conflict. Nonetheless, the morning papers are already reporting the early indications that the President's revelation of these peace officers has won no new converts, or, perhaps more correctly, that the critics are desperately grasping at straws to keep this a political issue and to keep it alive until at least November.

Senator McGOVERN, one of the many Democrat candidates for President, is reported to have even gone so far as to say that this blueprint for peace "will not work," observing that "North Vietnam wants a date set for withdrawal." He goes on to point out that—

There's a great difference between offering to set a date and setting a date.

It is precisely this kind of talk that the North Vietnamese are waiting for, you can be sure, so they can be assured of the continued support of those who have been parroting their propaganda line all along. Is there a doubt in anyone's mind that rather than ignoring these offers since last October, as they have done, the North Vietnamese would have rejected them out-of-hand long ago if the critics right here in the United States had known of them so as to set the stage for their rejection?

Why is it that whenever the North Vietnamese have submitted peace offers in the past, the President's critics have castigated him for not going far enough to test the sincerity of the enemy's proposals? And now, when the President makes this truly milestone initiative, why is he still criticized, this time on the grounds that the plan does not comply to the letter to prior North Vietnamese demands? Is not it now very clear that the North Vietnamese have never intended to negotiate a settlement, but have manipulated the impasse for their own bnefit in the belief that the United States will simply abandon South Vietnam?

In my estimation, Mr. Speaker, our hope at this moment in time is that the North Vietnamese will recognize a viable plan for a peaceful settlement and will not dispense with this opportunity as they have so many others in the past. Let there be no mistaking about it, however, that if the critics right here in our own country persist in lending credibility to the North Vietnamese notion that the whole pie will be theirs if they hold out long enough, the conclusion will be inevitable.

This is a most significant opportunity for all Americans to unite behind our President for the purpose of reaching a conclusion in the war. The record to date is more than revealing that the conflict can only continue with the aid of the President's critics who have consistently imposed as their condition for "Peace" nothing less than a complete Communist victory. We have now passed beyond the point where the North Vietnamese can rely only upon our POW's as their bargaining tool.

SENATE—*Thursday, January 27, 1972*

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

PRAYER

Rabbi Alfred Cohen of the Synagogue of Young Israel of Canarsie, Brooklyn, N.Y., offered the following prayer:

God of wisdom and glory, we who are ever humble in Thy presence, stand before Thee in prayer for Thy guidance and compassionate understanding. Bless us with searching hearts and open minds that will ever be sensitive to the many needs of our countrymen.

Bestow Thy blessing of wisdom upon the President and Vice President of our country and upon all the Members of this august body. Strengthen their efforts and inspire their endeavors, so that suffering and evil will be stricken from the face of the earth. Equip them with the courage to champion the cause of justice, and determination to bring the blessings of freedom and equality to all men.

Assure us, dear Lord, of Your inspiration, and bless the work of our hands. By Thy grace, let peace, justice, and brotherhood reign over our land. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 27, 1972.

To the Senate:

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

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 26, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. 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. Does the distinguished minority leader desire to be recognized at this time?

Mr. SCOTT. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there morning business to be transacted by the Senate?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ELLENDER. Mr. President, is the Senate operating in the morning hour?

The ACTING PRESIDENT pro tempore. Yes, with a 3-minute limitation on speeches.

PROCESSING OF 1973 APPROPRIATION BILLS

Mr. ELLENDER. Mr. President, I wish to make a brief statement concerning the processing of the fiscal year 1973 appriation bills, a subject of concern to all of us inasmuch as the 92d Congress will be unable to adjourn until the funding of all necessary governmental programs has been accomplished.

As the Senate is aware, a concentrated effort was made last year to complete action on the appropriation bills as early in the session as possible, and with some success. The record of the Senate committee in reporting the appropriation bills soon after their receipt from the House of Representatives is excellent. The delays in prior years have, for the most part, resulted from the authorizing procedures. There has been a growing consciousness that these authorizing measures must be enacted to permit the Federal agencies to implement their programs early in the fiscal year. The ongoing programs of many agencies have suffered delays.

In my remarks to the Senate on December 15, prior to the adjournment of the first session of this Congress, I stated that in discussions with the leadership it was determined to present to the Senate a program whereby all authorizing bills must be enacted on or before June 1 if they are to be funded in the regular annual appropriation bills. I am happy to report that agreement has been reached on this score, and by joint letter dated January 20, 1972, signed by the distinguished majority and minority leaders, a procedure has been announced, upon the unanimous recommendation of the

majority and minority policy committees, whereby it is expected that enactment of the regular annual appropriation bills can be accomplished prior to the beginning of the new fiscal year on July 1. I wish to read the following paragraph of that letter at this point:

To facilitate the appropriations process on FY 1973 bills, therefore, items of appropriation that have not been authorized *by June 1, 1972*, will *not* be included in the general appropriations bill covering that subject matter. If the pertinent appropriations bill is otherwise ready and available to be considered then or at anytime thereafter, it will be scheduled, and those items awaiting an authorization will simply not be considered. If the authorization is enacted following June 1, 1972, and after the pertinent appropriations bill has been acted upon, the item for which the authorization was required would be considered only as a part of a subsequent supplemental appropriations bill.

It is the purpose of this procedure to expedite the appropriations process. Thus, no item of appropriations not authorized on or before June 1 of this year will be considered as a part of any appropriations bill that is ready and available otherwise for Senate consideration on or after that date. Beginning on that date as well, appropriations bills will be acted upon when ready in accordance with usual scheduling considerations. Items not yet authorized then but authorized at a later time will simply have to be incorporated in a supplemental bill.

It is my understanding that the leadership of the House of Representatives concurs in this endeavor.

With respect to the work of the Senate Committee on Appropriations, I desire to make it clear that I am going to do all in my power to have all of the regular annual appropriation bills through the Senate on or before June 30. As I have said, I believe the Senate committee made an excellent record last year in reporting the bills soon after their receipt from the House of Representatives. It is my hope that we can pass all of these bills before July 1. Consideration will be given to funding those subsequently authorized programs in a supplemental appropriation bill.

The total budget authority requested by the President for fiscal year 1973 is in the amount of $270.9 billion. The amount requiring current action by the Congress, largely in the appropriation bills, is $185.3 billion. Included in this total of $185.3 billion is $45.5 billion which requires additional authorizing legislation before the appropriation bills would be in order. This sum is divided into almost 100 items. I understand an additional $10 billion is proposed for new legislation.

To give the Senate and the American people an idea of the money that has been requested by the President, which requires additional authorizing legislation, I will say the amount is $45,520,560,000. Of that sum, more than $3.5 billion has been requested by the President to carry on foreign assistance in addition to what will be considered, probably next week, for foreign assistance.

The Department of Commerce will need more than half a billion dollars. The Department of Defense will need an additional $25 billion.

Mr. President, I ask unanimous consent to place this document in the RECORD, so that Senators, and the public, as well, may be informed as to what amounts we may expect the authorizing committees to consider for the next fiscal year.

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

Recommended 1973 amounts requiring additional authorizing legislation

(NOTE.—These amounts are recommended in the 1973 budget, but the Congress does not generally act on these appropriation requests until after enactment of the authorizing legislation.)

(In thousands of dollars)

FUNDS APPROPRIATED TO THE PRESIDENT	
Foreign assistance:	
International security assistance:	
Military assistance	780,000
Foreign military credit sales	527,000
Economic supporting assistance	807,400
International development assistance:	
Multilateral assistance: International organizations and programs	175,335
Bilateral assistance:	
Grants and other programs	539,358
Development loans	634,500
Contingencies	100,000
Office of Economic Opportunity:	
Economic opportunity program	758,200
Total, funds appropriated to the President	4,321,793
COMMERCE	
International activities: Export control	5,507
Science and technology: National Bureau of Standards, research and technical services	8,786
Ocean shipping:	
Maritime Administration:	
Ship construction	250,000
Operating-differential subsidies	232,000
Research and development	30,000
Salaries and expenses	3,900
Maritime training	7,670
State marine schools	2,290
Total, Commerce	540,153
DEFENSE—MILITARY	
Aircraft procurement, Army	134,500
Missile procurement, Army	1,153,400
Procurement of weapons and tracked combat vehicles, Army	259,500
Procurement of aircraft and missiles, Navy	3,871,200
Shipbuilding and conversion, Navy	3,564,300
Other procurement, Navy	219,900
Procurement, Marine Corps	85,200
Aircraft procurement, Air Force	2,612,700
Missile procurement, Air Force	1,772,300
Research, development, test and evaluation:	
Army	2,051,100
Navy	2,710,900
Air Force	3,178,600
Defense agencies	507,200
Emergency fund, Defense	50,000
Military construction:	
Army	969,323
Navy	490,490
Air Force	291,285
Defense agencies	46,400
Army National Guard	40,000
Air National Guard	10,600
Army Reserve	38,200
Naval Reserve	16,000
Air Force Reserve	7,000
Family housing, Defense	977,200
Operation and maintenance, civil defense	29,041
Special foreign currency program	3,000
Total, Defense—Military	25,089,339
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE	
Health Services and Mental Health Administration:	
Health services delivery	155,300
Preventive health services	8,500
Office of Education:	
School assistance in federally affected areas	430,910
Library resources	14,000
Higher education facilities loan and insurance fund: current	3,352
Social and Rehabilitation Services	836,243
Office of Child Development (Head Start)	393,642
Educational renewal (Follow Through)	58,700
Total, Health, Education, and Welfare	1,900,647
ENVIRONMENTAL PROTECTION AGENCY	
Waste treatment construction grants	2,000,000
Operation, research, and facilities	97,000
Total, Environmental Protection Agency	2,097,000
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
Comprehensive Planning	100,000
Model Cities	515,000
Open Space	100,000
Neighborhood Facilities	40,000
Total, Dept. of Housing and Urban Development	755,000
INTERIOR	
Water and Power Resources:	
Bureau of Reclamation:	
Construction and rehabilitation	8,840
Upper Colorado River storage project	38,185
Water Quality and Research:	
Office of Saline Water: Saline water conversion	26,871
Total, Interior	73,896
LABOR	
Manpower Administration:	
Salaries and expenses	61,890
Manpowed training services	1,633,366
Total, Labor	1,695,256
TRANSPORTATION	
Coast Guard:	
Operating expenses	297,693
Acquisition, construction, and improvements	135,660
Reserve training	23,529
Research, development, test, and evaluation	1,348
Federal Highway Administration:	
Highway Beautification	*60,000
Highway trust fund: Federal-aid highways	*1,550,000
Forest highways	*33,000
Public lands highways	*16,000
Highway-related safety grants (Federal & Trust)	*30,000

National Highway Traffic Safety Administration:	
Traffic and highway safety	36,900
State and community highway safety	*33,333
Highway trust fund: trust fund share of highway safety programs	*66,667
Total, Transportation	2,284,130
ATOMIC ENERGY COMMISSION	
Operating expenses	2,072,830
Plant and capital equipment	366,860
Total, Atomic Energy Commission	2,439,690
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION	
Research and development	2,600,900
Construction of facilities	77,300
Research and program management	700,800
Total, National Aeronautics and Space Administration	3,379,000
OTHER INDEPENDENT AGENCIES	
Action: Total operating expenses	184,700
Arms Control and Disarmament Agency	10,000
Commission on Civil Rights	4,646
Commission on International Radio Broadcasting	38,795
Corporation for Public Broadcasting	45,000
National Science Foundation	653,000
American Revolution Bicentennial Commission	6,712
Smithsonian	275
Water Resources Council	1,531
Total, other independent agencies	944,659
Grand total: Budget authority	45,520,563

* Contract authority.

Mr. ELLENDER. Mr. President, on December 15, 1971, I stated on the floor of the Senate that the full Committee on Appropriations would be convened early in the session for the purpose of hearing testimony on the overall budget estimates submitted by the President for fiscal year 1973. Similar hearings were held last year and were limited to governmental witnesses who appeared in support of administration proposals. These hearings were most illuminating because of the broad areas covered in the formal presentations and in the followup interrogations.

This year, however, it is the intent of the committee to expand the scope of the hearings by taking testimony from representatives of organizations and interested citizens who will present their viwes on the budget as it relates to national goals and priorities.

It is anticipated that provocative alternatives to proposed spending programs may be suggested; certainly, the views presented by all witnesses—whatever their convictions or interests—will make a substantial contribution to a clearer understanding of the Nation's special needs and priorities.

I wish to announce, Mr. President, that these hearings will commence on Tuesday, February 1, 1972, at 9:30 a.m., in room 1224, New Senate Office Building. I ask unanimous consent that the proposed schedule of hearings be printed at this point in the RECORD.

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

TUESDAY, FEBRUARY 1, 1972

9:30 a.m.—George P. Shultz, Director, Office of Management and Budget.

Caspar W. Weinberger, Deputy Director, Office of Management and Budget.

2:00 p.m.—Ezra Solomon, Member Council of Economic Advisers.

WEDNESDAY, FEBRUARY 2

9:30 a.m.—Charls E. Walker, Under Secretary, Department of the Treasury.

2:00 p.m.—Federation of American Scientists: Dr. Richard L. Garwin and Dr. Morton H. Halperin.

SANE: Professor Seymour Melman.

Association of American Medical Colleges: Dr. John A. D. Cooper.

Friends Committee on National Legislation: Edward Snyder, Executive Secretary.

United States National Student Association: National Student Lobby, Ted Downey, Student Senator.

