment and abate further unemployment and finally, it will do more than anything else to help the working masses on this island achieve a $2 or higher Federal minimum at the earliest moment without creating further serious unemployment in Puerto Rico. Again our sincerest congratulations for a job well done and our pledge of our continued support you and your administration during the difficult and continuing struggle that lies ahead.

KEITH TERPE,
President, Siu de Puerto Rico and Central Labor Council of San Juan, AFL–CIO.

Mr. WILLIAMS. Mr. President, I yield myself 3 minutes.

The bill before the Senate in its provisions dealing with Puerto Rico deals with just the hard facts of life in Puerto Rico for wage-earning hourly workers.

The system that prevails in Puerto Rico is to set minimum wages on the basis of industry committees. With that method of arriving at the minimum wage, our committee records, our hearing records, reflect a situation that permits wages set by industry committees as low as 47 cents an hour; many, many hourly rates set below 90 cents an hour, in the range of 80 cents an hour.

These are hourly wages in a part of our land that has a cost of living that is equal to the cost of living on the mainland—a cost of living, in order words, that is high. In Puerto Rico, once you get out of the luxury area of San Juan, the standard of living is abominably low. It is no wonder that people must break up their families and leave Puerto Rico and come to the Northeast particularly, in order to make a wage that can support their families.

I have spent time down there with Puerto Rican workers. Incidentally I have received all the written communications—or most of them—that the Senator from New York has received. But when you go to the people in Puerto Rico, they want no part of large numbers of migration from the islands to the mainland to make a decent wage. They would rather stay home with their families and make a decent wage there. Frankly, under our bill it is not fully a decent wage, because we recognize that in transition it is going to take some time. In the bill before the Senate, the island people do not reach the mainland minimum wage of a bountiful $2.20 an hour for 7 long years.

To take the approach of this amendment, we would continue the sub-sub-minimum wages that would insure a sub-subminimum standard of living.

I suggest to the Members of the Senate that it is a shame and a disgrace if this should be permitted to continue. These people deserve a promise to arrive at the minimum wage that is part of this bill.

So I oppose this amendment as to Puerto Rico as strongly as anything I have opposed with respect to this bill today.

Mr. BUCKLEY. I yield myself 1 minute.

Mr. President, my amendment would not incorporate the Dominick amendment. It would leave the status quo as it is.

I do suggest that what the distinguished chairman is saying is that the duly constituted, elected representative officials of the Commonwealth of Puerto Rico are not competent to judge the employment needs of their people. I think that is the necessary conclusion from his remarks.

I suggest that anyone living with meager employment would rather have that employment than have unemployment and higher prevailing wages. But if reality is that they cannot receive wages at a higher minimum wage level stipulated by law because they cannot contribute the productivity to justify such a wage, the net effect will be that they will not have employment, and other people who are presently employed will find themselves on the streets and on welfare.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. If I should have a perfecting amendment to the Buckley amendment, am I privileged to offer it now, or do I have to wait until all time has expired?

The PRESIDING OFFICER. The Senator would have to wait until all the time on the amendment has expired or has been yielded back.

Mr. BUCKLEY. Mr. President, I am prepared to yield back the remainder of my time, if the chairman of the committee is willing to do so, so that we can get to the perfecting amendment.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DOMINICK. Mr. President, I send to the desk a perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 22, line 15, strike through page 25, line 11, and in lieu thereof, insert the following:

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 6(c) of such Act is amended by substituting the following new paragraphs 2(A) and 2(B):

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

Mr. DOMINICK. Mr. President, this is identical to the Puerto Rico-Virgin Island provisions in the previous amendment which also contained the mainland and Canal Zone rates.

Since that time, the situation with respect to the Canal Zone has been materially changed by Senator FANNIN's amendment, to $1.70; and now Senator BUCKLEY has an amendment pending on this specific question of Puerto Rico.

My perfecting amendment to his amendment would not keep them at the same level as they are now, and his would. Mine would give them a 12½ percent raise for 2 consecutive years, so that they would have an increase in the minimum wage of 25 percent over a period of 2 years. This is a pretty substantial increase, and I think what we ought to keep in mind in thinking of the Puerto Rican situation is that they have an entirely different economy, as I pointed out earlier, and as the Senator from New York has pointed out. The av-

erage wage in Puerto Rico is $1.72 per hour.

What we are doing, therefore, any time we raise the minimum is to raise everybody in that area, not just the minimum, because this is what the average is. So if you increase the minimum by the 25 percent I am talking about, we substantially take care of the problems raised by the Senator from New Jersey (Mr. WILLIAMS) and also from so totally disrupting their economy. It is for that reason that I have offered this perfecting amendment to the amendment of the Senator from New York, hoping that in this way we can get something which will be of assistance in the development of that island in providing employment and still prevent them from having runaway inflation. That is the reason I am offering the amendment.

Mr. BUCKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from New York will state it.

Mr. BUCKLEY. Am I able to accept the amendment offered by the Senator from Colorado as a perfecting amendment to my amendment?

The PRESIDING OFFICER (Mr. HUGHES). The Chair is advised by the Parliamentarian that the amendment of the Senator from Colorado is not in order as drafted. It would have to be redrafted in order to be in order.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that there be a quorum call so that we can change the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUCKLEY. 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. BUCKLEY. Mr. President, I ask unanimous consent to withdraw my amendment and to have my name added as a cosponsor of the amendment of the Senator from Colorado (Mr. DOMINICK).

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

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate from New York will state it.

Mr. JAVITS. Mr. President, what time remains for debate on the amendment?

The PRESIDING OFFICER. All time has been yielded back on the amendment. There is no time left on the Buckley amendment.

Mr. DOMINICK. Mr. President, not on my amendment. Time is not yielded back on my amendment which was offered as a perfecting amendment.

The PRESIDING OFFICER. No time has been yielded back on the new amendment. The new amendment has not been reported as a new amendment.

Mr. DOMINICK. Mr. President, my amendment was sent to the desk. It was a perfecting amendment to the Buckley amendment.

The PRESIDING OFFICER. But it was in improper form.

Mr. DOMINICK. Now the Senator from New York and I are offering it together.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Colorado yield?

The PRESIDING OFFICER. Will the Senator from Colorado please send his amendment to the desk.

Mr. DOMINICK. It is at the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Colorado yield?

Mr. JAVITS. Mr. President, I yield to the Senator from Colorado 2 minutes under the bill so that he can operate at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 22, line 15, strike through page 25, line 11, and in lieu thereof, insert the following:

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 6(c) of such Act is amended by substituting the following new paragraphs 2(A) and 2(B):

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, which ever is later.

"(B) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1972 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

The PRESIDING OFFICER. Thirty minutes are allotted to each side on this amendment.

Mr. DOMINICK. Mr. President, I can assure the distinguished acting majority leader that we will take only a brief time.

What I am trying to do here is to follow along with what the distinguished junior Senator from New York was doing, but at the same time give 12.5 percent per year, leaving a way toward determination still in for Puerto Rico, but requiring that they raise it at least 12.5 percent unless the wage board raises them more. We do this in 2 consecutive years so that the minimum wage would be increased by 25 percent in 2 years.

This is quite a substantial raise particularly when we compute that, at the present time, the average wage as I said, is only $1.71 in Puerto Rico and, therefore, raising the minimum will affect most employees in the whole State. It is for that reason, I think, that this is a worthwhile amendment without having to go all the way to the $2.20 which, to my mind, would be most excessive and would have a devastating effect on Puerto Rico's economy.

Mr. President, I want to express my thanks to the distinguished Senator from New York for letting me make this change. I want him to be the principal sponsor with me of this amendment, if I may, in reporting it in the RECORD.

Mr. BUCKLEY. Mr. President, I want to thank my friend from Colorado for his constructive intervention on my amendment.

I shall not keep the Senate waiting with any more remarks.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this matter of the Puerto Rican differential has a very long history. It goes back to 1938 when we first established a 30-cent minimum, and to 1940 when the special industry committees were created. Then it takes us into 1966 when we had a Commission to consider the relationship between the United States and Puerto Rico, a commission called the United States-Puerto Rican Commission on the Status of Puerto Rico, of which I had the honor to be a member. It submitted a comprehensive report.

The interesting thing about the history of this is that always the attitude was expressed that we wanted Puerto Rico to catch up and that all we were doing in making a wage board and similar arrangements was to give them a chance to catch up. That is set forth specifically in the law of 1940, going back all of that time, in which we said that the only reason we are engaging in these practices and giving them such a special break in the minimum wage is to give them catch-up time.

Puerto Rico became a Commonwealth in 1952 when it came very much under the control of its own people. We took cognizance of that in the Commission. In one of the parts of the report of the Commission it said the following, and mind you, Mr. President, this whole operation goes back at least 32 years to 1940—one of the statements in the Commission report said, in 1966:

> The majority of professional economists would agree, however, that a time horizon of about five years is the longest which would be considered valid for the statistical extrapolation of wage and productivity trends necessary for analyzing this problem.

To wit, the problem of bringing the economy of Puerto Rico abreast of that on the mainland.

Within the confines of everything we are doing here, it seems to me the time has come to recognize that Puerto Rico is coming of age, certainly in regard to the minimum wage. Somehow, somehow there has to be established a parity between the two if we are not to continue a situation of magnetic attraction for

strictly economic reasons of the people of Puerto Rico to the mainland. They should have the right, if they wish, to stay at home without being under an economic constraint to move to the mainland because of some inadequacy in the basic protection to workers which is represented by the minimum wage law.

I can understand perfectly how the Puerto Rican Manufacturers Association and its officials are very anxious to have any one of these amendments, such as those offered by my colleagues, the Senator from New York and the Senator from Colorado, in order to continue to give them this specialized position respecting a lower minimum wage than on the mainland for comparable work. They have made very clear to me time and again, their unhappiness with the committee bill and their preference for the provisions in the House bill and the present amendment.

But it seems to me that the time has come for us to set some deadline for the island to reach parity with the mainland. And for the reasons stated in committee report there should be a gradual phasing in at the rate of 20 cents per hour per year until parity is obtained.

Even if we take the figure of the Senator from Colorado (Mr. DOMINICK) of $1.72 as the overall average—and remember that is the overall average and not the minimum wage—even on that figure we allow 20 cents a year for almost 3 years for phasing in. However, that is hardly the standard. The fact is that we have to take what is actually the minimum wage on the island. That is going to be increased.

And when we look at those figures, we find that today about 60 percent of all workers on the island are getting $1.60 an hour. And of the remaining 40 percent, almost one-half are getting between $1.45 and $1.59 an hour. The rest, in very small percentages, get lower figures until we get to those who get less than 75 cents an hour, and the figure there is 8.7 percent.

The island, based on its own economy, is very materially committed. All we are doing in this bill is adding the finishing touches so that if we take a broad mean average of all minimum wage rates which are in existence on the island today—let us say that that average in round figures comes to something like $1.40—we are giving in terms of a catchup 4 years. And that is what the Senate has done when we consider the situation before the committee.

Also, the fact is that this whole issue will be in conference, as the other body has adopted exactly the provision of the Senator from Colorado and the Senator from New York wish to adopt, that the question at issue will then be in conference before us. And for the very positive policy reasons which I have stated, I believe we should reject the amendment which was part of the substitute, which substitute was rejected, though not necessarily on this account. However, it was part of the same thing. The Senate rejected it in toto.

Mr. President, there is one last fact which is important. That is that the number of people employed in manufacturing has grown constantly in Puerto Rico up to the years 1970 and 1971.

I do not say that Puerto Rico is yet ready economically to be brought up to the economy of the mainland. Nor have we tried to do so in one fell swoop.

We are giving leeway of 3 or as much as 4 years in which to do this. And for those in the lowest wage category, it will be a much longer period than that. There are some 28,000 workers who are even under 75 cents an hour. They will have 6 years to reach parity.

It seems to me that this is properly an issue which should not be determined here if we adopt the pending amendment. We should let the parties go to conference and try to work out the best resolution of the House and Senate views and report back to the Senate. This would advance us much further along the line toward ultimate parity than the Buckley-Dominick amendment would permit.

So, for all of those reasons, I hope that the Senate will reject the amendment.

Mr. BUCKLEY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. BUCKLEY. Mr. President, my senior colleague has stated he wants to look toward parity for Puerto Rico so as to slow down the flow of immigration to the mainland. I think the practical effect would be quite the opposite. I do not know whether the Rules of the Senate permit wagers on the floor of the Senate. However, if they do, I would be willing to wager with him a bet of $1.60, which I understand is the minimum wager allowed, that the net effect, if the amendment is rejected, would be to accelerate the flow of immigration from Puerto Rico to New York. And if it does, New York would become the fifth largest Spanish-speaking community in the country.

Mr. DOMINICK. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 minute.

Mr. DOMINICK. Mr. President, I find it passing strange that, just because the House has adopted a provision, the argument has been made that we should pass a different one. For the life of me, I cannot see how that would speed up anything either in the way of passing the legislation or getting it through conference.

So, with all due respect for my distinguished leader on the Labor and Public Welfare Committee, I cannot buy that argument as a valid one.

I really think we have a provision here which is worthwhile. I would earnestly hope that we can accept it.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. BUCKLEY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY) and the Senator from Colorado (Mr. DOMINICK). 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 Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Tennessee (Mr. BAKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 32, nays 60, as follows:

[No. 290 Leg.]