THURSDAY, FEBRUARY 3

9:30 a.m.—United States Conference of Mayors.

National League of Cities.

Federation of American Scientists: Professor Adam Yarmolinsky.

Businessmen's Educational Fund: Harold Willens, Chairman.

Council of State Chambers of Commerce: Eugene F. Rinta, Executive Director.

Emergency Committee for Full Funding of Education Programs: Dr. Wilson Riles, California Superintendent of Schools.

National Education Association.

American Council on Education: Dr. Roger W. Heyns, President.

American Farm Bureau Federation: Marvin L. McLain, Legislative Director and William C. Anderson, Assistant Legislative Director.

Federation of American Societies for Experimental Biology: Dr. Lewis Thomas.

2:00 p.m.—American Public Health Association: Dr. James R. Kimmey, Executive Director.

Board of Christian Social Concerns of The United Methodist Church: Dr. Luther Tyson.

United Presbyterian Church in the U.S.A.: Dr. William P. Thompson, Stated Clerk of the General Assembly.

Catholic Theological Union: The Reverend John T. Pawlikowski, Ph. D.

National Congress of American Indians.

National Wildlife Federation: Thomas L. Kimball, Executive Director.

FRIDAY, FEBRUARY 4

9:30 a.m.—Coalition on National Priorities and Military Policy: Honorable Joseph S. Clark, Chairman.

Coalition for Health Funding (also, Federation of Associations of Schools of the Health Professions): Dr. Michael DeBakey.

Council for Christian Social Action: Dr. Robert V. Moss, President, United Church of Christ.

United Auto Workers: Emil Mazey.

Sierra Club: Richard Lahn or Lloyd Tupling.

2:00 p.m.—National Urban Coalition: Carl Holman, President.

Citizens Energy Council: Honorable Jonathan B. Bingham (N.Y.), Dr. David Ford.

Department of Church in Society of The Christian Church (Disciples of Christ).

Americans for Democratic Action: Leon Shull, National Director.

Mr. ELLENDER. I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers); to the Committee on Aeronautical and Space Sciences.

REPORT ON FINAL DETERMINATION WITH RESPECT TO INDIAN CLAIM CASE

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination with respect to Docket No. 294, The Skagit Tribe of Indians, also known as The Lower Skagit Tribe of Indians, also known as Whidbey Island Skagits, Plaintiff, v. The United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

STATEMENT OF RECEIPTS AND EXPENDITURES OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

A letter from the Vice President and General Manager, The Chesapeake and Potomac Telephone Company, transmitting, pursuant to law, a report of that Company, for the year 1971 (with an accompanying report); to the Committee on the District of Columbia.

PROPOSED AMENDMENT OF INTERNAL REVENUE CODE OF 1954

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of certain distributions and sales pursuant to the Bank Holding Company Act Amendments of 1970 (with accompanying papers); to the Committee on Finance.

PROPOSED AMENDMENT TO CONCESSION CONTRACT IN MOUNT RAINIER NATIONAL PARK, WASH.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract within Mount Rainier National Park, Washington (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON POSITIONS IN GRADES GS–16, GS–17, AND GS–18

A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on positions within that Department in the grades of GS–16, GS–17, and GS–18, for the year 1971 (with an accompanying report); to the Committee on Post Office and Civil Service.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

John Eugene Sheehan, of Kentucky, to be

a Member of the Board of Governors of the Federal Reserve System;

George H. Boldt, of Washington, to be Chairman of the Pay Board; and

C. Jackson Grayson, Jr., of Texas, to be Chairman of the Price Commission.

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. BOGGS (for himself and Mr. ROTH):

S. 3081. A bill to provide for the establishment of a national cemetery in the State of Delaware. Referred to the Committee on Veterans' Affairs.

By Mr. BEALL:

S. 3082. A bill for the relief of Milagros Posada. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. Moss):

S. 3083. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOGGS (for himself and Mr. ROTH):

S. 3081. A bill to provide for the establishment of a national cemetery in the State of Delaware. Referred to the Committee on Veterans' Affairs.

Mr. BOGGS. Mr. President, I am introducing on behalf of myself and the distinguished junior Senator from Delaware (Mr. ROTH) a bill to establish a national cemetery in the State of Delaware.

There are currently 98 national cemeteries in the country, but not one is located in the State of Delaware. The nearest cemetery with burial spaces still available is located at some distance away in Gettysburg, Pa.

Many existing cemeteries are closing for lack of space and new sites must be found. I believe it is time that Delaware has a national cemetery as a permanent memorial to those Delawareans who have given their lives in the service of their country.

By Mr. HARTKE (for himself and Mr. Moss):

S. 3083. A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods. Referred to the Committee on Commerce.

TRUTH IN FOOD LABELING ACT

Mr. HARTKE. Mr. President, today I join the distinguished Senator from Utah (Mr. Moss) in introducing the Truth in Food Labeling Act. This legislation is designed to enable the consumer to have all pertinent information at her disposal when she shops at the neighborhood supermarket or the corner grocery store.

This is an age when people are demanding to know more about their environment, yet we know so little about the food we eat. We are ignorant about its quality, its nutritional value, its ingredients, its freshness, and its manufacturer. These are crucial facts, yet they remain hidden from most consumers.

The Truth in Food Labeling Act puts an end to the mystery which envelops the food we eat. In essence, it requires that certain basic information about the contents of that food be printed in the package label in plain and concise language. Specifically, the bill accomplishes the following objectives:

First, it establishes a uniform system of grade labeling for all consumer food products and requires that grade designations appear in a conspicuous and legible type on each food package. To accomplish this purpose, the bill establishes grades "A" to "E" and "substandard" and mandates the use of these terms on all food products with the exception of meat products for which there is currently an inspection and grading program administered by the Secretary of Agriculture.

Second, the bill requires that the labels of food products disclose their ingredients. There is no reason to ask a consumer to buy a product whose contents are not known in full. At a time when we are beginning to learn so much about the harmful effects of certain substances, we must assure the consumer of full knowledge about the food he eats.

Third, the bill requires that food product labels contain information about the nutritional content of that product. The consumer should have access to this information so that nutritional meals can be planned. Although there is ample proof that Americans are eating more food than ever, there is equally ample proof that the nutritional content of our diets is decreasing. If the consumer is to becom nutrition conscious, then she will have to have the nutrient content of foods prominently displayed on each package.

Fourth, the bill requires that all perishable and semiperishable foods contain a "pull date" on the label of the product. This date represents the latest date on which that product can be sold as fresh. During the past several months, much has been written to indicate that many outdated products are being sold every day. Baby food, canned goods, and packaged goods which were stale months and years ago are being sold as fresh products. The most ironic aspect of this problem is that most perishable and semiperishable food products do contain some sort of "pull date," but it is printed in a code form which is not decipherable by the consumer, nor can it be understood by many food store managers. Under my proposal, the "pull date" would have to be stated in the form of day, month, and year.

Fifth, the bill requires the name and place of business of the manufacturer, packager, and distributor to be printed on the packages of food, drugs and cosmetics. This provision will enable a consumer to make better comparisons among competing brands of the same product, and it will also help to promote the public safety. Many products are marketed under private labels. The fact that these products are often cheaper than nationally known brands does not mean that they are necessarily of inferior quality. There are many instances of a manufacturer producing the same product packaged under different—and often competing—brand names sold at different prices. In the Bon Vivant case last year, one of the problems presented to the consumer is that the company marketed its product under different brand names. The consumer was thus uncertain whether the soup he had on his shelves was manufactured by Bon Vivant or another company. This provision of my bill eliminates that uncertainty.

Mr. President, the Truth in Food Labeling Act will lessen substantially the difficulties which consumers face when purchasing food. It will assist in making the consumer informed and knowledgeable about what he buys at the store. The doctrine of "caveat emptor" is only valid so long as the consumer has at his or her disposal adequate information upon which to make a rational purchase judgment. The only realistic means by which a consumer can obtain that information is through a new and revolutionary system of product labeling. The Truth in Food Labeling Act will achieve this objective by providing the consumer with an opportunity to make a reasoned decision about the best product to buy in light of his individual needs and desires. It will also benefit consumers by promoting competition among food manufacturers and processors. Nothing in this bill imposes an unreasonable requirement on the food industry. If there is opposition, it will come not from those who seek to keep the consumer from being confused by too much information, but from those who seek to keep the consumer from being informed about the food he eats.

Mr. President, I ask unanimous consent that the text of the Truth in Food Labeling Act 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. 3083

A bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods

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 "Truth in Food Labeling Act".

SEC. 2. (a) The Fair Packaging and Labeling Act (15 U.S.C. 1451–1461) is amended as follows—

(1) by inserting "Title I—Fair Packaging and Labeling" immediately above the heading of section 2;

(2) by redesignating sections 2 through 5 as sections 101 through 104, respectively;

(3) by striking out "section 3" in section 103(a) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 102";

(4) by striking out "section 3" in section 103(b) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103";

(5) by striking out "section 4" and "section 2" in section 104(b) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103" and "section 101", respectively;

(6) by striking out "section 4" in section 104(c) (as redesignated by clause (2) of this section) and inserting in lieu thereof "section 103"; and

(7) by adding immediately after section 104 (as redesignated by clause (2) of this section) the following new titles:

"TITLE II—QUALITY GRADING OF FOOD PRODUCTS

"SEC. 201. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"SEC. 202. (a) The Secretary of Health, Education, and Welfare shall formulate and prescribe a system of food quality grade designations, expressed in a uniform nomenclature, for all food products.

"(b) No person subject to the prohibition contained in section 201 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a food quality designation of the food product contained therein, that the label on such product appear in a uniform location on the package, and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

"(c) The Food quality designations for food products adopted by the Secretary shall provide for the following designations in descending order of quality of the food product:

"(1) U.S. Grade A.
"(2) U.S. Grade B.
"(3) U.S. Grade C.
"(4) U.S. Grade D.
"(5) U.S. Grade E.
"(6) Substandard.

The Secretary of Health, Education, and Welfare may authorize the use of less than six different designations in the case of any food product if he determines that it is not in the public interest or is impracticable to require such food product to be broken down into six quality designations.

"(d) The Secretary of Health, Education, and Welfare shall immediately initiate and carry out a program of consumer education in conjunction with the promulgation of food quality designations prescribed by him under this title.

"(e) The provisions of this title shall not apply in the case of any meat with respect to which there is in effect an inspection and grading program administered by the Secretary of Agriculture.

"TITLE III—LABELING OF FOOD PRODUCTS TO DISCLOSE INGREDIENTS

"SEC. 301. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"SEC. 302. No person subject to the prohibition contained in section 301 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a statement specifying all the ingredients contained in such food products in the order of their predominance, that the label on such product appear in a uniform location on the package and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

"TITLE IV—NUTRITIONAL LABELING OF FOOD PRODUCTS

"DEFINITIONS

"SEC. 401. For the purpose of this title—

"(1) The term 'nutritional value' means the amount of nutrients contained in the food expressed in terms of the relationship of the amount of each nutrient contained in such food to the total recommended daily requirement of each such nutrient required to maintain a balanced diet as determined by the Secretary of Health, Education, and Welfare after consultation with the National Academy of Sciences.

"(2) The term 'nutrient' includes protein, vitamin A, B vitamins (thiamin, riboflavin, niacin), vitamin C, vitamin D, carbohydrate, fat, calories, calcium, iron, and such other nutrients as may be prescribed by regulation.

"SEC. 402. (a) It shall be unlawful for any person engaged in the packaging or labeling of any food product for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled food product, to distribute or to cause to be distributed in commerce any such product if it is contained in a package, or if there is affixed to that product a label which does not conform to the provisions of this title and regulations promulgated under the authority of this title.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail food distributors except to the extent that such persons (1) are engaged in the packaging or labeling of such food, or (2) prescribe or specify by any means the manner in which such food is packaged or labeled.

"LABELING REQUIREMENTS

"SEC. 403. (a) No person subject to the prohibition contained in section 402 shall distribute or cause to be distributed in commerce any packaged or labeled food product except in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare pursuant to this title. Such regulations shall require that any food product distributed in interstate commerce bear a label containing a statement specifying the nutritional value of the food product contained therein, that the label on such commodity appear in a uniform location on the package, and that such label—

"(1) appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package;

"(2) contain letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size;

"(3) be placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed; and

"(4) bear a statement of the nutritional value of each serving if the label appears on a packaged food product which bears a representation as to the number of servings of the food product contained in the package.

"(b) The Secretary may by regulations require additional or supplementary words or phrases to be used in conjunction with the statement of nutritional value appearing on the label whenever he determines that such regulations are necessary to prevent the deception of consumers or to facilitate value comparisons as to any food product. Nothing in this subsection shall prohibit supplemental statements, which are not misleading or deceptive, at other places on the package, describing the nutritional value of the food product contained in such package.

"TITLE V—LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(2) The term 'food' had the meaning prescribed for that term by section 201 of the Federal Food, Drug, and Cosmetic Act, except that such term does not include any fresh fruit or vegetable.

"(3) The term 'perishable or semi-perishable food' means any food which the Secretary

determines has a high risk of any of the following as it ages:

"(A) spoilage;

"(B) significant loss of nutritional value; or

"(C) significant loss of palatability.

"(4) The term 'pull date' means the last date on which a perishable or semi-perishable food can be sold for consumption without a high risk of spoilage or significant loss of nutritional value or palatability, if stored by the consumer after that date for the period which a consumer can reasonably be expected to store that food.

"LABELING REQUIREMENTS FOR PERISHABLE AND SEMI-PERISHABLE FOODS

"SEC. 502. (a) No person who manufactures or packages a perishable or semi-perishable food in the form in which it is sold by retail distributors to consumers may distribute (or cause to be distributed) in commerce for purposes of sale a perishable or semi-perishable food packaged by him in such form unless he has, in accordance with the requirements of subsection (f), labeled such packages to show (1) the pull date for such food, and (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer.

"(b) No person engaged in business as a retail distributor of any packaged perishable or semi-perishable food subject to the provisions of subsection (a) may sell, offer to sell, or display for sale such food unless the food's package is labeled in accordance with this title.

"(c) No person engaged in business as a retail distributor of any packaged perishable or semi-perishable food may sell, offer to sell, or display for sale any such food whose pull date, as specified on its package's label, has expired unless—

"(1) the food is fit for human consumption, as determined under applicable Federal, State, or local law,

"(2) such person separates the food from other packaged perishable or semi-perishable foods whose pull dates, as specified on their packages' labels, have not expired, and

"(3) such person clearly identifies the food as a food whose pull date has expired.

"(d) No person engaged in the business of manufacturing, processing, packing, or distributing perishable or semi-perishable foods may place packages of such foods, labeled in accordance with subsection (a), in shipping containers or wrappings unless such containers or wrappings are labeled by him, in accordance with regulations of the Secretary, to show the pull date (or dates) on the labels of such packages.

"(e) No person may change, alter, or remove, before the sale of a packaged perishable or semi-perishable food to the ultimate consumer, any pull date required by this section to be placed on the label of such food's package or shipping container or wrapping.

"(f)(1) The pull date and the storage instructions required to be on the label of a packaged perishable or semi-perishable food under subsection (a) shall be determined in the manner prescribed by regulations of the Secretary.

"(2) A pull date shall, in accordance with regulations of the Secretary—

"(A) be (i) in the case of the month contained in the pull date, expressed in the commonly used letter abbreviations for such month, and (ii) otherwise expressed in such combinations of letters and numbers as will enable the consumer to readily identify (without reference to special decoding information) the day, month, or year, as the case may be, comprising the pull date; and

"(B) be separately and conspicuously stated in a uniform location upon the principal display panel of the label required under subsection (a).

"(3)(A) Any regulation under paragraph (1) prescribing the manner in which pull dates for a packaged perishable or semi-perishable food shall be determined may include provisions—

"(i) prescribing the time periods to be used in determining the pull dates for such food,

"(ii) prescribing the data concerning such food (and the conditions affecting it before and after its sale to the consumer) to be used in determining its pull dates, or

"(iii) permitting a person engaged in the business of manufacturing, processing, packaging, or distributing such food to determine its pull dates using such time periods and data as such person considers appropriate.

"(B) If such regulation includes provisions described in sub-paragraph (A) (iii) of this paragraph, such regulation shall also contain—

"(i) such provisions as may be necessary to provide uniformity, where appropriate, in the time periods used in pull date determinations; and

"(ii) provisions for regular review by the Secretary of the pull date determinations and the time periods and data upon which they are based.

"PENALTIES AND INJUNCTIONS

"SEC. 503. (a) Any person who knowingly or willfully violates any provision of section 502, or any regulation made thereunder, shall be imprisoned for not more than one year or fined not more than $5,000, or both; except that if any person commits such a violation after a conviction of him under this subsection has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $25,000, or both.

"(b) Any packaged perishable or semi-perishable food that is distributed in violation of section 502 or any regulation made thereunder shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States within the jurisdiction of which such packaged food is found. Section 504 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) (relating to seizures) shall apply with respect to proceedings brought under this subsection and to the disposition of packaged foods subject to such proceedings.

"(c)(1) The United States district courts shall have jurisdiction, for cause shown, to restrain violations of section 502 and regulations made thereunder.

"(2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of section 502 or a regulation made thereunder, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(d) Before any violation of section 502 or a regulation made thereunder is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

"(e) Nothing in this title shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of section 502 or a regulation made thereunder whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(f)(1) Actions under subsection (a) or (c) of this section may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(2) In any actions brought under subsection (a) or (c) of this section, subpenas for witnesses who are required to attend a United States district court may run into any other district."

SEC. 3. (a) The Fair Packaging and Labeling Act is further amended by inserting "TITLE VI—GENERAL PROVISIONS" above the heading for section 6, and by redesignating sections 6 through 13 as sections 601 through 608, respectively.

(b) Section 601(a) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 4 or section 5 of this Act" in subsections (a) and (b) and inserting in lieu thereof "section 103, 104, 201, 302, 403, or 502 of this Act".

(c) Section 602(a) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 3 of this Act." and inserting in lieu thereof "section 102, 201, 301, or 402 of this Act. The provisions of this subsection shall not apply with respect to title V."

(d) Section 602(c) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "sections 4 and 5" and inserting in lieu thereof "sections 103, 104, 201, 302, 403, and 502".

(e) Section 603 of such Act (as redesignated by subsection (a) of this section) is amended by striking out "section 5(d) and inserting in lieu thereof "section 104(d)".

(f) Section 605 of such Act (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following:

"(g) The terms 'food' and 'food product' mean any article used for food or drink for man or other animals, and any article used as a component of such article."

(g) Section 607 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"SEC. 607. It is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may provide for (1) the labeling of the net quantity of contents of the package of any consumer commodity as provided in title I of this Act; (2) the quality grading of food products as provided in title II of this Act; (3) the labeling of the ingredients contained in food products as provided in title III of this Act, (4) the labeling of the nutritional value of food products as provided in title IV of this Act; (5) the labeling of perishable and semi-perishable foods as provided in title V of this Act, which are less stringent than, or require information different from the requirements of the appropriate title or regulations promulgated pursuant to such title."

(h) Section 608 of such Act (as redesignated by subsection (a) of this section) is amended by striking "This" and inserting in lieu thereof "(a) Except as provided in subsection (b), this"; and by adding at the end thereof a new subsection as follows:

"(b) The provisions of titles II, III, IV, and V shall become effective six months after the date of enactment of such title, except that the Secretary of Health, Education, and Welfare may by regulation postpone for an additional twelve-month period the effective date of any such title with respect to any class or type of food product on the basis of a finding that such a postponement would be in the public interest."

"TITLE VI—LABELING REQUIREMENTS FOR CERTAIN PACKAGE GOODS

SEC. 601. (a) Section 403(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

343) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"(b) Section 502(b) of such Act (21 U.S.C. 352) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"(c) Section 602(b) of such Act (21 U.S.C. 362) is amended by striking out "or" in clause (1) and inserting "and" in lieu thereof.

"SEC. 602. The amendments made by this Act shall take effect upon the expiration of the one hundred and eighty day period which begins on the date of the enactment of this Act.

Mr. MOSS. Mr. President, I am pleased to join with Senator HARTKE in sponsoring the Truth in Food Labeling Act, a comprehensive set of amendments to the Fair Packaging and Labeling Act.

The Fair Packaging and Labeling Act has been a noble experiment at giving the consumer a sound footing in the economic competition of the marketplace. He now knows, by and large, how much he is getting of a given commodity. He is not deceived by proliferation of sizes and names. But, the consumer does not know what he is getting. The Truth in Food Labeling Act attempts to set straight the numerous problems which the consumer has in the marketplace in his dealings with standardized foods, ungraded foods, house brands, shelf life of goods, and the like.

Basically, the Truth in Food Labeling Act is but another extension of the right to know, one of the four basic consumer rights that President John F. Kennedy enunciated in his brilliant message 10 years ago. What does the Truth in Food Labeling Act do? It provides just about all the information that the consumer needs in order to make an intelligent choice in the marketplace.

The first title of the act would require a uniform grading of food products. Too often one goes into the store and buys grade A, only to find out that grade A is second quality in that commodity. Between different commodities the names and relative positions of these grades vary. The act would eliminate this problem by establishing uniform nomenclature, six grades labeled A through E and ungraded. Of course, in the area of meats, where our system of prime, choice and commercial is so well established and understood, the legislation provides for exemption of those graduations.

The second title of the bill would require the disclosure of food ingredients in order of their predominance. Some people are allergic to various additives, but they do not know whether these additives are in the foods they purchase. And too often a food label does not sufficiently amplify the name of the product. Additionally, the legislation would not preclude the establishment of labels continuing the percentage of ingredients, a most important bit of information to know when purchasing various food products.

The next title of the bill would require the establishment of a national system of uniform nutrient labeling. What good is a food product if it has no nutritional value? Wll, the consumer might want to purchase it anyway, but he has the right to know the nutritional value of the food particularly when claims for "energy packed" and "body building" are thrown about so loosely in advertisements. The legislation would fill the current void in nutritional labeling. Although a number of voluntary programs have been established, this title would make mandatory a national nutritional labeling system.

Next, we face the problem of freshness. The hidden codes on the lids of cans and enigmatic numbers and letters on foods in the dairy case prevent the consumer from knowing how old a perishable or semi-perishable product is. If the product is going to be used immediately, it invariably does not matter as long as the pull date has not been reached. If it will sit on the shelf for a month or two, the consumer should know how long he has before he must use the product. Title V of the Truth in Food Labeling Act would remedy the open dating problem.

The last title would remedy a most serious problem that arose when the Bon Vivant botulism case arose last summer. The house brands of many large chains and other private label brands are manufactured by a variety of different firms. But how does the consumer know whether his can of Supermarket X chicken soup was manufactured by Bon Vivant or some other firm? At the moment, there is no way to identify the manufacturer, only the distributor is identified on the package. The identity of the manufacturer will serve to let the consumer know who is manufacturing the food products he eats.

Some may ask why we have left unit pricing out of this legislation. I believe the very significant progress that has been made through voluntary efforts precludes legislation of unit pricing at the present time.

However, the voluntary efforts to date on these other issues do not appear to be sufficient. Although retailers have made great strides, the progress of the manufacturers has been relatively slow. It seems that most of the needs of the consumer can best be done at the manufacturing level rather than at the retail level, thus the need for the Truth in Food Labeling Act.

I hope my colleagues will join with me in supporting this important consumer legislation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2910

At the request of Mr. TAFT, the Senator from Masachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2910, a bill to provide grants to States for the establishment, maintenance, and operation of low-cost meal programs for disabled Americans, and for other purposes.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. BAKER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2994, a bill 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 Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 2995, the Victims of Crime Act of 1972.

S. 3080

At the request of Mr. KENNEDY, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 3080, to amend the Lead-Based Paint Poisoning Prevention Act.

SENATE JOINT RESOLUTION 189

At the request of Mr. BROCK, the Senator from North Carolina (Mr. JORDAN) was added as a cosponsor of Senate Joint Resolution 189, a resolution to authorize the President to designate the period beginning March 26, 1972, as "National Week of Concern" for prisoners of war and missing in action, and to designate Sunday, March 26, 1972, as a national day of prayer for these Americans.

SENATE RESOLUTION 241—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Rules and Administration, by unanimous consent.)

EXTENSION AND BUDGET OF SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. MCGOVERN. Mr. President, I am introducing today Senate Resolution 241 extending the work of the Select Committee on Nutrition and Human Needs from March 1, 1972, to February 28, 1973. This resolution is an amended form of Senate Resolution 183 introduced last October 20, the only significant change being the inclusion of a specific budgetary figure which approximates the select committee's budget for the previous year. Both resolutions were approved unanimously by the members of the committee.

Mr. President, the select committee has performed the invaluable service during the past year of insuring that the major nutrition legislation enacted during the 91st Congress in the areas of family and child feeding was properly implemented. The committee was responsible for alerting the Congress to the adverse effects of new food stamp regulations which would have eliminated or reduced food benefits for over 2 million people. The committee also led congressional efforts to add $200 million to the fiscal year 1972 food stamp appropriation and, within the last several weeks, insured that these funds were released by the Office of Management and Budget. In the area of child feeding, the committee was the first to learn that promised funds for a vital summer recreation feeding program were not forthcoming to cities all across the country, and it was primarily because of the committee's efforts that this program was finally tripled in size. Of all its successes, the committee's alerting of the Congress to a last minute revision of national school lunch regulations that

threatened to cripple this program, was perhaps its most significant achievement. If the Congress had not been properly alerted, it could not have responded quickly with appropriate remedial legislation and millions of needy schoolchildren might not have received nutritious lunches this year. The committee also conducted for the first time a thorough review of the surplus food distribution program which, hopefully, will result in significant improvements nutritionally for the 3 million Americans who depend on that program. The committee staff was responsible for a report, "Seattle: Unemployment, the New Poor and Hunger," which received wide notice and played an important role in the Agriculture Department's eventual decision to provide special food assistance to that hard-hit area.

These achievements have been made possible in large measure because of the excellent spirit of bipartisanship which has characterized the work of the members of the committee.

Mr. President, I believe the select committee can continue its effective efforts to deal with the problem of hunger and malnutrition in America and to insure that every American citizen has an adequate diet. The committee's plans to pursue that goal are fully stated in the memorandum accompanying the resolution on existence.

I understand that the distinguished ranking minority member of this committee, Senator PERCY, will request that a letter from Dr. Jean Mayer, former chairman of the White House Conference on Food, Nutrition, and Health, urging extension of the committee be printed in the RECORD. I also ask that selected press reports chronicling the committee's efforts in the last year be printed at this point in the RECORD.