YEAS—32

Allen	Dominick	McClellan
Allott	Eastland	Miller
Bellmon	Ervin	Packwood
Bennett	Fannin	Roth
Brock	Gambrell	Saxbe
Buckley	Griffin	Sparkman
Byrd, Harry F., Jr.	Gurney	Stennis
	Hansen	Stevens
Cotton	Hatfield	Taft
Curtis	Hruska	Thurmond
Dole	Jordan, Idaho	Tower

NAYS—60

Aiken	Hartke	Nelson
Bayh	Hollings	Pastore
Beall	Hughes	Pearson
Bentsen	Humphrey	Pell
Bible	Inouye	Percy
Boggs	Jackson	Proxmire
Brooke	Javits	Randolph
Burdick	Kennedy	Ribicoff
Byrd, Robert C.	Long	Schweiker
Case	Magnuson	Scott
Chiles	Mansfield	Smith
Church	Mathias	Spong
Cook	McGee	Stafford
Cooper	McGovern	Stevenson
Cranston	McIntyre	Symington
Eagleton	Metcalf	Talmadge
Fong	Mondale	Tunney
Gravel	Montoya	Weicker
Harris	Moss	Williams
Hart	Muskie	Young

NOT VOTING—8

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Cannon	Goldwater	

So Mr. BUCKLEY's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. RANDOLPH. I will explain the purposes for which I offered the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be printed in full in the RECORD.

The amendment is as follows:

On page 39, line 18, insert after the number "12" where it first appears the letter "(a)", and after line 21, insert the following new subsection:

"(b) Section 9 of the Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes,' approved June 30, 1936 (41 U.S.C. 43) is amended by inserting immediately before the period at the end thereof the following: 'or to certain transportation employees of private carriers of property by motor vehicle, as that term is defined in section 203(a)(17) and limited under section 203(c) of part II of the Interstate Commerce Act, where such employees are subject to regulation as to qualifications and hours of service pursuant to sections 6(e)(6)(C) and 6(f)(2)(A) of the Department of Transportation Act of 1966'."

Mr. RANDOLPH. Mr. President, the amendment which I offer to Senate bill 1861 is for the purpose of making a technical correction in the Walsh-Healey Public Contracts Act. That act, as we know, exempts from its provisions certain common carrier employees; for instance, those individuals who drive motor trucks, but private carrier truckdrivers were not exempted because we limited the act to Government contract business engaged in by such carriers when the Walsh-Healey Act became law.

Some of my colleagues may remember that it became law a long time ago—in 1936. I was one of those who not only voted for that measure in the House of Representatives when serving there in that year, but who helped to write that important legislation.

Private carriers are those companies, including manufacturers, processors, distributors, and farmers, who haul their own goods in their own trucks incidental to—and I stress this point—and in furtherance of their primary business.

Private carriers now, of course, do a considerable amount of Government contract work, and to exclude their employees from the common carrier exemption would seriously discriminate against the private carriers.

In conclusion, this amendment would bring equity to this circumstance by providing that all motor carriers, private, contract, and common, would be treated the same under the Walsh-Healey Act as they are treated under the Fair Labor Standards Act, which originally passed, as Senators will recall, in 1938.

The amendment would apply only to those private carriers who hold Government contracts and who are hauling freight for Government use.

Incidentally, since we are discussing minimum wages here today, I want to tell Senators that when we were working on that act in 1938 we were proposing a 25-cent-an-hour minimum wage in this country. So it can be seen that, as we move along, these wages have dramatically increased along with the complexity of our country.

I hope, Mr. President, that the able chairman of the Labor and Public Welfare Committee will accept the amendment which is presented. I believe, I can say to him, that I have checked the situation, and I believe that, from those who are affected, there is a unanimity of agreement that this is a valid amendment and is consistent with the public welfare.

Mr. WILLIAMS. Mr. President, will the Senator yield for one question?

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. First, am I correct in understanding that this amendment will put local private carriers on a parity with ICC licensed or registered carriers?

Mr. MAGNUSON. The common carriers.

Mr. WILLIAMS. Common carriers? Is that the way the Senator expresses it? Is that one of the basic elements?

Mr. RANDOLPH. That is correct.

Mr. WILLIAMS.. It seems to me this brings an element of justice. They are both carriers, not common carriers so designated, but carriers, and it puts them on the same plane.

Mr. RANDOLPH. That is the purpose of the amendment, and I know that the chairman of our committee has constantly attempted to equalize the development of legislation from the standpoint of equity. I think this is one of the opportunities he and other Senators will have to do that by adoption of the amendment.

Mr. WILLIAMS. According to my understanding, it is acceptable to me.

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

Mr. RANDOLPH. I yield.

Mr. HUGHES. I would like to ask the Senator from West Virginia a question. He said it would put the private carriers on an equal parity with common carriers. To spell out what relationship this has to the agricultural industry in America, which has been exempted always from the class of common carriers in application filing, and so on, I want to understand from the Senator precisely what effect this would have on the so-called farm-to-market carrier in America.

Mr. RANDOLPH. There would be no limitation on their exemption. This is just for private carriers who haul and transport under Government contracts.

Mr. HUGHES. It would be those carriers that are noncertified, however?

Mr. RANDOLPH. That is correct.

Mr. HUGHES. Hauling under Government contract?

Mr. RANDOLPH. As defined in the Interstate Commerce Act—private carriers by motor vehicle.

Mr. HUGHES. Would the Senator be willing to say, so far as legislative history is concerned, that, in his opinion, at least, this does not equate to the so-called farm-to-market carrier as now exempted from the Interstate Commerce Commission regulations?

Mr. RANDOLPH. It does no violence to that condition. In fact, it preserves the situation as it now is in reference to carriers of agricultural products.

Mr. HUGHES. I thank the Senator.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I may say to the Senator it would not affect the farm-to-market carriers unless they carried Government goods. It is as simple as that.

Mr. HUGHES. The Senator from Washington raises a question I am concerned about, and that is the emptying of storage grain, for example. At what point in the delivery of that grain—and I look at my distinguished colleague from Minnesota, who may know more about this than I do—does that grain come under the ownership of the Federal Government when it is delivered after the loan payment has been called? Are those trucks delivering grain under contract to the Federal Government?

Mr. MAGNUSON. If the Government made a contract, but that would be a very rare incident in the whole operation.

Mr. RANDOLPH. That is precisely the comment I was going to make.

Mr. MAGNUSON. Very rare. I think that hardly happens at all.

Mr. HUGHES. If the Senator will yield further for just a moment, as I understand the method of transaction when grain is sealed under Government loan, and then in the process 1 year or 2 years later, depending on the resealing, when it is delivered to be stored, it will be stored in an elevator, for example. In other words, the loan has been paid 2 years ago, but is called at that price, and the grain is, in effect, owned by the Government, and then the farm-to-market carrier delivers it for delivery, which may be to an elevator.

Mr. MAGNUSON. No. The farm-to-market theory type of operation is that the farmer delivers to a market. In this case he would not be a farm-to-market carrier; he would be under some kind of contract, which this amendment would protect. I think it is very proper that this amendment would do that, because they are not dealing with farm-to-market goods; they are dealing with some grain, in this particular case, that is delivered to a certain point under Government contract. Farm-to-market means literally what it says.

Mr. HUGHES. If the Senator from Washington will permit the Senator from Iowa, nevertheless farm-to-market carriers truck that grain, no matter what we may call them here. The same farm-to-market carriers that are exempted from Interstate Commerce Commission regulations are the same farm-to-market carriers under that exemption that are hauling the grain from that delivery point to a terminal delivery point. The question is whether this affects the whole farm-to-market industry on that segment of the haul.

Mr. MAGNUSON. I should not have involved myself in this, but I am so familiar with the farm-to-market exemption, which exists only for the purpose of the producer or the farmer bringing his goods to market, and he does it individually. Therefore, he is not subject to any ICC regulations or anything of that kind. But when the Government says, "Look, you, you have a truck, you have something to deliver some grain that we have already bought," he is under a Government contract, and we are not giving him a farm-to-market exemption. The market is already there; they have bought the grain, and he is just delivering it to a certain point.

Mr. HUGHES. The Senator from Iowa would like to point out that much of this grain has been stored right on

the farm, that it has never left the farm. It is still stored there for long periods of time. It has never been delivered anywhere.

Mr. MAGNUSON. But then the Government buys it.

Mr. HUGHES. Well, the farmer got a loan on the grain.

Mr. MAGNUSON. Then the farm-to-market thing is over. Then the Government says, "We will contract with you to deliver this product to a certain point."

Mr. HUGHES. Then they come under regulations.

Mr. MAGNUSON. Then they come under regulations, and, therefore, they should come under the regulation of this bill.

Mr. HUGHES. If that is true, then we are bringing into regulation practically every farm-to-market grain carrier in the middle western part of the United States.

Mr. RANDOLPH. Mr. President, I would like to make a comment at this point. I appreciate the knowledge of the able Senator from Iowa as he addresses himself to this problem. From the very beginning, I have thought of the amendment as one, frankly, to make the Walsh-Healey overtime provisions inapplicable. That is really the basis, the point.

Mr. HUGHES. To make it what?

Mr. RANDOLPH. Inapplicable. That is my feeling; and I do not believe that there is any damage that would be done in connection with the movement of the grain which the Senator from Iowa has indicated is a matter of concern to him and the people he represents.

Mr. HUGHES. Will the Senator yield for a moment?

Mr. RANDOLPH. I am delighted to yield.

Mr. HUGHES. I wonder if the Senator from West Virginia would allow me to have the opportunity for a quorum call, just to read that amendment and study it for a moment.

Mr. RANDOLPH. Yes. I did not have the amendment read.

Mr. HUGHES. For a few minutes. I would like to have the opportunity to go over it.

Mr. RANDOLPH. That is agreeable to me.

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

Mr. RANDOLPH. I yield.

Mr. PASTORE. Could not this amendment be withdrawn, and we proceed to something else?

Mr. HUGHES. Give me 2 minutes.

Mr. RANDOLPH. Mr. President, I think a couple of minutes might clarify our problem.

Mr. PASTORE. I hope so. It is a quarter to eight.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. RANDOLPH. Mr. President, I appreciate the opportunity that we have had to go over with the Senator from Iowa (Mr. HUGHES) and the Senator from Kentucky (Mr. COOK) certain matters that are of concern to them and to the Senator from Minnesota (Mr. HUMPHREY). I believe that perhaps the Senator from Iowa might wish to comment at this time.

Mr. HUGHES. If the Senator from West Virginia will yield, I would be happy to comment and state that as I read the amendment now, with understanding, it has absolutely no effect on the farm-to-market deliver of commodities. Actually, whether the point of ownership changes at the farm or at the point of delivery at the depot, the exemption still continues. So any fears I have had in connection with this amendment have been allayed with the opportunity to read it and discuss it with the distinguished Senator from Minnesota (Mr. HUMPHREY), who really wrote the law applying to agricultural commodities that I was personally concerned about.

I thank the Senator for yielding, and for the opportunity for discussion we have had, which clarifies it entirely.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. TAFT. Mr. President, 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 as follows:

On page 15, line 23, beginning with "including" strike all through "but" on line 24 and insert in lieu thereof the following: "but shall not include the United States or any State or political division of a State, and also"

On page 16, line 8, beginning with 'and" strike all through line 24.

On page 27 beginning with line 7, strike all through line 8 on page 28.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Ohio yield?

Mr. TAFT. I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent that time on this amendment be limited to 20 minutes, to be equally divided between the Senator from Ohio (Mr. TAFT) and the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS).

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

Mr. TAFT. Mr. President, I shall not take a great deal of the time of the Senate on this amendment. Very briefly, the effect of it is to delete from the coverage that is extended by the committee bill under the Fair Labor Standards Act to Federal, State and local government employees. This deletion was proposed and has been discussed to some extent in connection with the Dominick-Taft substitute earlier in the debate, and I shall try not to repeat the arguments made at that time, but I do think that the Senate ought to be warned of some of the effects of these particular provisions.

Let us take, first of all, an area that was covered very lightly if at all in the committee report, that of the coverage of Federal employees. There was very little testimony by any Federal governmental officials, the Bureau of the Budget, for instance, or OMB, as to what the effect of this might be.

I do not believe any Federal employees are being paid below the minimum wage except in programs that are exempted by the committee bill. I am not sure, however, that we got them all, because the last day of executive session we found ourselves asking whether or not we were covering such groups as Federal prisoners.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TAFT. On the last day of the full committee executive sessions these questions were raised. I believe there are many additional unanswered questions here.

One question is whether under the House rules this provision will be in order, because there are certain requirements in the House rules for at least having an estimate as to what the cost of the particular authorized change in the law might be, and that point of order may come up in connection with consideration on the House side.

I feel that the Senate should recognize that this is a very serious problem. It is not a problem that ought to be handled in this bill. It ought to be handled by the committees which deal with public employees and with civil service. It has no business being under the minimum wage law at all.

The mood of the Senate is such and the hour is so late that I do not intend to press this matter to a vote tonight, but I do intend to bring it up again in the conference committee, because I think it is an argument no one has considered to date. I want Federal employees treated as well as those in the private sector or better than those in the private sector, but let us do it right.

A great deal of harm will be done if this provision with regard to coverage of Federal employees is passed and becomes law without a great deal more study and consideration than has been given by the Senate. I raise that question at this time for the consideration of the Senate.

As to State and local employees, we have a different question. There is possibly some constitutional question involved as to some aspects of this matter, but I am not going to argue those at great length. I do not know how the courts will decide. I think it is an arguable proposition either way as to whether Congress has the authority to set wage, hour, and work rule requirements for State employees. But as to the wisdom of it, I think we ought to recognize, before we act on this bill, that there is a serious question as to the wisdom of taking the Federal power and imposing it on State and local governments. Many municipalities may desire to employ firemen requiring a very limited call on their services, or for a longer work week than would normally be granted to others, because they may spend a great deal of their time on other employment matters.

I think this is something the Senate ought to consider more seriously, and it

ought to be considered separately from the overall consideration of minimum wage before we act on this bill. I hope this is something that can prevail in the conference.

These are the remarks I would like to make at this time. Having done so, I am ready to yield back the remainder of my time, unless someone wishes to comment on the bill. Having done so, I expect to withdraw the amendment and not require a vote at this time.

Mr. WILLIAMS. I yield myself 10 minutes.

Mr. President, this bill totally removes the State and local government exemption which was partially removed by the 1966 amendments. My committee did so for a variety of reasons discussed in the report which accompanies this bill.

There are two reasons for enacting this bill not fully discussed in the report which are of personal concern to me. First, it has long been established that the Federal Government may set guidelines for the use of Federal funds and that it may expect certain standards of performance will be met when Federal funds are given for any purpose. Federal civil rights legislation and nondiscrimination standards must be met if applicants for Federal assistance are to receive the funds they seek. The power of the Equal Employment Opportunity Commission was recently extended by legislation reported from my committee and this extension of authority was justified in part by the argument I am making here.

Federal regulations governing labor relations have long been applied under the Davis-Bacon Act to parties contracting with the Federal Government. Hatch Act restrictions on political activity are applied to persons not employed by the Federal Government but paid with Federal funds.

In 1970, according to the Book of the States 1972–1973, the Federal Government provided approximately $19 billion to State governments, almost a fourth of total State revenues for that year. And, Federal aid to State and local governments has greatly increased over the past several years, according to tables compiled and reprinted in the Congressional Quarterly. Since fiscal 1961, when over $7 billion in Federal aid was granted to the States, the amount has risen at least 10 percent each year through fiscal 1971, when State and local governments received over $29 billion from the Federal Government.

An excellent illustration of the magnitude of this aid can be found by tracing grants for specific programs over the past few years. In fiscal 1968, Federal aid to States for public assistance programs totaled almost $5.5 billion, ranging from a low of $4 million for Wyoming to a high of $934 million for New York State. In fiscal 1969, States received approximately $6.3 billion. In fiscal 1970, the total aid for public assistance amounted to over $7.5 billion.

In fiscal 1968, States and local governments received a total of more than $685 million in Federal funds for urban development and public works programs. By fiscal 1970, grants for such programs had jumped to almost $1.5 billion.

In fiscal 1968, State and local highway systems received the second highest amount of Federal aid, a total of over $4.2 billion. In fiscal 1970 these programs received almost $4.4 billion. The State of Texas alone received well over $200 million in Federal aid to highways during the fiscal years of 1968 and 1970.

Substantial funds have been allocated to State and local governments for child care programs: in fiscal 1968, over $260 million: in fiscal 1969 almost $200 million, in fiscal 1970, over $225 million.

Federal spending for conservation practices has increased. In fiscal 1968, State and local governments received more than $325 million for this purpose. In fiscal 1969, spending for this purpose was up to almost $350 million. In fiscal 1970, this total had risen to over $385 million, an increase of approximately $60 million during the past 2 fiscal years.

Approaching these statistics from another angle my home State of New Jersey received over $500 million in 1967, a per capita grant of $71. By 1970, this amount had risen to almost $620 million, a per capita grant of $86.

It is clear that the fiscal commitment of the Federal Government to State and local governments remains high. Without these substantial amounts of Federal aid, State and local governments would be hard-pressed to maintain services and develop new programs.

In view of this consistently high level of Federal assistance to State and local governments, I think it is not asking too much to require them to meet certain minimum standards and among them should be payment of a decent minimum wage.

Mr. President, there is an additional and I think crucial reason for extending Fair Labor Standards Act coverage to employees of State and local governments. I feel quite strongly that exclusion of this group of Americans from the act is a denial of equal protection of the law.

As my colleagues are aware, the Fair Labor Standards Act is now encumbered by a veritable maze of exceptions in the form of total exclusion of large classes of employees and of exemption of specific industries from wage or overtime provisions. Therefore, whether or not a citizen enjoys the full benefits of the act depends in large measure on who his employer happens to be.

And this fact is particularly true with respect to public employees as opposed to employees in the private sector because there is no rational reason for the separate classification under our wage and hour laws.

Right now, if a young man from New Jersey graduates from high school and goes to work for Standard Oil, he is fully covered by the Fair Labor Standards Act, but if he decides to go to work for the city of Newark, he is not covered.

The problem has in my opinion been magnified by the piecemeal way in which exemptions and exclusions have been made and lifted. If the young man I talked about decides to go to work for a city school in a nonsupervisory capacity, as opposed to the city itself, he will be covered because the 1966 amendment removed the State and local government exemption for employees of schools, hospitals, and other institutions.

Clearly then, Mr. President, we have in the Fair Labor Standards Act a law which does not equally benefit all Americans or even all American workers. Partially in recognition of this fact, my committee removed all exemptions except those for which there is a clear and overriding economic justification. If there is no such justification, there is no longer a need for an exemption.

It was wrong at the outset to pass a law which, in effect, benefits only certain groups of employees, which under the guise of preserving the federal system denies to the large and growing group of public employees benefits given their counterparts in the private sector. It was wrong in 1938 and it is wrong now. I think we should correct this obvious inequity in the law by passing S. 1861.

As the committee report on this bill indicates, Mr. President, it will have negligible adverse impact on State and local payrolls. Neither payment of the required minimum wage nor payment or overtime should place so severe a burden on States and cities that a final crisis will be precipitated or taxes will have to be raised.

Furthermore, it was demonstrated to my committee's satisfaction that coverage is justified from the employee's standpoint. One fact too rarely considered is that $2 an hour provides an annual income of barely $4,000 per year—below poverty level for a family of four. This bill insures that a significantly smaller number of Americans will face the disillusioning prospect of being "working poor."

Constitutional objections were raised against complete removal of the State and local government exemption. It has been established to my satisfaction, however, that these objections are not valid. In declaring constitutional the 1966 partial removal of the exemption, the Supreme Court, in *Maryland* v. *Wirtz*, 392 U.S. 183 (1968), laid to rest the notion that State sovereignty will prohibit Federal regulation of a State's dealings with its employees. Mr. President, I ask unanimous consent that the text of this opinion be printed in the RECORD following my remarks.

I wish to raise one further point in defense of coverage of State and local government employees under the Fair Labor Standards Act. It is in essence a moral argument that Government ought not demand of the private sector standards that it is unwilling to apply to itself. S. 1861 would resolve this paradox. It would help to establish by deed instead of by command the principle that government is to set a model for all employers in the treatment of its employees. Perhaps the best way to elaborate upon this point is to use the words of my colleague from Ohio (Mr. TAFT) with regard to coverage of State and local government employees under the recently-passed equal employment opportunity legislation. During debates on that legislation, Mr. Taft associated himself with some of my remarks with the following statement:

I feel very strongly that there is another issue involved that he touched upon, one

that, it seems to me, is more important to this amendment, perhaps, than perhaps any other issue that is raised, and that is the exemplary nature of the amendment. In other words, how can we expect patterns of discrimination in private employment to be changed to promote full and equal employment of all Americans if Government itself does not set an example in this regard. It seems clear to me that that example should be set. In fact, I feel very strongly that if any truly effective progress is to be made in this area, it will be made more as a matter of example, than by means of compulsion, even though compulsion, or at least legal endorsement of the principle, may be necessary to effect progress.

I could not possibly make a better case for coverage of State and local government employees under the Fair Labor Standards Act. If a living wage is to become a reality for America's working poor, governmental units should, and must, lead the way.

Mr. President, the Senator from Texas (Mr. BENTSEN) said what I think should be said and what I feel—that all employers expect governments to be model employers.

We are talking here about a basic standard of wages, a minimum wage. We are talking about an area that we have not reached with the Fair Labor Standards Act. We are talking about State and local governments.

It seems to me that we sit in the strongest position to ask those States or demand of those States that they be at least equal employers with industry. We have charts at the rear of the Chamber—I believe it is in the material before each Senator—showing that last year $29 billion went from the Federal Treasury to the States and to the communities. It seems to me that, following that money, we have every proper right to ask of those States and of those communities that they pay this minimum living wage. That is what this bill does.

I appreciate the statement of the Senator from Ohio, and I gather that he is not going to press the amendment at this time but will press our discussions in conference, which I look forward to at that time.

I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

Mr. President, I ask to withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

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

SEPARABILITY

SEC. 15. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I have discussed this with the distinguished Senator—that the time on this amendment be limited to 10 minutes, to be equally divided between the Senator from Colorado (Mr. DOMINICK) and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMINICK. I yield myself 3 minutes.

Mr. President, I offer this amendment not because I would like to win one vote during the process of this debate all day, but because I think there are some very serious problems with this bill as it has been presented to the Senate today, and as it undoubtedly will pass.

Senator TAFT just raised some very interesting constitutional questions with regard to our coverage of State and local employees. He and I together raised some questions as to the constitutionality of the coverage of domestic servants, the question of whether we have the power to do that. There are many other questions in the process of this bill which I think are fraught with real court problems on a constitutional basis. I do not think we have debated those, at least to the extent where people have fully understood them.

I will take particular note, as I said before, of the coverage of domestics. Trying to figure out how a domestic is in interstate commerce is beyond anything I can conceive of.

So far as State and local employees are concerned, as the distinguished Senator from Ohio has pointed out, we are covering all State and local government employees with minimum wages and overtime for the first time in the history of this country.

It is very difficult to determine how you are going to keep in existence a federation of States, the whole system of the Republic, as we have ever known it, as long as we continue to dictate from Washington what should be done in each little local area of the country, and that is what we are doing in this bill.

Anybody who is working for a school district or a sanitary district or a sewage district, as well as the most minor unincorporated village, will have his wages determined by what the Federal Government is doing. I cannot see why we should do that, and I cannot see how we have the power to do that under the Constitution. As a result, I offer the separability amendment so that if that portion should be declared unconstitutional, other portions will be retained. I trust that the manager of the bill will accept it.

Mr. JAVITS. On my own time, let me say that I should oppose this amendment, but it would give me great pleasure for the Senator from Colorado to win one here. I have, of course, been on the receiving end and lost many myself. But I think this is an entirely proper amendment, and most desirable, and that the bill should have a separability clause in it. I would like very much to see it in the bill. I certainly have no opposition to it.

Mr. DOMINICK. I thank the Senator from New York very much.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute to say that there might be some nice legal questions whether it is really necessary, because this is an amendment to the Fair Labor Standards Act and the separability clause is in the basic act. Some academic legal arguments could be made that it is not necessary to achieve the purpose, but I certainly am not going to argue on any basis that we should withhold it. The only question is whether it is needed. I agree. I think there should be in the bill at this time a necessary separability clause.

Mr. DOMINICK. I thank the Senator from New Jersey. Mr. President, so far as I am concerned, I am willing to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. GAMBRELL. Mr. President, I would like to offer a perfecting amendment to the Dominick amendment and send it to the desk on behalf of myself and the Senator from Michigan (Mr. GRIFFIN) and ask that it be stated.

The PRESIDING OFFICER (Mr. Moss). The amendment will be stated.

The assistant legislative clerk read as follows:

An amendment by Mr. GAMBRELL and Mr. GRIFFIN to the Dominick amendment by inserting at the end thereof, add the following new section:

UNIFORM ENFORCEMENT OF CIVIL RIGHTS LAWS

SEC. —. Notwithstanding any other law or provision of law, until Congress shall have enacted legislation providing a plan for equal educational opportunities and for the elimination of racial segregation in public schools throughout the United States, to be equally and uniformly enforced throughout the United States among the local educational agencies thereof, the enforcement of any order of a court of the United States or of any desegregation plan submitted by a local educational agency to a department or agency of the United States pursuant to title VI of the Civil Rights Act of 1964, shall be stayed, suspended, and postponed to the extent it requires, directly or indirectly, a local educational agency—

(A) to transport a student who was not being transported by such local educational agency immediately prior to the entry of such order or the adoption of such plan; or

(B) to transport a student to or from a school to which or from which such student was not being transported by such local educational agency immediately prior to the entry of such order or the adoption of such plan:

Provided, That nothing in this section shall prohibit a local educational agency from voluntarily proposing, adopting, requiring, or implementing a desegregation plan, otherwise lawful, that provides for transportation as referred to in subsections (A) and (B) above, nor shall any court of the United States or department or agency of the Federal Government be prohibited from approving implementation of a plan that provides for such transportation, if the plan is voluntarily proposed by the appropriate educational agency.

The PRESIDING OFFICER. How much time does the Senator from Georgia yield himself?

Mr. GAMBRELL. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, will the Senator from Georgia yield briefly?

Mr. GAMBRELL. I yield.

Mr. GRIFFIN. I thank the Senator from Georgia for mentioning that I am a cosponsor of this particular amendment.

For purposes of identification and for the benefit of Senators now in the Chamber, I wish to make clear that the amendment before the Senate is printed amendment No. 1328, as introduced by the distinguished Senator from Georgia (Mr. GAMBRELL) except that the portion of the printed amendment relating to the Voting Rights Act has been deleted. The Senate is considering only that portion of printed amendment No. 1328 which relates to busing. Is that not correct?

Mr. GAMBRELL. That is correct. I appreciate that clarification offered by the Senator from Michigan.