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

S. RES. 241

Resolved, That the Select Committee on Nutrition and Human Needs, established by Senate Resolution 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 28, 1973.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized from March 1, 1972, through February 28, 1973, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State and local governments and other individuals, and (7) to take depositions and other testimony.

SEC. 3. The expenses of the committee under this resolution shall not exceed $280,000 of which amount not to exceed $15,000 shall be available for the procurement of the services of individual consultants or organization thereof.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

[From the St. Paul (Minn.) Dispatch
Dec. 1, 1971]

FOOD STAMP CUTBACKS

The U.S. Agriculture Department's new food stamp regulations are embarrassing to the average American citizen.

We call ourselves a land of plenty; we worry about how to avoid huge crop surpluses—and then our bureaucrats cut off the supply of food to needy people. It is demeaning to the country.

The new regulations will cut in half the number of elderly Minnesota residents who are eligible for the budget-stretching food stamps. The people being cut off are not cheaters who are defrauding the taxpayers, they are retired citizens on fixed incomes who have found it necessary to use food stamps in order to maintain a properly nutritional diet. It will become just that much tougher for these people to live on their fixed incomes while subject to rising prices and soaring taxes.

Food stamps also will be cut back for people receiving Aid to Families with Dependent Children (AFDC) benefits. For example, a mother in a household of four who now can get $29 worth of food stamps when she purchases $77 worth of food in a month will get only about $9 worth of stamps under the new regulations. This could literally take food out of the mouths of thousands of innocent children.

The minimum income a person can earn and still be eligible for food stamps also will be lowered under the new regulations. For example, a household of three can now earn $305 a month and be eligible. That will be reduced to $293 a month under the change. This will further increase the hardships of many families.

The really annoying thing is that this senseless change in regulations was not the will of our elected Congress but was perpetrated by officials who seem to ignore the needs of the people. Now congressional action will be needed to correct this embarrassment. That action cannot come too soon.

[From the Washington Daily News,
Dec. 7, 1971]

FOOD STAMPS CANCELED FOR 75,000

(By William Steif)

At least 75,000 elderly poor persons will be denied federal food stamps in the next few weeks and more than two million other poor persons will have to pay more for their stamps because one federal eligibility standard is replacing various state regulations.

Conceding this today, James Springfield, head of the food stamp program, said the change means nearly two million other poor persons, mainly in the South, "will be likely to join" the program for the first time.

The Agriculture Department drew up the new national eligibility rules as directed by Congress a year ago. But Congress failed to specify that those previously eligible for the stamps would remain so under the new rules as long as their incomes did not rise.

The new rules specify that only those on welfare—as determined by the various states—will remain eligible for the stamps, regardless of their incomes. But those not on welfare will be denied stamps if their incomes exceed $170 a month for individuals, $223 for couples or $360 for a family of four.

ADD 1.7 MILLION

Conversely, those states which had low income ceilings for stamp eligibility—some southern states, Indiana and Missouri—now will be able to add 1.7 million persons to their lists of stamp beneficiaries, Mr. Springfield estimated.

He said about 900,000 persons with incomes under $20 monthly now would get free food stamps; previously a four-person family with an income under $20 a month had to pay $2 for $106 worth of food stamps.

Mr. Springfield agreed the benefit reductions would be hard on some people. But he said the department operated on the policy that "as income approaches the point where you no longer need help, you should no longer get as much help . . . we're talking about the marginally poor."

Hardest hit by the new rule will be the poor in 12 states which have had high income limits for food stamp eligibility—California, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Rhode Island, South Dakota, Vermont, Washington and Wisconsin.

Income limits for food stamp eligibility in the 12 states ranged from $225 to $255 a month for couples. Most of those not on welfare who had been eligible for the stamps in these states are elderly living on small, fixed incomes. To them the stamps were a real boon.

HIGHER ESTIMATES

Altho Mr. Springfield said "a relatively small number" would lose their food stamps, Senate sources said the figure could be considerably higher than the Agriculture Department's estimate of 75,000.

One source said Minnesota would drop 16,000 persons alone; Washington state officials estimated as many as 35,000 persons would be dropped in that high-unemployment area; Arthur Schiff, director of New York City's food stamp program, estimated as many as 25,000 in his city would be denied stamps.

MANY TO PAY MORE

Under the new rules, many welfare and non-welfare people in all states who will retain their stamp eligibility also will have to pay more for their food stamps.

For example, a single person with a monthly income of $170 has been able to buy $28 worth of stamps for $18; under the new rules, he'll pay $26 for $32 worth of stamps, which he then can use at his local grocery for food.

A couple with a $223 monthly income used to pay $36 to get $58 worth of stamps; now the same couple will have to pay $54 for $60 worth of stamps.

A four-person family living on $360 a month used to pay $82 for $106 worth of stamps; now $108 worth of stamps will cost that family $99.

SOME MAY DROP OUT

Mr. Schiff estimated about 81,000 New York City families—about 250,000 people—would have to pay more for stamps. New Jersey officials said as many as 60 per cent of the state's 400,000 welfare recipients would have their food stamp benefits trimmed.

Between 10.5 million and 11 million people are now in the stamp program, which will cost about $2.2 billion this year.

[From the Philadelphia Inquirer,
Dec. 19, 1971]

TWENTY-EIGHT SENATORS PROTEST CUT IN FOOD STAMPS

Twenty-eight senators have asked Agriculture Secretary Earl L. Butz to prevent more than two million persons from losing part of their benefits from the food stamp program.

The Agriculture Department has acknowledged that new regulations, effective in most states next month, will reduce benefits for about two million recipients and will eliminate benefits completely for at least 60,000.

The protesting senators, in a letter drafted by Sen. George McGovern (D., S.D.), urged Butz to fulfill general commitments he made during the close Senate battle over his confirmation. The senators noted that Butz had pledged in writing to "energetically work

toward improvements in the programs to feed needy people."

The standards, drafted by the secretary of agriculture, will make about 1.7 million persons, mostly in the South, eligible for benefits for the first time. Several million persons will receive higher benefits. The persons who will lose benefits are in the relatively highest income group among the poor.

[From the Washington Post, Dec. 19, 1971]

FOOD STAMP PROTECTION SOUGHT

(By Nick Kotz)

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Butz made his pledges to Republican senators concerned about his earlier criticism of the food stamp program.

The new regulations implement the 1970 Food Stamp Reform Act which required national eligibility standards to replace individual state standards.

The standards, drafted by the Secretary of Agriculture, will make about 1.7 million persons, mostly in the South, eligible for benefits for the first time. Several million persons will receive higher benefits.

Those who will lose benefits are in the relatively highest income group among the poor.

ELDERLY AID FAILS

For example, benefits for an elderly couple will stop with a maximum of $229 monthly income. Benefits for a four-member family will stop at $360 monthly income. Some states had permitted elderly with slightly more income to participate in the program.

The senators expressed concern that about two million persons "may be persuaded to abandon the program" because the new regulations will afford them insignificant benefits.

Several examples illustrate the loss of benefits or of eligibility: An elderly couple with $220 monthly income now pays $36 for $56 in food stamps used to buy groceries as cash. Under the new regulations, this couple would pay $52 and receive $58 in stamps. A couple with $240 income now pays $36 for $56 in stamps, but they would be ineligible because they have more than $229 income a month.

A family of four receiving welfare in New York State until now has paid $82 to receive $106 in food stamps. Under the new regulations the family would pay $99 for $108 in stamps.

The senators urging action includes 23 liberal Democrats and five Republicans: Charles Percy of Illinois, Charles Mathias of Maryland, Clifford Case of New Jersey, Mark Hatfield of Oregon and Jacob Javits of New York.

BENEFITS IN 12 STATES AFFECTED

They predicted that up to 250,000 elderly persons could lose their benefits in 12 states that have had higher eligibility standards than the new national standards.

"Regardless of the exact number," the senators wrote, "it is unconscionable that one elderly poor person should be permitted to go hungry by virtue of an administrative determination by your department, particularly in view of the President's encouraging words to the White House. Conference on Aging." The loss of food stamp aid was criticized by many groups attending the conference.

The 12 states in which some persons will lose eligibility are: California, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Rhode Island, South Dakota, Vermont, Washington and Wisconsin.

The senators said they found it difficult to believe that persons would receive reduced benefits since "the express purpose of the new food stamp law was to expand and improve the food stamp program, not contract it."

The Senate last week approved a proposal by Sen. Hubert Humphrey (D-Minn.) which ordered USDA not to reduce benefits for anyone. The proposal has not been considered in the House.

[From the Washington Post, Dec. 23, 1971]

ANOTHER FOOD STAMP CUTBACK?

Six months ago, the Department of Agriculture approved new eligibility standards that would potentially add 1.7 million people to the food stamp program. In addition, they would offer improved benefits for some of the poor already in the program. This was a positive move forward in what was officially called the Food Stamp Reform Act; moreover, it offered proof that the administration's commitment to end hunger was anything but token. But it is still not a total commitment. Under the new standards, some 60,000 of the poor will lose the benefits they now have, and perhaps as many as 2 million will have their benefits reduced. These regulations, made earlier this year, are now going into effect. The poor have no aggressive lobby to lead their protest, but the mental dismay and physical pain of people suddenly denied food is not hard to imagine.

As a last minute try at reversing the harmful part of the new standards, the Senate added an amendment to the Children's Dental Health Act of 1971 that requires the Department of Agriculture not to reduce benefits for anyone; but the bill has gone nowhere in the House. Fortunately, legislation is not needed to correct this injustice. As 28 senators have pointed out in a recent letter to Secretary of Agriculture Earl L. Butz, the department can act administratively to keep in the program those already in it. As for the potential dropping and reduction of benefits, the senators said: "We find this difficult to believe in given the express purpose of the new food stamp law to expand and improve the food stamp program, not contract."

Secretary Butz, who said in Senate confirmation hearings that he would "energetically work toward improvements in the programs to feed needy families," now has a fine opportunity to use that energy. Such a move would also prove wrong the earlier critics of Mr. Butz who shuddered on learning his once-negative views on food stamps, expressed when Mr. Butz was in private business. Most important of all, in acting decisively now, tens of thousands of the nation's hungry would not suddenly be denied food.

[From the New York Times, Jan. 4, 1972]

SENATORS DEMAND CHANGE IN RULES TO BENEFIT FOOD STAMPS RECIPIENTS IN POPULOUS STATES

(By Jack Rosenthal)

WASHINGTON, January 3.—Two senators who favor more liberal food distribution benefits assailed the Department of Agriculture today for its refusal to abandon new food stamp regulations that would increase benefits in the South and West at the expense of New York and other industrial states.

The new criticisms appeared to bring closer yet another confrontation between the Administration and Congress over food spending. Congress has ordered restoration of proposed cuts in other programs.

In independent statements Senator George McGovern, Democrat of South Dakota, and Senator Clifford P. Case, Republican of New Jersey urged the department to reconsider the regulations. If it does not, both raised the prospect of a Congressional fight.

The department, however, appeared determined to stand by the regulations, which it issued on July.

"We're not contemplating any change," said Richard E. Lyng, Assistant Secretary of Agriculture.

A $360 INCOME LIMIT

The new regulations would put $360 as the top monthly income limit for participation in the food stamp program.

This limit is substantially higher than the present ceiling used by a number of Southern and Western states. It would help bring an estimated total of 1.7 million additional persons into the program.

However, New York and other states with high living costs have set higher eligibility requirements. Thus the $360 limit would require the elimination and reduction of benefits to an estimated total of 2.1 million recipients.

To expand the coverage without these reductions would cost an estimated total of $250-million.

Letting the new regulations stand, Senator McGovern said, means that "the department has once again put short-term budgetary considerations ahead of the nutritional needs of the poor."

Citing a measure passed by the Senate in November forbidding the reductions, he continued:

"This latest decision clearly flies in the face of Congressional intent and the public interest on the hunger issue. In each previous case, the department was eventually required to reverse its position."

CALLS FOR REVERSAL

He said he would work for such legislation in the new food stamp affair. But he urged Secretary of Agriculture Earl L. Butz to avoid a legislative fight and "reverse this bureaucratic negativism" by administrative action.

Senator Case expressed a similar position, saying, "There may still be time to prevent this most unfortunate result. If not, we shall have no recourse but to do our best to stop it by legislative action."

He noted that the regulations would sharply curtail food-stamp benefits in New Jersey and then said:

"The Department of Agriculture seems obsessed with benefiting those areas of the country which it has come to regard as its constituency, at the expense of those regions, including Pennsylvania, New York, and New Jersey where the need is as great or greater."

Agitation against the new regulations is likely to mount Friday when representatives of 17 Eastern Governors—11 of them Republicans—meet in Hartford at the invitation of Gov. Thomas J. Meskill of Connecticut.

Governor Meskill, a spokesman said today, "is seriously concerned about the effect of the new regulations on poor people in the state and regards it as an administrative disaster, as well."

The aim of the conference, the spokesman said, is to unite behind alternatives and prevail on the Administration to accept its recommendations.

The approaching conflict strongly parallels the fight last fall over proposed Administration revisions in the school lunch program. These changes were twice blocked by the Democratic Congress.

Administration officials acknowledged today that the basic issue in the new food stamp issue was the same as the one underlying the school lunch controversy: money.

Since the Nixon Administration took office, total Federal spending for food stamps has risen from $250-million to $2.2-billion. Thus, the question for White House budget experts, one official said, is not so much adequate spending but over-all priorities.