Mr. President, this amendment is identical to the second portion of the amendment No. 1328 to S. 1861 which was introduced by myself. As the Senator from Michigan says, it eliminates the question of equalizing voting rights enforcement throughout the country. It deals only with the question of equalizing schoolbusing enforcement throughout the country.

Mr. President, my amendment would suspend enforcement of any court order on title VI plan requiring student busing until Congress enacts legislation providing for equal educational opportunities and for the elimination of racial segregation uniformly throughout the United States.

The country needs urgently to get on with providing for equal educational opportunity for our children. The false issue of busing has stood in the way of achieving that goal. Hardly anyone wants forced busing as such. I have opposed it in every possible way. Certainly no one should want forced busing for some when it is not to be applied to themselves. Laws and policies intended to provide equal protection of the laws should not themselves be applied and administered in a way that is discriminatory.

The amendment which I offer today eliminates a clear case of discrimination in civil rights enforcement. The enactment of my amendment will not prevent school desegregation enforcement. School desegregation may continue in all respects as it has in the past, except that forced schoolbusing may not be required as a means of school desegregation unless provided for under a School Desegregation and Uniform Education Opportunities Act which is equally applied and enforced throughout the land.

The provisions of this amendment are only fair. They constitute not a "rollback" but a "catchup" on civil rights enforcement. Extreme measures for civil rights enforcement, such as forced busing, should not be applied in some sections of the country when they are not being applied in others.

I might say, Mr. President, that the statistics produced by the Department of HEW clearly show that the South—the Southern States—in which forced school busing is being applied when not being applied anywhere else in the country, is way ahead of the rest of the country in school desegregation.

Mr. President, I urge adoption of my amendment and am very much pleased to have the cosponsorship of the distinguished Senator from Michigan (Mr. GRIFFIN).

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN. Mr. President, I yield myself such time as I may require.

As the distinguished Senator from Georgia (Mr. GAMBRELL) has already indicated, this amendment would only stay the enforcement of court orders which require busing.

It will be recalled that on several earlier occasions I offered an amendment which in some respects would be stronger than this one. The amendment I offered earlier would have taken away from the Federal courts their power or jurisdiction to issue busing orders.

The proposal now being offered would declare a moratorium on the enforcement of busing and, in many respects, it conforms with the moratorium proposal adanced by the President.

Let me say that in my opinion, Senators who voted earlier to support my amendment withdrawing court jurisdiction should find it possible to support this amendment.

Mr. President, I could go on at great length about the urgent need to enact legislation such as this.

Needless to say, concern and emotion are intense in Michigan about one threat of forced court-ordered busing.

During the course of his remarks, the Senator from Georgia indicated that busing has been imposed primarily upon the South. Of course, I'm sure he realizes that busing has been ordered—and is in effect in such cities as Pontiac and Kalamazoo, Mich.

There is now pending before the Sixth Circuit Court of Appeals in Cincinnati an order by a Federal judge in Detroit directing the State of Michigan to purchase some 295 buses for the purpose of busing thousands and thousands of children in Detroit and 52 other communities in three counties around Detroit.

The amendment now before the Senate should be passed. The arguments have been stated over and over again, and I urge the Senate to adopt it.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have had no requests for time on my side to speak in opposition to the amendment. At this time, after making a very short statement, I will move to table the amendment offered by the Senator from Georgia for what I trust are manifestly clear reasons. The pending bill deals with some of the basic economic issues that are close to home in this country, the wages under which people work and try to live. The minimum wage bill has had a long history. It has been a long struggle to use the Fair Labor Standards Act through amendments and through improvements in the bill over the period of years back to its inception when it was first passed with the help of some of the Senators who were here in 1938.

This is an economic issue that is before us. It is a dollar-and-cent issue. It is the hourly rate of pay and, of course, the accelerated features of overtime and the other provisions.

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

Mr. WILLIAMS. I yield.

Mr. PASTORE. Mr. President, I rise to agree with the distinguished manager of the bill not because I do not feel that there is merit to the amendment. I think that this matter of busing is very controversial. And there is merit on both sides of the issue. There is no question at all about that.

It all depends on where it happens, when it happens, and why it happens. I am one of those who feel that in many cases mass busing on a large scale has not accomplished the objective it was intended to accomplish.

I think we must all believe in equality of rights. And I think that a fair opportunity ought to be given to all of our children, no matter what their race, color, or creed. However, we are dealing this evening with a bill having to do with minimum wages. And I wonder if we are rendering a service or a disservice to whatever merit there might be to this amendment at this time.

Mr. President, first of all, the amendment is not germane to the bill. It would be subject to a point of order in the House because it is a rider to a bill having to do with minimum wages. I wonder if at this time, no matter what the reasons might be, whether we might be doing more damage than we hope to do good. And for that reason I hope that the matter will not be pressed at this time.

I know that a motion will be made to lay the amendment on the table. This is not the time nor the place to advance the amendment.

I say to my good friend, the Senator from Georgia, that I think there is merit in what he is trying to do here. The President of the United States has taken a strong position on this matter. There are people who disagree with the President of the United States. I myself am the father of three children. I have five grandchildren. I am very much interested in the matter of busing. In many ways we have gone too far on the busing proposition here and have subjected young children to an hour's ride in the morning and an hour's ride in the evening.

I wonder, to sum it all up, whether we are accomplishing what we tried to do when we initiated the program.

What I am saying is that this is not the proper place to do it. I would hope when the motion is made to lay the amendment on the table that this will not be construed as a move against anyone or as a decision on the merits of the matter one way or the other. I hope that it will be understood that the amendment does not belong in the bill.

Mr. WILLIAMS. Mr. President, I think the Senator from Rhode Island has contributed again of his wisdom in the pending debate and has been particularly helpful to all of us at this time. He has contributed greatly throughout the debate.

The PRESIDING OFFICER. The Sen-

ator from Georgia has 8 minutes remaining. So, a motion to lay on the table would not be entertained until after his time has been utilized or yielded back.

Mr. GAMBRELL. Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, the distinguished Senator from Rhode Island, whom we all respect so much, has argued that this amendment is not germane to the particular bill before us. However, I must ask: when is the Senate going to do anything about busing if we do not deal with it in this way?

It appears that offering this proposal as a rider is the only way we can get a chance to deal effectively with it.

If we had some assurance that within the near future the Senate would consider the busing threat in the regular way, those of us who are so concerned would be glad to bide our time. But we have no such assurance. There seems to be no other way for us to focus the Senate's attention on this serious, urgent problem.

Let me point out also that while the amendment may not be germane to this particular bill, this is a bill that has been reported by the Labor and Public Welfare Committee, which does have jurisdiction over bills dealing with education.

If our amendment was adopted as a rider to this bill, it would go to conference with the Education and Labor Committee of the House. It is in that committee where busing legislation very similar to this, close to the President's moratorium on busing, is now being considered. Indeed, a similar antibusing measure was approved yesterday by a subcommittee of that committee.

Let me recall that when the Senate saw fit to tack the nongermane 20-percent social security increase on the debt ceiling bill, it went sailing through. The House accepted that nongermane amendment—and the House could accept this busing amendment as well. I believe a majority of the Members of the House would favor this amendment; I hope a majority of the Senate will favor it as well.

Mr. PASTORE. Mr. President, if the Senator will yield, I hope the Senator is not trying to compare a 20-percent increase in social security with the controversy on busing.

Mr. GRIFFIN. Not at all, except that we do add nongermane amendments to bills in the Senate from time to time.

Mr. PASTORE. The Senator is correct. But the minority whip understands that this amendment is subject to a point of order in the House under its rules.

Mr. GRIFFIN. And so was the 20-percent social security increase.

Mr. PASTORE. I know. However, the 20-percent increase in social security was something that everyone was for. However, this is an entirely different question.

Mr. GRIFFIN. Mr. President, let me say to the Senator from Rhode Island that there are a great many of my constituents and a great many of his constituents and a great many of the constituents of all Senators who are very interested in the busing question.

Mr. PASTORE. But is the Senator trying to win the battle and lose the war?

Mr. GRIFFIN. We can win the battle and we can win the war.

Mr. PASTORE. But not if we put it on this bill. We can lose the case.

I am not getting involved in this matter. As I said before, I have serious misgivings on the question of busing. I do not think that anyone has agonized more than has the Senator from Rhode Island as to the answer. There are many answers and many points of view on this very sincere question. I know that it is not any longer a Southern question. I agree with the Senator. As a matter of fact, it is more of a burning question in Detroit than anywhere else. We all admit that. Perhaps it is in Providence also. However, the matter at issue is on the minimum wage. The matter of busing is a question that can be left to the future.

I agree with that. Many people are beginning to look at this matter differently. I do not think our children should become victims of all this controversy. I admit that. But all I am saying this evening is that this is a minimum wage bill and if the Senate begins to fool around with busing on this bill we will destroy the two.

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

Mr. GRIFFIN. The Senator from Georgia has control of the time.

Mr. GAMBRELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. GAMBRELL. Mr. President, I yield 1 minute to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I wish to ask the Senator from Michigan a question. Under a recent amendment to the House rules the House can handle this matter expeditiously, because the House rules provide they can have a separate vote on any amendment added by the Senate. Is that true?

Mr. GRIFFIN. The Senator is correct.

Mr. ERVIN. Talking about making victims of little children, have not the courts and the Department of Health, Education, and Welfare made victims of little children?

Mr. GRIFFIN. I agree with the Senator.

Mr. GAMBRELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. GAMBRELL. I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 10 minutes remaining.

Mr. HART. Mr. President, will the Senator yield to me for 1 minute?

Mr. WILLIAMS. I yield to the Senator from Michigan.

Mr. HART. It is my understanding that a motion will be made to table. It is possible to interpret that as a vote which does not reflect the Senator's opinion on the merits. I shall vote to table, but I would much prefer a vote on the merits, and I would vote against this amendment. We win no battles by attempting to deny the Federal courts the means to correct the violation of the 14th amendment, and that is what we would do if we say, "You have found a violation of the 14th amendment, but do not fix it if you have to use busing."

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GAMBRELL. Mr. President, I would like to take some of my remaining time to offer a concluding remark.

First, I would like to say that if the Committee on Labor and Public Welfare would approach the solution of this critical and controversial problem we have in Georgia, in Michigan, and in a number of other States with the same enthusiasm and vigor that they approach the solution of the minimum wage problem, we would not be faced with the problem of having this measure before the Senate. The busing matter has been around here for years. Public polls show that between 75 and 85 percent of the people of this country are opposed to forced busing.

Senators who have busing in their States by and large oppose busing and consider it as much a problem as the minimum wage problem. I think we have to resort to any means we have to reach a solution. In the next 5 or 6 weeks we will be faced with a new school term. The children of this country need to know if they are going to be bused to school next year or not. This is the time to solve the problem. If we cannot get a bill from the committee we have to do it by amendment. This would cover busing now in effect; that has not been clear in past legislation.

I urge the Senate to relieve us of this problem and relieve us of the discriminatory application of the law through court enforcement. Congress should pass an equal opportunity law that applies to busing where needed and not let courts apply it all over the country willy-nilly.

Mr. GRIFFIN. Mr. President, in response to the statement made by my able and distinguished senior colleague from Michigan, let me say that the 14th amendment to the Constitution was on the books before buses were invented. The 14th amendment was—and can be—enforced without buses. Furthermore, to use buses to transport children over long distances, because they are white or because they are black, as required by some judges, is unreasonable, radical, and ridiculous; I believe such busing orders are discriminatory and actually violate the Constitution.

The PRESIDING OFFICER. All time of the Senator from Georgia has expired. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. Mr. President, I thought I had. I understand this measure would be referred to the Committee

on the Judiciary, but I will not get into that argument.

For the reasons so completely stated by the Senator from Rhode Island, I believe it is timely to table the amendment, and I move to table the amendment of the Senator from Georgia.

The PRESIDING OFFICER. The Senator so moves and yields back his remaining time?

Mr. WILLIAMS. I so move and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Georgia.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Georgia. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. PACKWOOD. On this vote I have a live pair with the Senator from Tennessee (Mr. BAKER). If he were here and were at liberty to vote, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Tennessee (Mr. BAKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The pair of the Senator from Tennessee (Mr. BAKER) has been previously announced.

The result was announced—yeas 53, nays 38, as follows:

[No. 291 Leg.]

YEAS—53

Aiken	Hughes	Pastore
Bayh	Humphrey	Pearson
Bellmon	Inouye	Pell
Bible	Jackson	Percy
Boggs	Javits	Ribicoff
Brooke	Kennedy	Saxbe
Burdick	Magnuson	Schweiker
Case	Mansfield	Scott
Church	Mathias	Smith
Cook	McGee	Stafford
Cooper	McGovern	Stevens
Cranston	McIntyre	Stevenson
Eagleton	Miller	Symington
Gravel	Mondale	Taft
Harris	Montoya	Tunney
Hart	Moss	Weicker
Hartke	Muskie	Williams
Hatfield	Nelson	

NAYS—38

Allen	Byrd, Harry F., Jr.	Dominick
Allott	Byrd, Robert C.	Eastland
Beall	Chiles	Ervin
Bennett	Cotton	Fannin
Bentsen	Curtis	Fong
Brock	Dole	Gambrell
Buckley	Gurney	McClellan
Griffin	Metcalf	Spong
Hansen	Proxmire	Stennis
Hollings	Randolph	Talmadge
Hruska	Roth	Thurmond
Jordan, Idaho	Sparkman	Tower
Long		Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Packwood, for.

NOT VOTING—8

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Cannon	Goldwater	

So Mr. WILLIAMS' motion to lay Mr. GAMBRELL'S amendment on the table was agreed to.

Mr. MANSFIELD. Mr. President, I understand that there may be some further amendments, but I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HARRIS). The question now recurs on the amendment of the Senator from Colorado (Mr. DOMINICK). All time on the amendment has expired.

All those in favor vote aye. Opposed, no. The noes appear to have it——

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT) is absent because of illness in family.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Tennessee (Mr. BAKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 92, nays 0, as follows:

[No. 292 Leg.]

YEAS—92

Aiken	Dominick	Mansfield
Allen	Eagleton	Mathias
Allott	Eastland	McClellan
Bayh	Ervin	McGee
Beall	Fannin	McGovern
Bellmon	Fong	McIntyre
Bennett	Gambrell	Metcalf
Bentsen	Gravel	Miller
Bible	Griffin	Mondale
Boggs	Gurney	Montoya
Brock	Hansen	Moss
Brooke	Harris	Muskie
Buckley	Hart	Nelson
Burdick	Hartke	Packwood
Byrd, Harry F., Jr.	Hatfield	Pastore
Byrd, Robert C.	Hollings	Pearson
Case	Hruska	Pell
Chiles	Hughes	Percy
Church	Humphrey	Proxmire
Cook	Inouye	Randolph
Cooper	Jackson	Ribicoff
Cotton	Javits	Roth
Cranston	Jordan, Idaho	Saxbe
Curtis	Kennedy	Schweiker
Dole	Long	Scott
Magnuson	Smith	Sparkman
Spong	Stevenson	Tower
Stafford	Symington	Tunney
Stennis	Taft	Weicker
Stevens	Talmadge	Williams
	Thurmond	Young

NAYS—0

NOT VOTING—8

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Cannon	Goldwater	

So Mr. DOMINICK'S amendment was agreed to.

Mr. HARTKE. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

At the end of the bill insert the following new section.

"Section —. The first sentence of section 13 (f) of the Act is amended to insert after the words "sections 6, 7, 11, and 12 shall not apply" the words "until January 1, 1974."

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. HARTKE. As much time as I may require.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on this amendment be limited to 20 minutes, to be equally divided between the mover of the amendment and the manager of the bill.

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

Mr. HARTKE. Mr. President, the effect of this amendment is to remove a special exemption for multinational corporations. The purpose of my proposal is to provide equity treatment for the working man and woman who have been subjected to the export of jobs by the multinational corporations.

At the present time, an American corporation doing business in a foreign country can obtain the benefits of cheap labor at the expense of American jobs.

Presently, we have a balance of payments deficit which is continuing to skyrocket. For the first time in our history, we have a balance-of-trade deficit. Part of this is occasioned by the fact that many of our own plants have moved abroad. These American plants formerly produced such items as radios, televisions and electronic equipment. The shoe business has been practically eliminated, and the same is true with respect to textiles and garments. The case was similar in the steel industry until the advent of the voluntary agreements. As to automobiles, one need not be an expert to discern our present predicament.

In essence our laws have permitted a sharp reduction of U.S. productive power, employment, and tax base.

Let me give one example. It is so shocking that it has not received greater national attention. Lockheed Corp. has a contract to construct the Safeguard missile. They have subcontracted a part of the Safeguard missile to a company located in Hong Kong.

The Secretary of the Army stated that the reason for this action was that in Hong Kong the missile could be con-

structed for $600,000 while construction in the United States would cost six times as much. The net result is that we have a defense item manufactured by a corporation which has a guaranteed loan, subcontracting their business outside the United States, thereby depriving the U.S. wage earners of $3 million in wages and denying the U.S. Government of $600,000 in income tax on those wages.

I want to remove this discrimination against the American worker. I want to remove this special treatment which destroys the American economy. In essence, I want equality for the working man and woman.

It was for this reason that I opposed the Canadian automobile agreement. We all know that there is a significant difference between the earnings of an automobile worker in Detroit and his counterpart in Canada.

Yet, we provide special duty treatment when Canadian automobiles are brought into this country. In spite of the union efforts, the UAW has not been able to correct that deficiency. The continuance of such import policy cannot be in the best interests of this Nation.

That is why I offer this amendment.

Mr. WILLIAMS. I yield myself 1 minute.

Mr. President, it is my understanding that the Senator from Indiana is not going to press this amendment.

Mr. HARTKE. At this point I am not certain whether or not to ask for a vote.

Mr. WILLIAMS. It was my earlier understanding, in my conversation with the Senator from Indiana, in response to his statement that he is going to withdraw it, that I——

Mr. HARTKE. Let me say to the Senator that I do not intend to press this amendment for a vote. My purpose was to call this serious situation to the attention of the Senate. Mr. President, it is my hope the chairman of the Labor and Public Welfare Committee will give this matter some serious consideration in the very near future.

Mr. WILLIAMS. As chairman of the committee, I am grateful that the Senator raised this matter this evening and put a focus on a problem we all know exists—the problem of runaway jobs and runaway industry. This matter has a long history, going back to 1957.

The PRESIDING OFFICER (Mr. PASTORE). The time of the Senator has expired.

Mr. WILLIAMS. I yield myself 1 additional minute.

It has a long history. This is not in the bill; it is in the law. It is worthy of profound thought and discussion, and I am grateful that the Senator raised it. I appreciate, too, that, as a matter of dimension, it should not be pushed at this hour to final decision.

Mr. HARTKE. In conclusion, I should like to make two additional points. First, the Senate yesterday passed a bill which provides for U.S. participation in international voluntary standards activity. Unfortunately, that bill did not apply to the development of fair labor standards which should be an integral part of such activity. Second, the European Common Market at the present time is taking steps to develop uniform tax and wage policies. It is my opinion that we should pay close attention to that activity. Such action can have considerable impact on the United States.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. COOPER. Mr. President, after very serious consideration, I will vote against S. 1861.

This is the first time in my service in the Senate that I have voted against passage of a bill relating to minimum wages and coverage under the Fair Labor Standard Act. I recall that in my first year in the Senate in 1947, I introduced legislation to increase the minimum hourly wage.

But tonight, I believe that the bill reported by the Senate Labor Committee is not realistically related to this year and the problems of our country. I voted for the Taft-Dominick substitute, which follows essentially the bill passed by the House of Representatives, which I believe is better for the employees of our land, better for employment, better for employers, and better for the national economy, upon which both employer and employee must depend, and the Nation's strength.

This is a period of inflation, caused primarily by the war, and which the administration is striving to curb. This bill, as the minority report indicates, would create additional inflationary pressures, and would make more difficult the administration's efforts to halt inflation—inflation which hurts everyone, the poor, the old, and those on fixed incomes.

It is not certain that this bill will assist the unemployed or those employed. Weight must be given to testimony that it would cause the smaller marginal businesses to fail, to go out of business, or at minimum reduce the number of their employees.

I know that these arguments have been made before, and sometimes they have been proven wrong, but our economic situation today is very difficult. We must not force out of business the smaller and marginal employers and with them their employees.

There are provisions of this bill that concern me greatly—particularly its effect upon agriculture and farmers—so important in Kentucky and the Nation; the inclusion of State, county, and municipal employees, of Federal employees—already the recipient of recent pay raises.

I have voted this year to limit the extension of unreasonable pay raises for Federal employees—in order to curb inflation and to support the President's efforts for stabilization. I believe the committee bill leads in the opposite direction. I did vote for the 20-percent social security increase, because the beneficiaries represent the retired workers and their dependents, many of whom are in shortened circumstances.

I believe that the Senate-House conference can product a better bill, and if so I will be glad to vote for it, when it is returned to the Senate.

But I do not honestly believe that the Senate version is good for the employed, the unemployed, the employer, the economy, and the country and I must vote against it.

Mr. FANNIN. Mr. President, I am deeply troubled by the effect S. 1861 will have on our Nation's ability to compete in world trade. I am convinced that this proposal to raise our minimum wage by more than 37 percent will cause the exodus of more and more American industries, thus triggering increased unemployment, a deepening trade deficit and even larger balance-of-payment deficits.

What we are proposing here is to raise the minimum wage in America to $2 this year and to $2.20 next year. Wages are relative so we are talking about an escalation throughout the wage scale.

This means we are saying that the least productive worker in our Nation is entitled to $2 per hour now and $2.20 per hour in the near future. This does not include the cost of social security, unemployment compensation, and industrial insurance, and numerous other costs that employers must pay in addition to wages.

Compare this with the recent estimates of what workers in other countries earn.

In Japan, in 1970, the average total hourly labor cost per worker was 95 cents. This has gone up slightly, but it still is less than one-fourth of the hourly cost of labor in the United States.

By passing this minimum wage bill, we are saying that our manufacturers must pay the least productive worker better than twice as much as the average Japanese worker. And again, I point out that the figures I am using for Japan include fringes and benefits. The $2.20 figure we are proposing for American workers is without fringes, benefits, and various other costs.

We are saying that the least productive workers in American industry must receive $2.20 per hour, which is 60 cents per hour more than the average labor cost, including fringes, for Great Britain.

In Italy, the average hourly cost was $1.73;

In France it was $1.82; and

In West Germany it was $2.27.

What I am demonstrating here is that we are trying to force American manufacturers to pay wages to our least productive workers which are higher than any other nation pays to its average worker. In many cases our minimum wage will be several times the average hourly cost in other modern, competitive, industrial nations.

It also must be pointed out that we are considering a drastic boost in the minimum wage at the very time when our productivity is lagging badly in relation to other nations.

Reliable estimates show that American gross domestic production per person employed increased at an average annual rate of 2.2 percent between 1959 and 1969. Meanwhile, the figures are 9.7 per-

cent for Japan, 5.4 percent for France and 4.7 percent for West Germany.

What we are doing in S. 1861 is ignoring reality. We are attempting to legislate in a vacuum, ignoring the harsh realities of the world marketplace.

Last year we had the most severe trade deficit in our history—more than $2 billion. The last last time we had an official trade deficit was in 1888.

President Nixon foresaw what was about to happen, and he took bold action last August 15 to set our Nation on a new path. He adopted new policies which were designed to scrap our antiquated programs and meet the realities of world trade in the 1970's.

The bill we are considering tonight, S. 1861, will sabotage the administration's trade program.

This bill will complicate—if not make impossible—the task of trying to get our Nation back in the running in international trade.

It is somewhat surprising to me that this proposal would be supported by organized labor on one hand or by proponents of free trade on the other.

This bill will guarantee an increasing flow of imports. It will mean that some products which we now export will no longer be competitive in the world market. So we will have a loss of jobs—both union and nonunion.

This bill is certain to increase the sentiment for protectionism. We simply will not be able to pay our workers inflated wages when products will be readily available from other nations where the wage scales are lower.

A vote for this bill is a vote to move one step closer to an end of free trade as the official policy of our Government.

The drastic increase in the minimum wage will have a domino effect throughout our industry. Obviously, the strong efforts by the administration to control inflation will be out the window. But, at this point, I want to concentrate on the foreign trade and unemployment problems this bill will cause.

I urge the Members of this Chamber to consider the industries in their States—perhaps small but important industries to certain localities. Ask yourself, just what this bill does to these industries.

How many small but important businesses will go under as a result of this legislation? How many industries will be lost?

Mr. President, it seems that we have learned nothing from recent history when it comes to foreign trade.

Consider what happened in just one industry—one very important industry—consumer electronics.

In 1966, imports accounted for less than 10 percent of the electronics products sales in the United States.

This increased to 21.5 percent in 1969. And for 1970 the imports took over almost one-third of the consumer electronics market. It would appear that the American electronics industry faces a very real threat of extinction.

Anyone who thinks this is a far-fetched idea should take a look at what has happened already to the manufacturing of radios.

In 1950, virtually all radios sold in America were made in the U.S.A. Only 6 years later, radio imports began an invasion of the American market. By 1960 more than half the radios sold in America were made overseas. At the present time, only a very small percentage of radios—less that 10 percent—are American made.

This not only can happen—but is happening—to other industries. It is happening to shoe manufacturing, to textiles, to instrument production, to ball-bearings, and to any number of other vital industries which were once among the keystones of American free enterprise.

Why has this happened?

It has happened because American unions have demanded more and more for less and less work, while foreign workers have produced increasingly more without excessive demands.

This has forced our businessmen and manfacturers to move to where the labor costs are more reasonable—to Korea, to Taiwan, to Hong Kong.

I have not talked to a single businessman or industry leader who wanted to take his plant out of the United States. I have worked with leaders of various industries in efforts to keep their plants, and their jobs, right here in the United States.

But eventually they have faced the facts of economic life and death—and this has forced plant after plant, and industry after industry, to abandon America.

In 1950 approximately $61 billion in foreign goods were imported. The 1968 figure was $238 billion worth of foreign-made goods.

Last year we had the $2 billion deficit.

This erosion will continue if Members of Congress continue to keep their heads in the sand. And that is exactly what is happening on this bill.

It will encourage the continued increases in high labor items such as shoes, textiles, clothing, ceramic tile, radios, television, leather goods, and the like.

Mr. President, I do have some selfish motives in arguing against this bill. I believe that if we were to take a realistic attitude on the matter of minimum wages and union policy, we could in Arizona, create thousands of new jobs for those who are on the bottom of the economic ladder.

Rather than passing this bill which will increase unemployment, and put more persons on welfare, we should be considering means of controlling our product costs so that Americans can get back to work and back into their rightful position of leadership in world trade.

I am thinking of the jobs that we could provide for the reservation Indians, for disadvantaged workers in the cities and rural areas, and for our young people who are finding it so difficult to find employment.