If, in a tight budget year, choices must be

made, then "it is only sensible that we serve the poorest of the poor," he said.

[From the Garden City (N.Y.) Newsday, Jan. 6, 1972]

CANCELED STAMPS

The poor in New York and other industrial states are about to take a beating at the hands of the federal government. According to new Agriculture Department regulations, food stamps would be made available only to persons with monthly incomes of $360 and below. That limit is higher than the present ceiling in several western and southern states but below that of the eastern states where cost of living is traditionally higher. As a result, some 2,100,000 indigent citizens in this part of the country may face reductions in food stamps benefits.

Currently, there is a bipartisan move to bring the Agriculture Department—and the Nixon administration—face-to-face with the problems of the eastern poor. Sen. George McGovern (D-S.D.) and Sen. Clifford P. Case (R-N.J.) have asked the department to either reconsider the restrictions or expect a legislative battle over the issue of placing "short term budgetary considerations ahead of the nutritional needs of the poor."

So far, the Agriculture Department has remained adamant. "We're not contemplating any change," an official said recently. Meanwhile, administration spokesmen insist money is the issue.

But that is an old line, no more acceptable now than, say, when the White House tried to cut back on the federal school lunch program. Last week alone, the administration proposed that $5.5 billion be spent on a six-year "space-shuttle" program. An expanded food stamp effort that improved standards in the South and West without discriminating against poor people in the East would cost an estimated $250,000,000. Priorities and not funds—seem to be the problem.

[From the Bridgeport, Conn. Post, Jan. 6, 1972]

FOOD STAMP BATTLE

Strong opposition is mounting to new federal regulations for the food stamp program which would increase the number of participants at the expense of the working poor.

Senator Abraham Ribicoff and Senator George S. McGovern of South Dakota secured the signatures of 26 other senators for a letter protesting the new rules. The complaint filed by a majority of the Senate failed to impress the officials at the U.S. Department of Agriculture.

Now, when the Senate reconvenes later this month, Mr. Ribicoff may call for his colleagues to pass a strongly worded resolution informing the Agriculture Department that it has embarked on the wrong course. Such a resolution would not be binding, but an agency usually gets the message when one of these documents lands on the top man's desk.

It will be remembered that Senator Ribicoff took this same route when the Agriculture Department attempted to set up a new system for allocating funds for school lunch programs. The agency had to reverse its policy on that one.

The concern over the new guidelines for food stamps is not limited to our lawmakers in Washington. Governor Thomas J. Meskill will meet tomorrow with 17 other governors to discuss the situation. Mr. Meskill sees the proposed setup as an "administrative disaster."

The major objection is that the rules which the Agriculture Department seeks to impose penalize the working poor. A family of four with a monthly income of $280, the maximum allowed for Connecticut participants, would have its food stamp buying power cut by nearly 40 per cent.

The chief agrument made by the Agriculture Department centers around the claim it is seeking to make stamps available to people with no income. By all means, this should be done. According to some Washington sources the expansion of the program would be possible within the present budgetary limitations.

For some reason Agriculture wants to impose its will and in so doing discriminate against Connecticut and any number of other States where there are few families with no income.

Basically, it is a question of priorities. The Nixon Administration professes to be concerned about the working poor. Food stamps are a vital means of keeping low income families together and encouraging them to elevate themselves.

[From the New York Times, Jan. 8, 1972]

FOOD STAMP SHIFTS DECRIED BY AIDES TO 15 GOVERNORS

(By Jack Rosenthal)

HARTFORD, January 7.—In a unanimous report, representatives of 15 Governors and Mayor Lindsay urged today the immediate suspension of new Federal food stamp regulations that they said would seriously harm poor people and create "intolerable administrative burdens" for their states.

Their report, developed at an all-day conference here, intensified rising opposition to the new regulations, which the Senate voted to revise on Dec. 10.

The massive, accelerating food stamp program is the major Federal effort against hunger. Under the Nixon Administration, participation has climbed to 10.5 million people from three million.

The new agriculture department regulations, already in effect in some states, will become effective in New York and most other states on Feb. 1. They would bring food stamp benefits to an estimated 1.7 million additional poor people in the South and West, but at the expense of some 2.1 million present beneficiaries in New York and other industrial states.

The Governors of most of these states, Republican and Democratic, sent representatives to the conference today, called by Gov. Thomas J. Meskill of Connecticut, a Republican, and held in the echoing, mahogany-paneled State Senate chamber.

A total of 28 representatives, most of them antihunger or welfare officials of their states, called both for a short-term moratorium on the Federal regulations and for longer-term reforms.

For many poor people, the conference report said, the new regulations mean "a significant reduction in the amount of money available to spend on necessary foods."

"The effect of this may well be malnutrition for those who are most vulnerable and most in need of nutritious diets," the report said.

As the new administrative requirements, the report said, "The burdens may be so heavy that a number of states may be forced to withdraw from the program, with the attendant consequences to welfare recipients, the elderly and the working poor."

ASK HIGHER DIET LEVEL

In addition, the conferees called for the Department of Agriculture to finance a higher minimum diet level for all food stamp recipients. The present "economy" level is intended for emergency situations only, the conferees said.

The report was intended for transmission by the 15 Governors to President Nixon and the states' Congressional delegations, with accompanying individual letters. The participants, taking pains to characterize their concern as nonpartisan, also began discussions of additional political means of protest.

"We'll do everything we can, among the public, in the courts, in the political arena to reverse these regulations," Arthur Shiff, director of New York City's food stamp program, told the conference.

He said that more than 50,000 of the 800,000 current participants in New York City would be hurt by regulations and some would be forced out of the program altogether, he said.

SETS NATIONAL STANDARD

The new regulations set a national standard of $360 as the top monthly income that a participating family may have and still remain in the program. Under the old system, each state set its own income standard.

The $360 standard is substantially higher than the limit now set by many Southern and Western states. Thus, participation in those states is expected to rise sharply.

However, the limit will curtail participation in New York and other populous states where living costs are higher and the permissible income for participating families is also higher.

Under the program, a needy family of four can purchase each month stamps that are worth $108 in food. Depending on income, such families pay varying amounts less than that to obtain the stamps.

NEW RULES ASSAILED

In his opening remarks to the conference, Governor Meskill particularly assailed the new administrative requirements for the food stamp program. He noted that these had been originated not by the Nixon Administration but by the Senate Select Committee on Nutrition and Human Needs, headed by Senator George McGovern of South Dakota, a candidate for the Democratic Presidential nomination.

"I hope this will not be considered some kind of revolt from within against a Republican Administration," he said. "Rather, these are valid complaints on issues about which reasonable men may differ."

The new administrative requirements include permitting recipients to buy food stamps more than once a month and automatic distribution of stamps to welfare recipients who request them.

These and other changes would increase administrative costs to a near-decisive point, Peter Martin, the Vermont representative, told the conferees. The changes, coupled with the benefit cuts, would leave the food stamp program of only "marginal" use to his state, he said.

"Someone will soon have to decide if Vermont, the first state to go on food stamps, will have to go off food stamps," he said.

[From the Washington Post, Jan. 9, 1972]

FIFTEEN STATES FIGHT FOOD AID CUT

(By Nick Kotz)

The governors of 15 states and the mayor of New York City have started a national campaign to prevent the Nixon administration from cutting food stamp benefits for two million needy persons.

Representatives of the governors and of Mayor John V. Lindsay, at a meeting Friday in Hartford, Conn., agreed to seek the support of other states in their campaign to preserve present benefits under the food stamp program.

The governors' action already has slowed the administration's plan to reject the congressional appeal on the food stamp issue.

Agriculture Secretary Earl Butz was prepared to reject a plea from 28 senators, but the issue is now being studied in the White House's Office of Management and Budget, which drafted the controversial food stamp regulations.

Vermont refused outright to cut food stamp benefits and has dared the Agriculture Department to throw the state out of the program. Sen. George Aiken of Vermont, ranking Republican on the Senate Agriculture Committee, personally appealed to Butz on the issue.

The disputed regulations, which implement the Food Stamp Reform Act of 1971, would help persons with the least income. About

two million additional persons, mostly in the South, would become eligible for benefits for the first time and about six million present recipients would gain a slight increase in benefits.

However, two million persons, mostly in northern states, would receive sharply reduced benefits and about 100,000 would be eliminated from the program completely.

The states that signed the protest statement at the Hartford meeting called by Republican Gov. Thomas Meskill of Connecticut were Connecticut, Delaware, Indiana, Maine, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

The statement signed by the governors' representatives demanded that no family be eliminated from the program, that no family get reduced benefits and that benefits actually be increased so that the food stamp program would reflect the cost of an adequate diet.

[From the New York Times, Jan, 12, 1972]

TEN PERCENT IS IMPOUNDED IN FOOD STAMP AID—WITHHOLDING OF $202 MILLION BY ADMINISTRATION BRINGS CAPITOL HILL CRITICISM

(By Jack Rosenthal)

WASHINGTON, January 11.—Confidential budgetary documents obtained today disclose that the Nixon Administration has impounded $202-million in funds for the campaign against hunger.

The impoundment totals almost 10 per cent of the $2.2-billion in spending appropriated by Congress for the food-stamp program, the major Federal effort for food assistance.

The disclosure stirred some sharp criticism today on Capitol Hill. It is expected to provoke more next week, when Congress reconvenes.

Imminent cuts in the food-stamp program in New York and other industrial states have already prompted rising Congressional and state opposition.

Senator Clifford P. Case, Republican of New Jersey, said that he would seek prompt Congressional action. It appeared likely that he would be joined by Senator George McGovern, Democratic Presidential candidate from South Dakota, who is chairman of the Senate Nutrition Committee.

Administration officials differed today over who ordered the $202-million impoundment. But there was no challenge to the fact of the action.

The Administration's budget request for food stamps for $2-billion. Congress, seeking enlargement of the program, last summer added $200-million.

The documents obtained today, however, showed that "adjusted" allowable spending had been cut back to $2-billion, despite the Congressional appropriation.

Sources at the Department of Agriculture, which administers the food stamp program, said that the $202-million impoundment had resulted from decisions made by White House budget officials.

The Office of Management and Budget denied, "without equivocation," that it had ordered the funds held back. The funds are not being spent, an official said, because the Agriculture Department has found they have not been needed.

"I suppose the real answer," a high Government official said, "is that it is neither an Agriculture nor an O.M.B. [Office of Management and Budget] but an Administration decision."

Disclosure of the impoundment, together with rising national opposition to the food stamp cuts, appeared to be prompting an internal reassessment of the cuts.

A week ago, Richard E. Lyng, Assistant Secretary of Agriculture, said, "We're not contemplating any change." Today, asked if his position had changed, he said, "No comment."

The Nixon Administration has expanded the food stamp program dramatically in three years. Since it took office, participation has increased from 3.2 million to 10.5 million people.

The underlying question in a time of budget stringency, officials have said, is "How much is enough?"

Senator Case took a different view today in his statement to the press:

"Since last June, the Department of Agriculture has argued that a prime reason for the food stamp cutback was that it did not have sufficient funds, even though the final legislation signed into law by the President included a $200-million increase."

He continued: "But the department never publicly said that the $200-million had been impounded."

Executive branch impoundment of Congressionally appropriated funds has been a major issue recently. A bill now pending would require the Administration to release about $3-billion in such funds before it can spend new money for foreign aid.

This legislation apparently would not affect the Agriculture Department funds, however, since it is limited to fiscal 1971. The Agricultural Department impounding applies to fiscal 1972, which ends next June 30.

The cuts in the food stamp program result from Agriculture Department regulations implementing the 1971 Food Stamp Act. These are generally effective Feb. 1.

SHIFT IN RECIPIENTS

The regulations would bring an estimated 1.7 million additional persons in the South and West into the program. The additional costs are to offset by reducing or eliminating benefits for an estimated 2.1 million recipients, largely from Northeastern states.

These cuts were protested by 28 Senators in a joint letter to the Agriculture Department on Dec. 19. This letter has not yet been answered, Kenneth Schlossberg, director of the Senate Nutrition Committee, said, today.

"There's no question now that there will be further protest to the Administration," he said.

[From the Washington (D.C.) Post, Jan. 17, 1972]

FOOD AID CUTBACK REVERSED—BUTZ ORDERS STAMP BENEFITS FULLY RESTORED

(By Hedley Burrell)

Secretary of Agriculture Earl L. Butz yesterday announced a sharp reversal of policy on food stamps and ordered that full benefits be restored to all recipients.

The administration had been under mounting pressure from Congress, officials in major cities and governors to ease regulations adopted last year.

Had the rules not been changed, about two million food-stamp recipients would have had their benefits cut drastically because their earnings were at the upper level of the government's poverty scale. Something like 100,000 recipients would have lost all benefits.

Twenty-eight senators from both parties recently wrote Butz demanding that none of the 10.9 million persons who participate in the program lose any benefits.

"I have ordered the Food and Nutrition Service—the agency which administers the food stamp program—to modify the regulations so that the benefits available to each household are as high or higher than they were under the old regulations," Butz said in a statement.

"The governors asked me to review the impact of the new regulations on the people of their states."

The decision was necessary, Butz said, to prevent hardship among the poor.

"While benefits paid are expected to increase . . .," Butz said, "the funds already appropriated by the Congress should be sufficient to cover total program costs in Fiscal 1972" which will end June 30.