This drastic increase in the minimum wage will do great harm to the poor, the disadvantaged and the young. And it will hurt us as a nation in world trade. This bill is one of the most irrational pieces of legislation to come before the Senate this year.

Mr. STEVENSON. Mr. President, as we consider legislation to extend the coverage and benefits of our Nation's minimum wage law, I am reminded of the words of President Franklin Delano Roosevelt:

> I see one-third of a nation ill-housed, ill-clad, ill-nourished . . . the test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

Those words should be repeated until this Nation has met that "test of progress"—are we responding to those "who have too little."

So far we have not done enough. There are still 26 million poor in this country. Two-thirds of those poor are members of families headed by a worker in the labor force. More than one-fourth of the poor and more than 30 percent of the children in poverty are in families headed by a full-time year-round worker. These are the working poor struggling to lead decent and dignified lives.

It is the working poor that we will fail if this bill is not passed, for the bill says that we mean what we say: Every wage-earning American deserves a living wage.

Those who complain that minimum wage increases are inflationary must know that inflation has already cost the worker a substantial part of his salary. Since the minimum wage was raised to $1.60 in February 1968, the Consumer Price Index has risen 21.4 percent. To deny workers a minimum wage increase to compensate for inflation because that increase is itself claimed to be inflationary, is to operate with an illogic that is perverse.

Neither must we be sidetracked by the issue of unemployment. No Labor Department study has shown an increase in unemployment after a raise in the minimum wage. We cannot deny the working poor sorely needed assistance, and then claim that we deny it for their own good.

This bill extends coverage of the Fair Labor Standards Act to an additional 8.4 million employees. An estimated 75,000 to 150,000 new farmworkers will be covered for the first time. Three million more Government employees are included. Domestic employees receive their first minimum wage protection. Overtime exemptions in the hotel, motel, and restaurant industries, motion picture theaters, and in agricultural processing are repealed. And by maintaining full minimum wage coverage for youth, with generous exemptions, it reasserts our belief that we will not allow our children to become underpaid replacements for adults in the working force.

As chairman of the Subcommittee on Migratory Labor, I am particularly encouraged by the advances reflected in the provisions relating to farmworkers. Increased numbers of farmworkers are covered, and over a 4-year period, the minimum wage for agriculture is put at full parity with that for industry. Moreover, with additional provisions concerning child labor, we reassert our belief that a 12-year-old child must be allowed to give his time to school and to play; that

he shall not spend those precious years toiling in the fields.

The provision making it unlawful knowingly to hire illegals will, in addition, protect the American farmworker from the flood of persons who cross the border and make it difficult for the citizen farmworkers to find work in an already swamped labor market. These provisions represent real advances for the farmworker, a sign to him that he, too, is included in the promise of a decent life for all Americans. That is the promise of this bill for the American working man: a living wage for his labors. One year after its enactment, industrial workers will learn at least $2.20 an hour. One year after that, those covered by the FLSA for the first time in 1966 will also have a $2.20 minimum wage. Farmworkers must wait yet 2 more years. And $2.20 an hour is less than $400 a month, $4,400 a year. Can we promise the American worker less? We cannot.

The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

MINIMUM WAGE PROTECTION FOR THE AMERICAN WORKER

Mr. HUMPHREY. Mr. President, I strongly support the Fair Labor Standards Amendments of 1972 (S. 1861), as amended, here in the Senate.

This is the fifth time Congress has amended the Fair Labor Standards Act to accomplish the objective of the act itself—the elimination of "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers." As has always been the case with the wages of American labor, the minimum wage has fallen behind the rise in the cost of living, and a "catchup" action is again demanded.

But the present legislation takes an important forward step, both in endeavoring to set realistic minimum wage levels in light of ongoing economic forces, and in extending coverage—for only the third time since the Fair Labor Standards Act became law in 1938—to major categories of American workers who have for too long been denied this vital protection. The 1972 amendments provide that within 2 years and 2 months after enactment, employees covered prior to 1966, including employees of the Federal Government, will be paid at least $2.20 an hour, and employees covered by the 1966 and 1972 amendments will be paid at least $2 an hour, and farmworkers will be paid at least $1.80 an hour—with further minimum wage increases scheduled for the latter two categories of workers until an across-the-board hourly rate of $2.20 is achieved.

Most importantly, approximately 8 million workers employed in retail and service industries, Federal, State, and local government activities, and in certain categories of farming and domestic employment will, for the first time, be protected under the Fair Labor Standards Act, in addition to 45.4 million currently covered employees.

This expanded coverage is essential. The July 1972 issue of the Monthly Labor Review, published by the Department of Labor, Bureau of Labor Statistics, documents the fact that nearly three-fifths of low-wage workers in America are in retail trade or service occupations; that workers on low hourly rates are also more likely than other workers to be on shorter hours; and that they receive substantially less supplementary benefits, such as health and life insurance, retirement plans, or vacations and paid holidays.

GOVERNMENT EMPLOYEES

The time has also come to end second-class treatment for State and local employees. We must establish the principle that government at all levels should be the model for equity and fair dealing with respect to its employees. The Nixon administration, in sharply opposing the minimum wage bill before the Senate while intensively enforcing the Economic Stabilization Act with respect to wage controls, fails to see the inconsistency in imposing a ceiling on pay increases for State and local government employees while not placing a floor under their wages. In only six States do minimum wage rates of $1.60 an hour apply to these employees—elsewhere the rate is lower or nonexistent. Based on estimates in a 1970 Department of Labor survey, we can expect that the average weekly wage bill for State and local government would be increased by less than 1 percent by applying a $2 hourly minimum for uncovered employees. Not only is it an insult to human intelligence to assert that this second stage of expanded minimum wage coverage could lead to governmental bankruptcy, but it is a denial of human justice as well when, for example, one-sixth of the 3 million women working for State and local governments on a full-time basis have had annual incomes below the poverty index for a family of four.

FARMWORKERS AND CHILD LABOR

Human justice also demands that minimum wage coverage also now be extended to a specific class of farmworkers, the local seasonal hand harvest laborer paid less for the same work only because he is hired for brief peak periods. And it is right that his labor should be counted in the 500 man-day test for determining which farms are covered under the act. There must be no further delay in establishing effective compliance enforcement, as one effective measure of addressing the abject poverty of migrant families. Nor should we tolerate any longer the employment of children under age 12 in agriculture who are not on farms owned or operated by their parents.

Representatives of the National Farmers Union and the National Farmers Organization have stated their support for the provisions of this bill that move toward parity of returns for farmworkers with other sectors of the economy, in line with the need to simultaneously improve the economic parity of family farmers who are also responsible and fair employers.

The provisions of the 1972 amendments are appropriately focused on more of the Nation's larger commercial farm operations. And it is here that a frequently expressed allegation, that with expanded minimum wage coverage will come sharply increased agricultural unemployment, must be met with the conclusion of a Labor Department study that the decline in farm employment has been far greater on noncovered farms than on covered farms.

JOB OPPORTUNITIES FOR YOUTH

The 1972 amendments would add to provisions of the present act that enable flexibility in the application of minimum wage rates to youth, a provision permitting educational institutions to employ full-time students under the special certificate system allowing a rate of not less than 85 percent of the applicable minimum wage. This provision expands the program of part-time job opportunities for youth initiated under the 1961 FLSA amendments. But it should be clearly stressed that the special certificate program continues to be designed to strictly prohibit the displacement of older workers.

There is no basis for the contention that a subminimum wage will expand youth employment. The fact is that no relationship has been established between the minimum wage and youth unemployment. As a 1970 Labor Department report concluded:

In nearly all of the States covered by the study, differential minimum wage rates applicable to youth, including exemptions, appear to have little impact on the employment of youth in 1969.

Nor is there any economic sense in replacing youth unemployment with the unemployment of older workers, with the added impact that these jobless can and must obtain public assistance. An absolutely untenable situation is thereby achieved, where the welfare rolls are increased, while simultaneously no dent is made in youth poverty, and the nonrestrictive allowance of substandard wages creates a major setback in the long and difficult struggle to establish economic justice for American labor.

TO COMBAT POVERTY AND STRENGTHEN THE ECONOMY

However, the Nixon administration's failure to grasp these economic facts of life is compounded by its unawareness of economic history, in once again raising the specter of inflation through an alleged "ripple effect" of rising labor costs, and of increased unemployment, that it claims will result from the minimum wage legislation reported to the Senate.

Once again, this false contention must be answered with a basic economic fact of life, as stated in the committee report:

Low wages do not produce additional jobs. Jobs are created when business is expanding and future prospects are promising.

Every study by the Department of Labor of the economic effects of a minimum wage increase has come to the same conclusion: That there is no discernible adverse effect on overall employment levels, and relatively little impact on overall wage or price trends.

But it is not enough to correct serious inaccuracies in the administration's allegations against a minimum wage increase and expansion of coverage that are essential today. We must also sharply confront this administration with the harsh realities of widespread poverty and a crisis level of unemployment that has

continued for months on end as a result of administration policies that produced a pervasive recession, continued inflation, and extraordinary Federal budget deficits.

The Census Bureau recently reported that the number of Americans living in poverty remained essentially unchanged in 1971, after reversing a decade of steady decline in 1970 with a sharp increase to over 25 million. But the reality behind this profoundly disturbing statistic is thousands upon thousands of working poor families, where full-time labor for meager earnings leaves them trapped in destitution, while some 22 million more Americans struggle to make ends meet on an income that is just above the official level of poverty, and frequently prohibits them from applying for any form of public assistance.

Yet, it is precisely these people whom the Nixon administration would require to pay the price of controlling inflation. This is morally unconscionable and economically senseless.

The low-wage worker must be enabled to hope that his labor will count for something. He has seen the buying power of the $1.60 minimum wage adopted in 1966 all but destroyed—worth less in purchasing power today than the previous minimum wage of $1.25 could command 6 years ago. Just to meet the rise in the cost of living, he requires an immediate increase in the minimum wage to at least $2, as provided in the Senate bill.

It has been rightly stated that there is no single legislative route that Congress could take that would more effectively alleviate poverty than across-the-board improvements in the Fair Labor Standards Act. The governmental estimate of the poverty level income for an urban family of four is now approximately $4,200 per year. At the present minimum wage, a full-time worker's earnings fall far short of this level. And again, simply to correct this economic injustice, he would require an absolute minimum wage of just over $2 per hour.

But the Senate bill clearly takes the position that we can no longer continue with this bare minimum, catchup response. We must now enable all American workers to share in the benefits of increased productivity, currently projected at an average yearly rise of 3 percent in the coming decade. We must act constructively to get all people able and wanting to work off the welfare rolls. We must strengthen the economy, not by applying inflation controls that keep the income of millions of American workers below officially established poverty levels, but rather by enabling them to earn the purchasing dollars that inject a strong stimulant to the economy through increased consumer spending. And we must enable the continued expansion of job opportunities by closing certain gaps in overtime coverage, currently extended to only two-thirds of all nonsupervisory workers, who must receive time-and-a-half their regular rates of pay for all hours over 40 in a week.

TO PROTECT RESPONSIBLE BUSINESS AND STRENGTHEN LABOR JUSTICE

Finally, to correct any argument that the Senate minimum wage bill proposes an unwarranted, pervasive intervention in the various sectors of the economy, let it be clear that at least 90 percent of the Nation's farms will remain exempt from the act under the bill—these are family farms—as well as the substantial majority of retail and service establishments. And the extension of coverage to those in the retail and service industry is limited to those businesses with receipts above $250,000 thereby giving special consideration to the economic facts of small business. At the same time, small businessmen who are covered by the law, will be protected from being undercut by small stores of a large covered chain, which can pay subminimum wages under a special exemption, through provision made in the Senate bill to eliminate this special exemption.

EQUAL PAY FOR WOMEN

I strongly support two further provisions in this bill. First, it will enable the effective achievement of the objectives of the Equal Pay Act of 1963 and of title VII of the Civil Rights Act of 1964, by extending the prohibition of wage discrimination because of sex to executive, administrative, and professional employees, as well as elementary and secondary schoolteachers, academic administrative personnel, and outside salesmen. There is no justification for continuing to deny to women an equal salary level with their male counterparts in these job categories.

Second, this bill addresses an important category of older worker discrimination, by extending the coverage of the Age Discrimination in Employment Act of 1967 to include Federal, State, and local government employees. The vital contribution of these older employees, and the benefit of their extensive experience, must no longer be lost through arbitrary age tests for continued employment.

I am particularly gratified that the Senate version of the Fair Labor Standards Amendments of 1972 strengthens enforcement authorities of the Secretary of Labor as a deterrent to future violations where earned minimum wage compensation or overtime compensation are not paid. I have expressed my serious concern, in recent correspondence with the Secretary of Labor, that a vigorous enforcement program be maintained under this act, particularly in light of the expanded responsibilities of the Employment Standards Administration under the provisions of the Senate legislation.

Mr. President, a respect for human dignity and sound economic judgment require that the Senate take decisive action to provide for an effective increase in the minimum wage and expand its coverage to sectors of American labor where there is a vital need for this protection that only Government can provide. I urge the Senate to adopt the Fair Labor Standards Amendments of 1972.

MINIMUM WAGES SHOULD ELIMINATE THE "WORKING POOR"

Mr. CHURCH. Mr. President, I plan to vote for this minimum wage bill, as modified by the amendments adopted in the course of the debate. The two-stage increase in the minimum wage, going to $2 per hour and then to $2.20, has been stretched out over a 2-year period, rather than the 1 year contemplated by the original bill. The exemption for small business has been restored to $250,000 in gross annual sales, the same as under existing law, in place of the original committee recommendation that the figure be phased down to $150,000.