Congress appropriated $2.2 billion for food stamps this year, but the Agriculture Department had planned to hold spending to $2 billion. Now, Butz indicated, the full amount will be needed.

The average food stamp recipient pays $4.50 for stamps that are redeemable for $10 worth of food.

Administration officials had argued that reduced benefits would encourage the less desperate poor to find jobs and get off food stamps.

Sens. George McGovern (D-S.D.) and Hubert H. Humphrey (D-Minn.), among others, had served notice that they would seek congressional action to restore the benefits.

On Jan. 7, officials representing the governors of 15 states and Mayor John V. Lindsay of New York appealed to the Agriculture Department not to implement the new regulations.

Their resolution, adopted at a meeting in Hartford, Conn., said the effect of the rules change "may well be malnutrition for those who are most vulnerable and most in need of nutritious diets."

Maryland was among the states signing the protest statement.

Under the stricter regulations, now revoked, a family of four at the upper income level of the poverty scale would have had to pay $99 a month for $108 worth of food stamps. Now, the same family will pay $94—the same as before the rules were changed—for the $108 worth of stamps.

A family of four not on welfare is eligible for stamps if its income does not exceed $360 a month.

[From the New York Times, Jan. 17, 1972]

TWENTY-ONE MILLION TO GET FULL RESTORATION OF FOOD STAMP AID

(By Jack Rosenthal)

WASHINGTON.—In a major policy turnaround, the Nixon Administration ordered the restoration today of full food-stamp benefits to 2.1 million needy poor persons in New York and other industrial states.

The action reverses cuts that would have begun Feb. 1 in most of these states. About 500,000 people would have been affected in New York City alone.

The reversal was announced by Earl L. Butz, the Secretary of Agriculture. It came after extensive Senate and state pressure, notably from leading Republican Governors.

The Administration had resisted these pressures for weeks. But once the turnaround was announced, the Government machinery went to work immediately.

SPECIALISTS CALLED IN

If revised regulations can be issued quickly, the food-stamp cuts now will never go into effect. Hence, Agriculture Department specialists were called in for Sunday work to begin the complex task of revising the regulations and detailed benefit tables.

Food stamps are certificates sold to the poor at discount prices for use in buying food. A typical participant now pays $4.50 for stamps worth $10 in food.

The program, which is the Federal Government's major antihunger effort, already reaches 11 million needy people and is expected to reach 13 million by March.

Congress has appropriated $2.2-billion for the program in the current fiscal year, ending June 30. It was disclosed last week, however, that the Administration planned to withhold about $200-million of this total.

The disclosure intensified criticism of the announced cuts in the program. Secretary Butz made it clear today that this withheld money would be used to offset the now-eliminated cuts.

The annual cost of the new policy announced today is estimated at $300-million. The cost for the remainder of the current fiscal year is estimated at more than $100-million.

Prior to today's announcement, about

75,000 persons would have been eliminated from the program and 2 million would have seen their benefits reduced.

Thus, a family of four in New York City with a monthly income of $360 would have been eligible only for a $9 monthly bonus—paying $99 for stamps worth $108. The family's present bonus is $24.

Mr. Butz said in his statement today, however, that he had ordered new regulations insuring that "the benefits available to each household are as high or higher than they were under the old regulations."

Thus, the same New York City family of four will continue to receive a $24 bonus—paying $84 for stamps worth $108.

PRAISED BY M'GOVERN

Mr. Butz' announcement was immediately hailed by Senator George McGovern of South Dakota, a candidate for the Democratic Presidential nomination and chairman of the Senate Nutrition Committee.

"This decision is not a victory for the Congress nor for the Department of Agriculture," Senator McGovern said. "It is a victory only for the hungry poor."

Mr. McGovern and other Senators had criticized the cuts as an ironic result of a national uniform eligibility standard that was intended to broaden the program, which Congress passed last year.

Pursuant to this legislation, the Agriculture Department limited participation in the food stamp program to persons with a family income of less than $360 a month.

The cutoff point meant that 1.7 million people would be added to the program for the first time. Most of them are residents of Southern and Western states, which had previously set much lower income levels as the cutoff points for participation in the program. But at the same time, the $360 limit is lower than the cutoff point set in industrial states such as New York, where living costs are higher.

Thus, 2.1 million people in those states would have had their benefits eliminated or reduced. The principal effect may have been even greater. Officials have expressed fears that bonus levels as low as $9 would have discouraged needy people from entering the food stamp program in the first place.

PRIORITY TO THE POOREST

The Agriculture Department defeated the regulations by saying it only made sense, given limited funds, to give priority to "the poorest of the poor."

But the department was extensively criticized for serving some poor people at the expense of others, particularly when it was learned that the Administration was withholding $200-million in appropriated funds.

The criticism reached its highest point nine days ago, when representatives of 15 Governors and New York City met in Hartford and issued a strong appeal for abandonment of the cuts. They also called the new administrative requirements an "intolerable burden."

Secretary Butz did not alter these requirements, which are mandated by law, in his policy statement today. But he did promise technical assistance to the states to minimize any difficulty in implementing the newly revised regulations.

ROCKEFELLER 'DELIGHTED'

ALBANY, January 16—Governor Rockefeller said today that he was "delighted" with the Nixon Administration's decision to reverse its food-stamp policy and restore full benefits to all eligible needy persons.

"The decision means that 290,000 underprivileged New Yorkers, who otherwise would have lost the benefit of food stamps, can continue to buy these stamps and stretch their food dollars," Mr. Rockefeller said in a statement here.

[From the Washington Evening Star, Jan 13, 1972]

GROCERIES FOR THE POOR

With another ponderous federal deficit foreseen, it isn't hard to understand why the Nixon administration keeps looking desperately for programs that can be trimmed. What's difficult to comprehend is the seeming obsession with cutting back on funds for feeding poor people. No large savings are at stake, but public revulsion at these attempted economies is predictable beyond all doubt. There is a widely held conviction that the least this country can do for impoverished people is to provide them with enough food, especially since there's a surplus of it.

First the budget-shrinkers tried last year to slash the funding of free lunches for poor schoolchildren, but an incensed Congress rammed through legislation to prevent that. Now another battle is brewing on the Hill over the administration's impounding of $202 million appropriated for the food stamp program, and the prospect of many present beneficiaries being declared ineligible under new rules.

Congress last year appropriated $2.2 billion for food stamps, but apparently the administration hopes to save about 10 percent of that. And furthermore, the Agriculture Department has come up with new eligibility regulations, scheduled to take effect February 1, that threaten to reduce benefits considerably and remove many people from the program.

On its face, the move has a defensible purpose—to set uniform national eligibility standards. There is, as things now stand, a wide variation in participation requirements formulated by the various states. But in practice, the new standard regulations could reduce or eliminate the benefits of an estimated 2.1 million recipients (largely in the Northeastern states) while possibly bringing 1.7 million additional persons (mainly in the South and West) into the program.

That's because in the North the family income ceiling that determines eligibility for food stamps is higher than in Southern and other rural states, because the cost of living is higher. Equalization would mean that many large, low-income urban families could no longer purchase stamps, and poor families everywhere would have to pay more for them.

There is no question that Congress in voting a larger appropriation, intended to expand and not constrict this principal anti-hunger program. It was concerned particularly about the hardships caused by rising unemployment and under-employment in many urban sectors. So how, chagrined at being thwarted by administrative action, a number of lawmakers are preparing to force the issue when Congress reconvenes.

They will press legislation to retain the more beneficent eligibility standards and purchase prices for stamps, and they probably will succeed. The administration should remove the necessity for that by abandoning these new strictures before the effective date.

[From the St. Louis (Mo.) Post-Dispatch, Jan. 13, 1972]

EVADING THE WILL OF CONGRESS

In impounding $202,000,000 in anti-hunger funds, the Nixon Administration is trying to frustrate the will of Congress by playing one of its favorite political games. Congress last summer, with the specific intent of enlarging the federal food stamp program, added $202,000,000 to the Administration's budget request of $2 billion. Now—as a result of an Administration decision, responsibility for which cannot be pinpointed because of buck-passing between the agencies involved—the spending of 10 per cent of the food stamp money appropriated by Congress has been forbidden.

The same thing happened last year when hundreds of areas across the country were denied money for food stamps which had been appropriated by Congress because the President's Office of Management and Budget refused to release funds actually earmarked for the purpose. Impoundment has become a favored device of the Nixon Administration to avoid spending more money than the Administration wants for congressionally-approved social welfare programs such as urban renewal, regional medical clinics, farm loans and food stamps.

The obverse of the impoundment technique employed by the Administration to spend money which Congress has not appropriated, is the use of the so-called unexpended authority (unspent funds in appropriation pipelines) to shift funds to unapproved programs, particularly with respect to pet Pentagon projects and foreign military aid. Although various administrations have for years used evasive fiscal tactics to circumvent the will of Congress, the Nixon Administration has refined the techniques and enlarged the scope of evasion to such an extent that it has distorted legislative priorities more than any previous one.

When the effect is to deny food and other aid to the poor and to inflate the fare of the military bureaucracy, the manipulation of appropriations is especially reprehensible. The offense is compounded when the Administration uses the elastic executive power to release funds for favored projects and for favored congressional incumbents. Although more individual members are finally showing more resentment over being ignored, the legislators can only reassert their rightful constitutional power over the purse strings by taking concerted action against the executive.

[From the Washington Post, Jan. 22, 1972]

THE LATEST FOOD PROGRAM REVERSAL

In what now seems almost a pattern, the Department of Agriculture has again reversed its policy on one of its food aid programs. This time, instead of two million food stamp recipients having their benefits cut and 100,000 losing them totally, a decision was made not to cut or drop anyone. Originally, the department planned to hold spending to $2 billion of the $2.2 billion Congress had appropriated for food stamps this year. Thanks to protests from Congress, governors, mayors and the poor themselves, Secretary Butz said earlier this week that the full amount will now be spent.

The Department of Agriculture has shown it has the bigness of mind to reverse itself, but since these reversals have happened so often in the past two years it can be wondered what is in the department's mind in the first place. It is even more confusing when, overall, the department's record on food aid programs is considered; generally, it is a good one, with millions now receiving benefits who a few years ago received none. But why is so much pressure needed to get officials to go all out, that is, merely to carry out the programs authorized by Congress?

As a way of getting food to those who need it and are entitled to it, the food stamp program is of course anything but ideal. What is needed is a direct cash payment program, one that would eliminate both the kind of regulations the Department of Agriculture has been reversing itself on and the stigma of poverty often present for those who must buy food with stamps. Some versions of the welfare bill now in Congress provide direct cash payments, although the changeover will mean nothing if the payments do not at least match the current benefits. A further advantage of direct payments is that the Office of Management and Budget would be less involved; as Sen. George McGovern, chairman of the Senate

Select Committee on Nutrition and Human Needs, wrote to Secretary Butz in appealing for a reversal, it is the OMB "which throughout the year past put the Agriculture Department into the unpopular position of cutting food programs, positions from which the Department ultimately had to retreat."

[From the Washington Post, Dec. 11, 1971]

SEATTLE JOBLESS TO HAVE CHOICE OF FREE SURPLUS FOOD OR STAMPS

The U.S. Department of Agriculture, faced with a federal court order and an embarassing offer of "foreign aid" from Japan, decided yesterday to provide surplus commodities for the unemployed of the Seattle area.

Seattle, where the 15.7 per cent unemployment is the nation's worst, was to receive 1,000 pounds of canned food from its "sister city" of Kobe, Japan. At the same time, a federal judge ruled that the Department of Agriculture was arbitrarily refusing to provide Seattle with surplus food in addition to its food-stamp program.

Agriculture Secretary Earl Butz yesterday announced that USDA will bow to the court ruling and abandon its long-standing policy against operating both food programs in one area. Butz said the decision rests on "the singular conditions" in the Seattle area. A department spokesman insisted that the decision was not influenced by the food shipment from Japan.

Sen. Warren G. Magnuson (D-Wash.) said, however in a Senate speech: "In one simple humanitarian gesture, Japan has made a mockery of our pious claims of being a nation dedicated to serving the cause of human dignity and concern for the wellbeing of our citizens."

USDA, which originally considered an appeal of the federal court ruling, announced that Seattle families, who are eligible for aid will now be able to choose whether they want the surplus food, which is free, or the food stamps, which must be purchased by the needy.

In the Seattle area, where 106,000 are unemployed, many are technicians from the aerospace industry who are used to middle-class incomes. They need their cash to meet mortgage payments to keep their homes, so the surplus food program may be more attractive to many of them.

[From Time magazine, Jan. 24, 1972]

HUNGER IN SEATTLE

The sky, was slate gray. Snow, which had fallen a few nights before, had turned to slush. About 50 people, some with small children, waited patiently for more than an hour in front of a former supermarket at 23rd and Madison in Seattle's shabby central area. When the doors opened at 10 a.m., the people entered quickly and filled shopping carts with free surplus food—dry beans, scrambled-egg mix and a score of other items. Hundreds of other Seattle residents followed, collecting an allotment of 40 lbs. per person. In less than a week, workers at the store distributed 125,000 lbs. of food. Two weeks later, 220,000 lbs. of food had been given away.

Thus the first of three free-food distribution centers in the Seattle area opened just before the New Year; five more will be opened later. The food was supplied by the U.S. Department of Agriculture after more than five months of pressure from Washington Senators Warren Magnuson and Henry ("Scoop") Jackson, who had urged that federal food surpluses be sent to Seattle to feed the city's hungry. People on welfare, those collecting Social Security benefits and most of the 30,500 who exhausted their unemployment benefits are eligible for free food under the new program.