I supported both of these amendments, and I believe that they have materially improved the bill.

Nevertheless, even though I fully realize and expect the new minimum wage figures contained in this bill to be compromised downward when the conference committee reconciles the House and Senate versions of this legislation, the final increase will doubtlessly exceed the 5.5 percent annual pay increase guideline which the Pay Board has set in its effort to control inflation.

This disturbs me very much, and I was strongly tempted to vote for the lesser increase proposed in the substitute bill offered by Senator DOMINICK, but for another consideration which disturbs me even more.

That consideration has to do with President Nixon's proposal to establish a guaranteed minimum annual income for every American. The Nixon proposal will soon come before the Senate, when this body takes up the welfare bill. It represents, in my judgment, not only a radical departure from the free enterprise system, which is based upon the work ethic, but an enlargement of huge proportions upon both the scope and cost of the welfare program.

For President Nixon not only asks that a minimum annual income be guaranteed everyone presently eligible for welfare support, that is, everyone either unable to work or unable to find work, but he asks that supplementary welfare payments be made to the so-called "working poor." This multitude of employees, men and women who are presently working and now ineligible for welfare, but whose wages are so depressed that they are forced to live in poverty, are to be blanketed into the welfare system. Instead of their employers being required by law to pay a decent wage, President Nixon wants the taxpayers, through a greatly expanded welfare program, to supplement the indecent wages they now receive.

In a country as rich as ours, I do not believe we should tolerate such a class as the "working poor." That any person working 40 hours or more a week should have to accept poverty pay is a national disgrace. The disgrace is compounded when the taxpayers are asked to make up the difference, through welfare.

The remedy is to make the minimum wage a living wage. No employer covered by this act should be permitted to pay a wage that falls below the poverty level.

That is what the committee bill attempts to do, not only by providing for a jump in the minimum wage from $1.60 to $2.20 over a 2-year period, but by extending the scope of the covered employment as well.

In good conscience, I cannot oppose a guaranteed annual minimum income, accomplished through welfare at public expense—which I fully intend to op-

pose—and, at the same time, vote for a raise in minimum wages insufficient to lift the "working poor" above the poverty line.

As the Senate bill now stands, it barely accomplishes the purpose of raising the minimum wage above poverty levels, even in the unlikely event that the $2.20 goal remains in the final version of the bill.

Let me illustrate. I have prepared a chart showing what a wage earner receiving $2.20 an hour would net, after taxes. I ask unanimous consent that the chart appear at this point in the RECORD.

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

Wage ($2.20 per hour, 40 hours per week, 52 weeks per year)	$4,576.00
FICA (social security payment at 5.5 percent)	251.68
Federal income tax (joint return with wife and two children)	39.00
Sales tax (assuming .03 with $286.32 spent on sales tax exempt items such as medicine)	120.00
Net income	4,165.32

Mr. CHURCH. Mr. President, Senators will note that the current poverty level, as determined by the Goverment itself, for a family of four is $4,113 a year in disposable income, barely below the net income figure in the chart.

For this reason, consistent with my opposition to putting working people on welfare, I am obliged to vote for the committee bill.

I recognize, in doing so, that some employers will be hard pressed. I was particularly concerned that an increase of this magnitude might prove a devastating blow to the small farmers of Idaho, at a time when big agribusinesses are displacing many a family farm.

But this bill excludes the small farmer, the reason why, no doubt, that it is supported by two national farm organizations, NFO and the Farmers Union. Under its provisions, a family farm with up to seven employees, will remain exempt from the act. This exemption covers 90 percent of the country's farms. The bill aims to reach only large operations, the employees of corporate farms, not family farms.

By the same token, the bill excludes small businesses doing a gross annual business of $250,000 or less. I cosponsored this amendment, which carried on the floor, because of the special hardships that small businesses face in complying with the many requirements imposed by legislation of this kind. Unless special allowance is made for the independent entrepreneur, he will be driven out of our economy.

For these reasons, I find it possible, indeed necessary, to vote in favor of this bill as amended on final passage.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7130.

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

The legislative clerk read as follows:

A bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of H.R. 7130.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the previous order for the yeas and nays on the Senate bill be vacated and that we have the yeas and nays on the pending bill.

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

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, I move that all after the enacting clause be stricken and that the language of S. 1861, as amended, be substituted therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 7130) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), is absent on official business.

I also announce that the Senator from Arkansas (Mr. FULBRIGHT), is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Louisiana (Mr. ELLENDER), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Tennessee (Mr. BAKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Tennessee (Mr. BAKER) and the Senator from Arizona (Mr. GOLDWATER) would each vote "nay."

The result was announced—yeas 65, nays 27, as follows:

[No. 293 Leg.]

YEAS—65

Aiken	Church	Humphrey
Allott	Cook	Inouye
Bayh	Cranston	Jackson
Beall	Eagleton	Javits
Bellmon	Fong	Kennedy
Bentsen	Gambrell	Long
Bible	Gravel	Magnuson
Boggs	Griffin	Mansfield
Brooke	Harris	Mathias
Burdick	Hart	McClellan
Byrd, Robert C.	Hartke	McGee
Case	Hatfield	McGovern
Chiles	Hughes	McIntyre
Metcalf	Pell	Stafford
Mondale	Percy	Stevens
Montoya	Proxmire	Stevenson
Moss	Randolph	Symington
Muskie	Ribicoff	Talmadge
Nelson	Schweiker	Tunney
Packwood	Scott	Weicker
Pastore	Smith	Williams
Pearson	Sparkman	

NAYS—27

Allen	Dominick	Roth
Bennett	Eastland	Saxbe
Brock	Ervin	Spong
Buckley	Fannin	Stennis
Byrd, Harry F., Jr.	Gurney	Taft
	Hansen	Thurmond
Cooper	Hollings	Tower
Cotton	Hruska	Young
Curtis	Jordan, Idaho	
Dole	Miller	

NOT VOTING—8

Anderson	Ellender	Jordan, N.C.
Baker	Fulbright	Mundt
Cannon	Goldwater	

So the bill (H.R. 7130) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title is appropriately amended.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF FAIR LABOR STANDARDS AMENDMENTS OF 1972, H.R. 7130

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the bill, H.R. 7130, as passed by the Senate and that the bill be printed as passed.

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

Mr. WILLIAMS. Mr. President, I move that the bill, S. 1861, be indefinitely postponed.

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

Mr. JAVITS. Mr. President, I just wish to say a word about the bill that has just been passed. The Senator from New Jersey (Mr. WILLIAMS) I think was the original author of the bill. He piloted the bill through the committee. I know of no bill really that economically has more problems in it than this bill does with the infinite detail involved.

I know that we have gone a long way toward having the bill become law. I know that it will become law. However, we still have a conference and all the difficulties to go through.

The work of the Senator from New Jersey was of such extraordinary skill and he showed such gifted ability in working out the individually difficult situations that I feel the Senate should especially note and the country should especially note the signal services that have been performed by the Senator.

Mr. President, before I yield to the senior Senator from West Virginia, I would like to speak of the staff, those day and night workers who are literally our brains. And in the case of Gary Feder

for the majority and Gene Mittelman for the minority, these men have every reason to feel that they have served magnificently the interest of the Nation in bringing this bill to passage in the Senate.

Mr. RANDOLPH. Mr. President, I am appreciative that the able Senator from New York, the ranking minority member of the Labor and Public Welfare Committee, has expressed his appreciation to the chairman of the Labor and Public Welfare Committee, the Senator from New Jersey (Mr. WILLIAMS). What he said, I think all members of our Labor and Public Welfare Committee, regardless of party affiliation, would strongly affirm.

I add my words of genuine commendation at this late hour not only to the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), but also to the senior Senator from New York (Mr. JAVITS), and to members of the committee who have actively participated over a number of days on the important issues that we have been addressing ourselves to prior to the passage a few minutes ago of this landmark legislation.

I believe that what we have done is in the public interest. We have, I believe, approved a measure to benefit working people and to strengthen our economy. There are many areas of agreement and understanding between labor and management, despite the differences which have been the focus of debate on this bill.

I respect certainly the positions of Senators who have offered amendments—members of the minority as well as by the members of the majority. I have agreed and disagreed with those amendments.

I conclude by saying that I believe we have passed a fair bill, a strong bill, and a bill to strengthen the fabric of this country in its productive structure.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. President, I would be remiss in my duty if I did not express appreciation to those Members of the minority who helped especially with the legislation, Members such as the Senator from Vermont (Mr. STAFFORD) and the Senator from Pennsylvania (Mr. SCHWEIKER). However, I would also like to say that the Members who were in disagreement with us in many cases, Senators like the Senator from Ohio (Mr. TAFT) and the Senator from Colorado (Mr. DOMINICK) also helped to sharpen the issue and the fairness of debate with a willingness to, without in any way, consult any private interests in terms of hoping to keep us here until we get tired, but they agreed to a unanimous-consent agreement which brought this bill to such a successful conclusion. It is most commendable and is highly in the public interest. I commend them for it.

Mr. WILLIAMS. Mr. President, let me say personally that I greatly appreciate the thoughtful and generous comments made by my colleagues. On yesterday I expressed my full appreciation for the indispensable role the Senator from New York (Mr. JAVITS) has played in bringing this bill to the Senate and on the passage here in the Senate.

I thought I might say some other words tonight. However, I did not know it was going to be this late. I am sure that the Senator from New York knows that I feel so completely indebted to him for his competent and wise work on a measure of such great human need and such a complex piece of legislation. I am also particularly grateful to the Senator from Vermont (Mr. STAFFORD), for his invaluable efforts on behalf of this legislation.

Certainly to all of the other Members we worked with on both sides of the aisle in the Labor and Public Welfare Committee, I say that it is a pleasure and our good-will is always preserved.

We certainly have a tireless staff. We have mentioned some of them. However, I commend all of them who have worked with Gerry Feder and Gene Mittleman. They are all to be commended. It has been a long labor and a labor of love.

Mr. JAVITS. Mr. President, both the Senator from New Jersey (Mr. WILLIAMS) and I omitted—and I am sure that he would want me to say this—saying that we owe a great debt of gratitude to the Senator from West Virginia (Mr. ROBERT C. BYRD), who had a heavy responsibility and a great deal to do with contriving the unanimous-consent agreement which was the basis for our ability to pass the bill. It was one of the best jobs I have ever seen him do, and I have seen him do a great many.

We all owe him a great debt of gratitude and so does the country.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator is so generous and so very kind. I would say that, but for the great skill and ability and cooperation of Mr. JAVITS, Mr. WILLIAMS, Mr. DOMINICK, Mr. TAFT, and all other Senators who participated in the discussions leading up to the agreement, no agreement would have been reached.

NATIONAL HOUSING GOALS

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on an amendment to S. 1991 which will be called up by Mr. GRIFFIN tomorrow. He wants a rollcall vote on that amendment.

Mr. JAVITS. May we know what the amendment is?

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

Mr. JAVITS. I have no objection, Mr. President. We ought to know what it is.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask for the yeas and nays on the amendment No. 1333 which will be offered tomorrow by the assistant Republican leader to S. 1991. Unanimous consent for this purpose has already been granted.

The yeas and nays were ordered.

SENATE JOINT RESOLUTION 254—AUTHORIZATION FOR PRINTING AND BINDING OF A REVISED EDITION OF "SENATE PROCEDURE"

Mr. MANSFIELD. Mr. President, I send to the desk a Senate joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 254) was read the first time by title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be printed and bound for the use of the Senate one thousand five hundred copies of a revised edition of Senate Procedure (originally prepared by Charles L. Watkins and Floyd M. Riddick), to be prepared by Floyd M. Riddick, Parliamentarian of the United States Senate, to be printed under the supervision of the author and to be distributed to the Members of the Senate.

SEC. 2. That notwithstanding any provision of the copyright laws and regulations with respect to publications in the public domain, such revised edition of Senate Procedure shall be subject to copyright by the author thereof.

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

There being no objection, the Senate proceeded to the consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution is open to amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 254) was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDER FOR RECOGNITION OF SENATORS WEICKER AND KENNEDY AND FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow immediately after the two leaders have been recognized under the standing order, the distinguished junior Senator from Connecticut (Mr. WEICKER) be recognized for not to exceed 15 minutes, that he be followed by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) for not to exceed 15 minutes; and that at the conclusion of those two orders, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR CONSIDERATION OF NATIONAL HOUSING GOAL ACT, S. 1991, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow at the conclusion of routine morning business the Chair lay before the Senate S. 1991, and that the unfinished business, S. 3390, be temporarily laid aside and remain in a temporarily laid-aside status until the close of business on tomorrow.

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

ORDER FOR LIMITATION OF TIME ON GRIFFIN AMENDMENT TO NATIONAL HOUSING GOALS ACT, S. 1991

Mr. ROBERT C. BYRD. Mr. President, with the concurrence of the very able assistant Republican leader, I ask unanimous consent that time on the amendment No. 1333 to be offered tomorrow by the assistant Republican leader to S. 1991 be limited to 30 minutes, rather than 1 hour as previously agreed to, and that the time be equally divided and controlled as previously agreed.

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

ORDER FOR LIMITATION ON TIME ON AMENDMENTS, DEBATABLE MOTIONS OR APPEALS ON S. 1991

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any other amendment, debatable motion, or appeal in relation to S. 1991 be limited to 20 minutes, the time to be equally divided between the mover of such and the distinguished manager of the bill.