Hunger became a problem in Seattle almost two years ago, when the city's economy began to falter because of the layoff of 63,000 workers at Boeing, Seattle's largest employer. An ailing forest-products industry added to the problem, and the result was an unemployment rate of about 12% at the start of 1972. Of the 1,400,000 people living in the three-county area in and around Seattle, 72,500 were out of work.

Until the Federal Government came tardily to the rescue, Seattle's jobless relied mainly on an impressive, volunteer, church and community effort called Neighbors in Need, started in November 1970 to mobilize Seattle's haves to aid its have-nots. By December 1971, the group had given out nearly 500,000 bags of food, and its 1,500 volunteer workers had put in 400,000 man-hours feeding an average of 15,000 people per week. The food came from door-to-door collections and other individual donations. Washington farmers gave tons of apples, pears, potatoes and wheat; one package contained two live chickens.

HELP FROM KOBE

The Seattle Totems professional hockey team collected 1,000 donations of food for Neighbors at one of its games. The Seattle SuperSonics professional basketball team drew 900 paying customers—at $1 a head—to a practice session. The proceeds, and food donated by another 600 fans in lieu of cash admissions, went to the Neighbors' hunger program. Help also came from Kobe, Japan, Seattle's "sister city," which had received shipments of food and supplies from Seattle residents after World War II. Last week Actress Katharine Cornell sent a $500 check.

When he told the Senate of the Japanese gifts, Magnuson declared: "I have never felt disgraced by my Government. But today I stand here on the floor of the greatest deliberative body in the world in total humiliation." Magnuson was angry because he, Jackson and others had repeatedly requested that surplus food in warehouses and granaries around the country be sent to Seattle. Agriculture and Administration officials, though sympathetic, thought that they were hamstrung by federal regulations.

SPACE SHUTTLE

But in November, the staff of the Senate Select Committee on Nutrition and Human Needs issued a report contending that the Agriculture Department was violating the intent of the laws by withholding the surplus food. A federal district court agreed. Three weeks later, Magnuson asked his fellow Senators to approve a resolution that would prevent the department from appealing the court decision; it passed. By mid-December, 4,000,000 lbs. of surplus food—enough to feed 100,000 people for a month—began arriving in Seattle. The shipments will continue as long as needed.

Seattle will need more than free food. While much of the rest of the country is beginning to feel the end of the recession, and unemployment is leveling off in many areas, Seattle has not yet shared in this trend. Some 90,000 in the state may get 13 more weeks of aid through the Extension of Unemployment Benefits Act signed by President Nixon in December. Nixon's approval of the space-shuttle development project (Time, Jan. 17) also could improve the city's employment outlook if Boeing gets a healthy portion of the contracts to be awarded this summer. The 38,000 workers still at Boeing were somewhat upset when the Pay Board rejected a proposed 12% pay increase for aerospace workers and then voted to limit the first year raise to 8.3%. Although some Boeing employees fired off protest letters and telegrams to the President, most admitted that they were happy they still had jobs to go to. In Seattle, that is all that matters.

[From the Washington Star, Dec. 10, 1971]

BUNDLES FOR SEATTLE

Who would have dreamed 30 years ago, in the direct wake of Pearl Harbor, that someday the Japanese might be sending a version of care packages to America. But it happened this week. The city of Kobe, Japan, has a "sister-city" relationship with Seattle, and from Kobe has come 1,000 pounds of canned food and rice noodles to be distributed to the hungry unemployed in the Seattle area.

If that doesn't embarrass the Nixon administration it ought to. So should the ruling this week of a federal judge who declared that former Secretary of Agriculture Hardin has "abused his discretion" and acted unlawfully in refusing to establish a food-distribution program for the many people who are going hungry in Seattle.

The Seattle area, largely because of sharp cutbacks in Boeing's aerospace contracts, has the nation's most serious unemployment problem. More than 100,000 people are out of work, well over double the total of two years ago. As a recent report of the Senate Select Subcommittee on Nutrition and Human Needs points out, a great many of Seattle's jobless are formerly prosperous engineers, technical personnel and skilled craftsmen, people who possess homes, cars, insurance policies and other assets the middle-class takes for granted.

These people are in a peculiar situation. Their assets are worth enough, at least on paper, so that these families are ineligible for welfare or food stamps. Even if they do qualify for food stamps, families with no more income than unemployment compensation frequently have too little cash with which to buy them. Seattle's churches and charities have pitched in with food assistance. But their resources, as well as local public funds, are limited.

The Agriculture Department could easily have helped by distributing free food in Seattle under the surplus-commodity program. While federal law prohibits the use of both the food-stamp and commodity programs in any one area, an exception is made where local and state leaders declare an emergency. But Agriculture, minimizing the food problem in Seattle, has consistently turned down all pleas from that city and the State of Washington.

The administration's policy has been needlessly tough and wrongheaded; and it would be incredible were Agriculture's new Secretary Butz and the President's domestic advisers to decide to appeal the court decision. With no further delay, they should reverse their course and get to Seattle some American food parcels.

[From the Pasco, Wash., Tri-City Herald, Nov. 29, 1971]

SEATTLE AREA HUNGER CONFIRMED BY STUDY

WASHINGTON.—A Senate committee staff study has concluded that many Seattle-area families are hungry and that the situation probably will get worse as more families exhaust their unemployment benefits.

The study of unemployment and hunger in Seattle was conducted by the Senate Select Committee on Nutrition and Human Needs.

The staff recommendations, including distribution of federal surplus foods as well as food stamps, were endorsed by Sen. George McGovern, D-S.D., committee chairman and Sen. Charles Percy, R-Ill., ranking Republican.

During an inquiry in Seattle the week of Oct. 25, the staff found "widespread evidence that many families are suffering nutritional deprivation."

The report says with unemployment at a record 13 per cent and expected to continue at about 11 per cent, the situation will worsen as families exhaust unemployment benefits at an increasing rate.

The staff also concluded that probably less than half of those eligible for the Food Stamp Program are participating.

"Clearly, many are not paticipating because they cannot afford to buy into the program to receive their bonus stamps," the report said.

It contrasted food stamps with the program of direct surplus food distribution, which the

Agriculture Department repeatedly has turned down for Seattle.

"A food-stamp allotment of $28 to a person, when he needs $14 to buy the stamps and doesn't have that $14, is useless," the report says. "That same person, however, would be entitled to $18 worth of surplus food for nothing."

Church-supported voluntary food banks, which have met 300,000 requests for food, are in danger of collapsing because "the community has simply run out of the ability to give," the report continues.

"There is deep concern throughout the community about the possible adverse effects of an end to the food banks, particularly should it occur as winter approaches.

"There is clearly a demonstrated need for further food assistance in the Seattle area . . . The federal government's direct distribution program could be of vital assistance in alleviating the area's nutritional needs."

The committee staff says the Agriculture Department has ample food available and clear legislative authority to approve the state's application to operate a direct distribution program along with the food stamp program.

The department, the report says, takes the position that it will not approve such an application for Seattle, or any other area.

Many of the "new poor" in Seattle would still be ineligible for federal food programs because of such assets as a home and car.

"It is imperative that these families have someplace to turn in moments of crisis, so they will not go hungry," the report says.

It recommends a food-assistance experiment, using money appropriated for the emergency food and medical services program of the Office of Economic Opportunity to support the voluntary food banks in Seattle.

McGovern said the study documents the need for emergency assistance in the Seattle area, and "I hope that the facts developed will lead to a change of heart and of mind by the Agriculture Department."

Percy said "It seems incongruous for this Nation with the most bountiful harvest this year in its history to share that largess with millions of Pakistani refugees and not to see fit to provide food to malnourished American families who are in great need because of conditions beyond their control."

[From the Washington Post, Dec. 9, 1971]

JAPANESE SEND FOOD TO JOBLESS IN SEATTLE

(By Nick Kotz)

Unemployed residents of Seattle, Wash., began receiving foreign aid donations from Japan this week. At the same time, a federal judge said the U.S. Agriculture Department has illegally withheld food aid from the city.

The foreign aid is coming from Seattle's "sister city" of Kobe, which shipped 1,000 pounds of canned food and rice noodles to the jobless poor.

Kobe offered the food to Seattle as a gesture of friendship after learning of the city's massive unemployment problem and of the unwillingness of the U.S. government to distribute surplus food under the commodity distribution program. The Japanese food is being distributed by Neighbors in Need, a church-sponsored privately operated food bank program.

On Tuesday, U.S. District Judge William Beeks of Seattle, in a sharply worded ruling, declared that former Agriculture Secretary Clifford Hardin had unlawfully denied the city a food commodity program and thereby had "abused his discretion" and acted in an "arbitrary and capricious manner."

Sen. George McGovern (D-S.D.), chairman of the Senate Select Committee on Human Need, yesterday asked the new Agriculture Secretary, Earl Butz, to heed the court order. He reminded Butz that he had pledged support of food aid during the Senate fight over his confirmation. Earlier, Butz had been sharply critical of food aid programs.

An Agriculture Department spokesman said yesterday, however, that the department has not yet decided whether it will accept the court ruling and implement a commodity program or whether it will appeal the decision to the Ninth Circuit Court of Appeals.

The legal dispute concerns the unwillingness of USDA to utilize a provision of the 1971 Food Stamp Act, which permits a county, in emergency situations, to operate both the food stamp program and the commodity distribution program.

USDA has contended that both programs were not needed in Seattle, and said it would not permit any county to have both food programs.

The Nixon administration therefore turned down a bipartisan request that came from state, county, and city officials and the state's congressional delegation. The officials also unsuccessfully presented their case to John Erlichman, a former Seattle attorney and now the President's assistant for domestic affairs.

They pointed out that 106,000 persons are now unemployed in Seattle which has been hard hit by cutbacks in the aerospace industry, and that many unemployed cannot qualify for food stamps or afford them. The city's 15.7 per cent unemployment rate is the nation's highest.

The Senate Select Committee on Nutrition, in a report entitled "Seattle: Unemployment, the New Poor, and Hunger," said that thousands of engineers, technicians and other normally well paid employees had too much in assets to qualify for food stamps. Others couldn't afford to pay for stamps after making payments on their homes, autos and insurance policies.

The lawsuit in behalf of Seattle's "new poor" was filed against USDA by Ronald Pollack, an attorney for the Center on Social Welfare Policy and Law, which is based in New York.

Judge Beeks ruled that the Agriculture Secretary had acted unlawfully by establishing national policy against permitting any county to operate both food programs. In the Seattle case, the judge said the Secretary's action was "arbitrary and capricious and an abuse of discretion.

"Congress clearly intended that in areas experiencing severe economic hardship, dual operation (of food programs should be permitted," Judge Beeks said. "Large numbers of the poor are finding it impossible to obtain adequate nutrition under the food stamp programs because their net incomes are too low to afford food stamps.

"If dual operation cannot gain approval here with the unemployment rate the highest in the nation for a metropolitan area and where thousands have exhausted their unemployment compensation, then the (Food Stamp Reform) act has been rendered a nullity."

Mike McManus, director of Operation Hunger, a Seattle program soliciting voluntary food aid for the unemployed, told the Senate committee that "the community simply has run out of the ability to give."

[From the Washington Post, Dec. 2, 1971]

THE NEW POOR OF SEATTLE

It has been known for some time that hard days have come to Seattle and surrounding areas in Washington state. The unemployment rate for Seattle has reached over 13 per cent, now the highest in the nation. As is commonly known, this economic plunge has been largely caused by the declining activity of the aerospace industry over the past several years; it is said that from January 1970 through August 1971, unemployment went from 43,900 to 106,400.

A unique situation exists for many of the families who are now getting by on unemployment insurance, public assistance, food stamps, school lunches or neighborhood generosity: they are both poor and not poor The newly unemployed are, in large part, well educated and highly skilled. They possess houses, cars, life insurance policies, belong to clubs, go on vacations and are generally accustomed to a comfortable life. Yet they are barely able to get by. A report of the Senate Select Committee on Nutrition and Human Needs, issued earlier this week, calls this group "the new poor." The irony of their situation, said the report, is that the accumulated assets of the family "have only bargain-sale value on the open market, and therefore, could only be sold at staggering losses. Yet these assets render many of the new poor ineligible for the benefits of the state's public assistance program and for the federal food stamp program."

An immediate and increasingly desperate problem for many of the newly unemployed is food. A well-run food stamp program has been operating, along with school lunches; both are federal programs and both have been rapidly expanded for the crisis. In addition, some 34 church-sponsored food banks have been helping out. But city, county and state officials have stated that these efforts—federal and private—are not enough. One serious problem, as Rep. Thomas Foley (D-Wash.) has noted, is that a family receiving unemployment insurance must use that money for such things as mortgage payments, utilities, medical expenses, transportation (to seek a new job); thus, little or no money is left over to buy food stamps.

Congress foresaw such emergencies and wrote provisions into the law in 1970 for the Department of Agriculture to run a direct food distribution program concurrently with a food stamp program. An advantage of the former is that although the food is less varied, it is free. In normal conditions, the law prohibits the two programs in one area, but an exception may be made when the state or local government believes it has an emergency and is willing to pay for the administrative costs. This willingness has been expressed. To date, however, the Department of Agriculture has refused to establish the second program of free food distribution. A department official says that the government has no "hard evidence" of a grave food problem in Seattle. This is odd; staff members of the Senate Nutrition Committee had no trouble finding hard evidence, nor have city and state officials. What are the 34 emergency food banks in business for?