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

S. 1991—MODIFICATION OF TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that instead of the 1½-hour limitation on S. 1991, as previously agreed to, there be a time limitation of 1 hour, with 30 minutes of that 1 hour to be under the control of the distinguished Senator from Montana (Mr. METCALF) and with the remaining one-half hour to be divided and controlled as previously agreed to.

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

NATIONAL HOUSING GOALS—AMENDMENT

AMENDMENT NO. 1333

Mr. GRIFFIN. Mr. President, I send to the desk an amendment to S. 1991, to which reference has been made, and upon which there is a time limitation, and ask unanimous consent that the amendment be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT FROM FRIDAY, JULY 21, 1972, TO 10 A.M. ON MONDAY, JULY 24, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adournment until 10 a.m. on Monday next.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 o'clock a.m. After the two leaders have been recognized under the standing order, the distinguished Senator from Connecticut (Mr. WEICKER) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Massachusetts (Mr. KENNEDY) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, at the conclusion of which the Chair will lay aside temporarily the unfinished business, S. 3390, which will remain in a temporarily laid-aside status throughout the day until the close of business tomorrow.

At the conclusion of the period for the transaction of routine morning business, the Chair will lay before the Senate S. 1991, which deals with national housing goals, with a time limitation on the bill and amendments thereto. At least two rollcall votes will occur tomorrow, one on the amendment No. 1333 by Senator GRIFFIN and the other on final passage of S. 1991. This does not mean that there will be no other rollcall votes, but I say this to indicate that there will be at least two rollcall votes tomorrow. The first rollcall vote could occur as early as 11 a.m. and undoubtedly will occur not later than 11:30 a.m.

Following the disposition of S. 1991 no further yea and nays votes are expected tomorrow. I would venture a guess and go out on a limb to say that all rollcall votes should be completed by not later than 1:30 p.m. tomorrow, and hopefully earlier.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 9:25 p.m. the Senate adjourned until tomorrow, Friday, July 21, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 20, 1972:

CORPORATION FOR PUBLIC BROADCASTING

Thomas B. Curtis, of Missouri, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1976, vice John Hay Whitney, resigned, to which office he was appointed during the last recess of the Senate.

U.S. ARMY

The Army National Guard officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. O'Neil James Daigle, Jr., [redacted] Adjutant General's Corps.

Brig. Gen. William John McCaddin, [redacted] Adjutant General's Corp.

Brig. Gen. Charles Arthur Rollo, [redacted] Adjutant General's Corps.

Brig. Gen. Dana Lee Stewart, [redacted], Adjutant General's Corps.

U.S. NAVY

Rear Adm. Frank H. Price, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

U.S. AIR FORCE

The following officer to be placed on the retired list in the grade of lieutenant general under the provisions of section 8962, title 10, of the United States Code:

Lt. Gen. Marvin L. McNickle, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. William G. Moore, Jr., [redacted] R (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

McCormack, John C., [redacted].

To be captain

Fly, Francis L., Jr., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Humphrey, Charles L., [redacted].

To be captain

Ballard, Joe N., [redacted].
Cox, Hubert D., [redacted].
Culver, David G., [redacted].

To be first lieutenant

Anderson, Frank H., III, [redacted].
Bareford, Jackson D., [redacted].
Barton, Curtis B., [redacted].
Becker, Garry G., [redacted].
Blackwell, Brendan P., [redacted].
Blake, Donald W., [redacted].
Boyd, Robert S., [redacted].
Buys, Albert P., [redacted].
Caddy, Nathan V., Jr., [redacted].
Callahan, Desmond R., [redacted].
Cannon, Carl H., [redacted].
Carlson, Robert E., Jr., [redacted].
Dismukes, William F., Jr., [redacted].

Dopler, Jack E., xxx-xx-xxxx.
Ely, William J., Jr., xxx-xx-xxxx.
Fisher, Robert A., xxx-xx-xxxx.
Garwood, Paul A., xxx-xx-xxxx.
Gary, William C., xxx-xx-xxxx.
Girard, David L., xxx-xx-xxxx.
Gschwendtner, Joseph G., xxx-xx-xxxx.
Hardwick, Danny G., xxx-xx-xxxx.
Harvey, Paul E., Jr., xxx-xx-xxxx.
Hendrickson, Allen W., xxx-xx-xxxx.
Johnson, David C., xxx-xx-xxxx.
Jones, Robert A., xxx-xx-xxxx.
Kay, Charles E., xxx-xx-xxxx.
Kenison, Artha L., xxx-xx-xxxx.
Knight J. Baxter, xxx-xx-xxxx.
Krals, Lennart G., xxx-xx-xxxx.
Kulhavy, Billy J., xxx-xx-xxxx.
Larkin, Jude O., xxx-xx-xxxx.
Larsen, Frank E., xxx-xx-xxxx.
McArthur, Kathleen R., xxx-xx-xxxx.
McIntire, Jon C., xxx-xx-xxxx.
Mitrook, Ronald, xxx-xx-xxxx.
Motes, Kenneth W., xxx-xx-xxxx.
Moyer, Raymond, Jr., xxx-xx-xxxx.
Nelson, Martin E., xxx-xx-xxxx.
Norris, Roger H., Jr., xxx-xx-xxxx.
Offineer, Gary W., xxx-xx-xxxx.
Olson, Mary K., xxx-xx-xxxx.
Oyloe, Myron C., xxx-xx-xxxx.
Parker, Richard L., xxx-xx-xxxx.
Peduzzi, Lawrence P., xxx-xx-xxxx.
Perkins, Andrew M., Jr., xxx-xx-xxxx.
Poole, Lonnie R., III, xxx-xx-xxxx.
Rago, Louis B., xxx-xx-xxxx.
Riddle, Stephen S., xxx-xx-xxxx.
Riley, Ronald G., xxx-xx-xxxx.
Ritchie, Charles A., xxx-xx-xxxx.
Robertson, John K., xxx-xx-xxxx.
Sears, George B., Jr., xxx-xx-xxxx.
Shaltry, Mary J., xxx-xx-xxxx.
Shooner, Robert J., Jr., xxx-xx-xxxx.
Shooner, Robert J., Jr., xxx-xx-xxxx.
Stokes, John P., xxx-xx-xxxx.
Thompson, Marcia E., xxx-xx-xxxx.
Torovsky, Richard H., Jr., xxx-xx-xxxx.
Townsend, Steven N., xxx-xx-xxxx.
Velte, Lawrence R., xxx-xx-xxxx.
Williams, Floyd, xxx-xx-xxxx.
Williams, Hugh N., xxx-xx-xxxx.
Yuhas, Steven L., xxx-xx-xxxx.
Zerull, Dietmar, W. L., xxx-xx-xxxx.

To be second lieutenant

Baker, Robert E., Jr., xxx-xx-xxxx.
Bald, James F., Jr., xxx-xx-xxxx.
Berchak, Henry L., xxx-xx-xxxx.
Bisol, Gene L., xxx-xx-xxxx.
Brotnov, Bruce A., xxx-xx-xxxx.
Cannaday, Gerald D., Jr., xxx-xx-xxxx.
Carey, William F., III, xxx-xx-xxxx.
Clausi, Enrico A., xxx-xx-xxxx.
Cloney, Leroy V., xxx-xx-xxxx.
Cofer, Duane D., xxx-xx-xxxx.
Coleman, Jack R., xxx-xx-xxxx.
Conrad, Stephen D., xxx-xx-xxxx.
Davidson, James W., xxx-xx-xxxx.
Davis, Edmund L., xxx-xx-xxxx.
Demby, Joe H., xxx-xx-xxxx.
Dodge, Richard L., xxx-xx-xxxx.
Dominy, Matthew, xxx-xx-xxxx.
Douglas, James E., xxx-xx-xxxx.
Dudash, Steven A., xxx-xx-xxxx.
Engelberger, Charles J., xxx-xx-xxxx.
Ettner, Edward R., Jr., xxx-xx-xxxx.
Fisher, Jerry W., xxx-xx-xxxx.
Frey, Karen L., xxx-xx-xxxx.
Garland, John T., xxx-xx-xxxx.
Grant, Thomas J., xxx-xx-xxxx.
Griffith, Michael C., xxx-xx-xxxx.
Griggs, Richard W., xxx-xx-xxxx.
Halliburton, Nick B., Jr., xxx-xx-xxxx.
Hayes, Robert C., xxx-xx-xxxx.
Herrick, Paul W., xxx-xx-xxxx.
Huston, Michael L., xxx-xx-xxxx.
Ihrke, Paul W., xxx-xx-xxxx.
Jayjock, Anthony L., xxx-xx-xxxx.
Johnson, James D., xxx-xx-xxxx.
Keehan, Mark P., xxx-xx-xxxx.
Kelly Chris P., xxx-xx-xxxx.
Kind, Bruce A., xxx-xx-xxxx.
Livingston, Gary D., xxx-xx-xxxx.
McClinton, Nathaniel, xxx-xx-xxxx.
McKnight Calvin C., III, xxx-xx-xxxx.
McLean, William E., xxx-xx-xxxx.
Massey, Raymon E., xxx-xx-xxxx.
Mendis, Douglas D., xxx-xx-xxxx.
Morgan, William F., xxx-xx-xxxx.
Morrison, Terry L., xxx-xx-xxxx.
Paris, Thomas F., xxx-xx-xxxx.
Parker, Sarah H., xxx-xx-xxxx.
Reichert, Lawrence W., xxx-xx-xxxx.
Ricketts, Roger A., xxx-xx-xxxx.
Samples, Jerry W., xxx-xx-xxxx.
Sciba, Dennis G., xxx-xx-xxxx.
Shaffer, Robert A., xxx-xx-xxxx.
Shuffler, Jerry W., xxx-xx-xxxx.
Slesinger, Victor E., xxx-xx-xxxx.
Stephens, Dorothy M., xxx-xx-xxxx.
Stiller, Roberta P., xxx-xx-xxxx.
Stronach, James A., xxx-xx-xxxx.
Swanson, Roger W., xxx-xx-xxxx.
Thompson, Jerome C., xxx-xx-xxxx.
Tsuneta, Jerrold Y., xxx-xx-xxxx.
Tuttle, Larry F., xxx-xx-xxxx.
Underwood, Timothy E., xxx-xx-xxxx.
Walzak, Lawrence T., Jr., xxx-xx-xxxx.
Washington, Alvin, xxx-xx-xxxx.
Wolthuis, William D., xxx-xx-xxxx.

The following named officers for appointment in the Reserve of the Army of the United States, under provisions of Title 10, sections 591, 593 and 594:

To be lieutenant colonel, Medical Corps

Mikhail, Samir F., xxx-xx-xxxx.
Taylor, William J. Jr., xxx-xx-xxxx.

WITHDRAWAL

Executive nomination withdrawn from the Senate July 20, 1972:

THE WHITE HOUSE,
July 20, 1972.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board for the term expiring August 9, 1975, which was sent to the Senate on January 24, 1972.

RICHARD NIXON.

EXTENSIONS OF REMARKS

RETIREMENT OF "GUS" ROBINSON

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, July 20, 1972

Mr. THURMOND. Mr. President, I was saddened to hear recently that a good friend of mine, Mr. G. O. "Gus" Robinson was retiring as assistant to the manager of the Atomic Energy Commission's Savannah River plant. As an editorial in the Aiken Standard and Review points out, Mr. Robinson was one of the "original small nucleus of men who kept the secret of plans for the AEC to build the plant here (Aiken)."

During the period of his involvement with the Savannah River plant, Mr. Robinson witnessed all of the several variations of the intent of the project: The construction involving over 36,000 workers, the emphasis on defense production and its present development of peaceful uses of nuclear energy.

As a resident of Aiken, Mr. Robinson has made a host of friends and has performed many public services. Speaking of his retirement plans, the editorial reads:

We are confident that, in retirement, his considerable energies merely will be differently channeled.

Perhaps sadness at this retirement is not in order but rather encouragement, for now that Mr. Robinson has served his State and country in his capacity with the AEC, he may now direct his abilities to other fields where they can be equally productive.

Mr. President, I ask unanimous consent that the editorial published in the Aiken Standard and Review of June 29, 1972, be printed in the Extensions of Remarks.

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

"GUS" ROBINSON RETIRING

Recent announcement of the retirement of G. O. (Gus) Robinson, assistant to the manager of the Atomic Energy Commission's Savannah River Plant, represents something of a milestone. He was one of the original small nucleus of men who kept the secret of plans for the AEC to build the huge facility here.

Mr. Robinson also was among the first of the AEC staff to come to Aiken before construction of the awesome plant started. He thus qualifies as one of the "plank owners" of the Savannah River Plant.

Over this period of time, Mr. Robinson has witnessed wide variations of activity. First, the construction stage when the area was literally over-run by about 36,000 workers; next the emphasis on defense production, and currently the emphasis on peaceful uses of nuclear energy and on research.

A former newspaperman, Mr. Robinson headed up the formidable public relations task of the AEC throughout this area, an undertaking that brought him a number of citations and awards. He has written three books, two of them relating to nuclear energy.

Mr. Robinson is widely known in the community and has a host of friends. We are confident that, in retirement, his considerable energies merely will be differently channeled. On whatever course he has plotted for himself, we wish him well.

SAFEGUARD OUR FREEDOMS

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1972

Mr. JOHNSON of California. Mr. Speaker, a short time ago Mrs. Paul J. Tunkis was installed as president of the California Federation of Women's Clubs. One of those present at this ceremony, a longtime friend, Vonnie Eastham, who is chairman of status of women section, the Chico Women's Club, has called to my attention the inaugural address given by Mrs. Tunkis on this occasion.

As Mrs. Eastham commented her ad-