Since no area has yet to have these two programs running concurrently, the Agriculture Department is apparently reluctant to set a precedent. If Seattle is allowed two programs, other places will soon be in line for the same request. But what does this argument—and the one of "no hard evidence"—mean to a community where many have little or no food. Regarding its current stance, an official in the Department of Agriculture said there is "a chance we'll change." If so, the department has little time to waste the reasons for change are strong and growing.

[From the Washington Post, Nov. 29, 1971]

FOOD SOUGHT FOR SEATTLE'S SKILLED POOR

A Senate panel called on the government yesterday to provide emergency food supplies for a new kind of poor—well-educated and highly skilled professionals in Seattle who have been hit by an economic depression.

The Senate Nutrition Committee, describing the situation in once-booming Seattle as an economic disaster, said many families there are going hungry. Unemployment is running at 13 per cent.

The crisis is caused by sharp cuts in the payroll of the Boeing Aircraft Co. and related firms.

The Senate committee said the "new poor" own houses, cars, life insurance policies, even luxuries like boats, yet do not have enough money to eat.

The committee reported: "Unemployment compensation, combined with careful plan-

ning and husbanding of other resources, has enabled most families to retain the assets of a lifetime's work," but these assets "could only be sold at staggering losses."

Yet these assets make many of those who are out of work ineligible for existing federal and local food programs.

The Senate committee, headed by Democratic presidential contender George McGovern of South Dakota, investigated after the Agriculture Department refused a request from the state for free distribution of food surpluses in Seattle.

[From the New York Times, Nov. 29, 1971]

AGENCY ASSAILED ON SEATTLE FOOD—STAFF OF SENATE COMMITTEE ASKS ACTION TO AID NEEDY

(By Juan M. Vasquez)

WASHINGTON, November 28.—A Senate committee's staff charged today that the Department of Agriculture was violating Congressional intent by refusing to institute a direct, free food distribution program to feed the hungry in Seattle.

Its report contends that the food stamp program and other public assistance efforts have failed to meet the area's nutritional needs.

The 26-page report was prepared by the staff of the Senate Select Committee on Nutrition and Human Needs.

It was prepared at the request of the committee's chairman, Senator George McGovern, Democrat of South Dakota, and its ranking Republican member, Senator Charles H. Percy of Illinois. The full committee did not act on the staff report, which presented a bleak picture of Seattle's economy.

There are almost as many unemployed in the area now as were employed by the aerospace industry there at its peak, the report says, while the food stamp program has grown from 93,000 participants in 1969 to 263,000 and the dollar value of the stamps has grown from $6.6-million to 44.2-million.

"ECONOMIC DISASTER"

"Despite the generally sound economic base of the state as a whole, it is not unfair to call Seattle an area of 'economic disaster,'" the report states. It says that the general unemployment rate of more than 13 per cent is the highest in the nation.

The report, made public today, is titled "Seattle: Unemployment, the New Poor, and Hunger."

It argues for more Federal help in the form of a direct food distribution program to run concurrently with the food stamp program, and even further Federal help for those ineligible under existing programs.

Under the food stamp program, a participant may buy Federal food stamps that can be redeemed for groceries with a higher monetary value. Although the direct distribution program has some drawbacks, such as a narrower choice of foods, it is completely free.

OFFICIAL DENIES CHARGE

In 1970, Congress gave the Secretary of Agriculture authority to institute concurrent food stamp and direct distribution programs if certain criteria are met.

The report contends that such criteria—primarily that of evident need and a formal request from the State of Washington—have been met in Seattle but that the department has refused to comply.

The assertion that the department is thwarting the intent of Congress was denied by a department official.

Richard E. Lyng, assistant secretary for marketing and consumer services, said in a telephone interview that no "hard evidence" had been found to support an assertion of widespread malnutrition in the Seattle area.

Such a finding would be necessary to trigger the provision for instituting concurrent food assistance programs.

The report states that "there is widespread evidence that many families are suffering nutrition deprivation." But Mr. Lyng said:

"We have been unable to find any evidence of that."

CALLED DISCRETIONARY

Moreover, he said, the department is given discretionary authority to set up concurrent programs and is not required to do so. He added that no such concurrent programs had been set up since the 1970 amendment was passed.

According to the committee report, Seattle has responded to the unemployment and hunger problems by setting up an emergency food program called "Neighbors in Need." Organized by church groups, the volunteer effort involves the distribution of food to the needy through 34 "emergency food banks." The report suggests that the Federal Government provide financial help for this program.

"It is currently estimated that the food banks are serving 12,000 persons a week, 48,000 monthly," the report states.

"A large number of those persons going to the food banks report that they are unable to afford the cost of food stamps and that public assistance payments do not provide enough for them to eat adequately," the report adds. The costs of stamps varies depending on family size and income level.

Part of the report deals with the plight of "the new poor"—men and women who have been employed most of their lives but who have been affected by the slump in the aerospace industry.

Although these persons have been able to accumulate "the assets of a lifetime work," the report states, "The irony of the assets of the new poor is that they have only bargain-sale value on the open market, and, therefore, could only be sold at staggering losses. Yet these assets render many of the new poor ineligible for the benefits of the state's public assistance program and for the Federal food stamp program."

[From the Seattle Times, Nov. 28, 1971]

SENATORS URGE SURPLUS-FOOD USE FOR SEATTLE AREA

(By Ray Ruppert)

Senate investigators found in Seattle "widespread evidence that many families are suffering nutritional deprivation" and warned that the Neighbors in Need food-bank program is in danger of collapsing because "the community has simply run out of the ability to give."

The staff of the Senate Select Committee on Nutrition and Human Needs made a strong recommendation for federal distribution of commodities in the Puget Sound region in addition to the use of food stamps.

The recommendation was endorsed by Senator George McGovern, South Dakota, Democrat, chairman, and Senator Charles Percy of Illinois, the ranking Republican on the committee.

The staff conducted an inquiry in Seattle the week of October 25. The report's contents were learned yesterday.

Unemployment was a record 13 per cent and is expected to continue at about 11 per cent for the next year, the report said. The hunger situation will get worse, the investigators predicted, as families exhaust unemployment compensation at an increasing rate.

Probably less than half of those eligible for food stamps are able to buy them, the report said. "Clearly, many are not participating because they cannot afford to buy into the program to receive bonus stamps."

The report continued, "A food-stamp allotment of $28 a person when he needs $14 to buy the stamps and doesn't have that $14 is useless.

The Agriculture Department has refused to have a dual program of both food stamps and surplus-food distribution here, despite many pleas by Neighbors in Need spokesmen and others.

Mentioning the uncertain future of the food banks, the report said:

"There is deep concern throughout the community about the possible adverse effects of an end to the food banks, particularly should it occur as winter approaches.

"There is clearly a demonstrated need for further food assistance in the Seattle area. . . . The federal government's direct-distribution program could be of vital assistance in alleviating the area's nutritional needs."

The Neighbors in Need food banks, established in 36 neighborhoods, have fed nearly 400,000 persons in little more than a year. An estimated 20,000 persons a week are given food, obtained through donations of food and money.

The committee staff said the Agriculture Department has ample food available and clear legislative authority to approve the state's application to operate a direct-distribution program along with the food-stamp program.

Many of the "new poor" in Seattle would still be ineligible for federal food programs because of such assets as a home and automobile.

"It is imperative that these families have some place to turn in moments of crisis, so they will not go hungry," the report said.

The investigators recommended a food-assistance experiment, using money appropriated for the emergency-food and medical-services program of the Office of Economic Opportunity to support the voluntary food banks.

McGovern said the study had documented the need for emergency assistance in the Seattle area. He added, "I hope that the facts developed will lead to a change of heart and of mind by the Agriculture Department."

[From the Evening Star, Aug. 25, 1971]

MCGOVERN ASKS LIFTING OF SCHOOL LUNCH RULES

Sen. George McGovern is asking the Department of Agriculture to withdraw new school lunch regulations, contending that they could curb expansion of the program, according to a staff member.

Gerald Cassidy, general counsel for McGovern's Select Committee on Hunger and Malnutrition, said yesterday the number of children receiving school lunches under the program is expected to increase by almost 2 million this year, "and I know they can't reach them under this budget."

McGovern, a Democratic presidential candidate from South Dakota acted after the school-lunch directors of 33 states accused the Agriculture Department of bringing school-lunch programs to "a screeching halt" less than a month before schools open.

ANNOUNCED AUGUST 13

At an Aug. 7 meeting of the American School Food Service Association in Minneapolis, the directors said the new regulations set spending ceilings that are unequivocally inadequate. The regulations were announced Aug. 13 but the association executives had been given a preview of them before Aug. 7.

McGovern feels "the only reason that these regulations could be offered would be to curb expansion of the program and to conserve funds under the inadequate budget that the administration has requested for the program," Cassidy said.

If the regulations are not changed, Cassidy said, "we expect to have a hearing to explore the purposes behind adopting this policy."

The state school-lunch directors said the new regulations place greater restrictions on how they can spend federal school lunch funds and, considering the rising costs of food and labor, give them less to spend.

"Fiscal discipline is always difficult but it is absolutely essential . . . if we're to live within our budget," said Asst. Secretary of Agriculture Richard Lyng when he announced the regulations.

The Department of Agriculture, which administers the school-lunch program, said it helped feed 5.1 million hungry children in the 1969–70 school year, and 7.3 million last year.

"They should be reaching this year 9.1 million," Cassidy said. But, he said, the department had asked for exactly the same amount of money from Congress this year that it had last year.

Jack Quinn, another staff-member of the McGovern hunger committee, said this year's request was $225 million for regular lunches for all children, $256 million for free or reduced-price lunches for needy children, and $16.1 million for kitchen equipment and similar-nonfood items.

MORE AUTHORIZED EARLIER

Congress authorized spending $33 million for equipment this year when it wrote the law two years ago, Quinn said.

He had most of the 23,000 schools that still have no lunch programs are either older inner-city schools or rural schools, both with no lunchrooms, and with a high concentration of poor children who qualify for free or reduced-price lunches.

A higher equipment appropriation would help bring them into the program, he said.

The school-lunch directors termed inadequate the average limit of 5-cents the federal government will pay for each regular school lunch under the new regulations, and the 30-cents for each free or reduced-price lunch.

[From the Washington Post, Aug. 28, 1971]

HUNGER IN THE CLASSROOM

"Fiscal discipline is always difficult but it is absolutely essential . . . if we're to live within our budget." Thus spoke Assistant Secretary of Agriculture Richard Lyng the other day in announcing some new belt-tightening regulations for administration of the school lunch program. He is entirely right about this, of course, and the directors of any chamber of commerce would have little difficulty in grasping the validity of his observation if they heard it in the course of a luncheon speech as they were finishing their dessert and sipping their coffee. Discipline is a term more easily understood on a full stomach than on an empty one.

The fiscal discipline Mr. Lyng has in mind will be felt most intimately by a large number of school children whose families cannot afford to buy lunches for them and who will, in consequence, be called upon to accept the discipline on empty stomachs. It is to take the form of a reduced contribution to the school lunch program by the federal government, if proposed new regulations of the Agriculture Department go into effect. The formula by which federal funds are allocated to this program is a complicated one. But the nub of the matter appears to be that the department aims to contribute to the feeding of an expected 9.1 million poor and hungry children in the school year ahead with the same amount of money it supplied for the feeding of 7.3 million last year. The department did not ask for additional funds to finance the expected expansion; and, although Congress authorized the expenditure of $100 million out of a special fund available to the department, Secretary Hardin has declined to do this.

The state directors of the school lunch program responded to these proposed regulations with a unanimous outburst of indignation. "The average rate of 30 cents per meal for free and reduced lunches set forth in proposed regulations," they declared in a formal statement, "is unequivocally inadequate, and furthermore we feel that such a limitation would jeopardize the existing program and preclude any expansion to reach the additional estimated three to five million hungry children in America. The regulatory restrictions and funding projections as proposed are bringing the school lunch programs to a screeching halt, and will result in a termination of programs in many places. The state plans of operation as prepared for 1971–72 become null and void by each state as the plans were developed in good faith to meet the challenge of the President and Congress to feed the hungry children in America's schools."

This impassioned statement comes from men and women in the field who have to administer the school lunch program. Their indignation is becoming. Senator George McGovern, chairman of the Senate Select Committee on Nutrition and Human Needs, reacted similarly, charging in a letter to Secretary Hardin that the proposed regulations "blatantly violate both the spirit and the letter of the school lunch law passed by Congress last year." It is a curious order of priorities indeed that puts resuscitation of an aircraft manufacturer ahead of human hunger. It is a strange sort of fiscal discipline that puts its burden upon children.

FEDERAL SCHOOL LUNCH PLAN FAILS TO HELP 1.9 MILLION POOR PUPILS

WASHINGTON, August 29.—Today, nine months after President Nixon's target date of Thanksgiving, 1970, for extending the school lunch program to reach all needy children, 19-million children of the poor get none of its benefits.

But the Department of Agriculture—delegated the responsibility for carrying out the President's mandate—maintains that Mr. Nixon's original goal has technically been met.

Edward J. Hekman, administrator of the Food and Nutrition Service Division of the department, said in an interview that Mr. Nixon's goal was based on a figure of 6.6 million needy children—a figure used frequently by Dr. Jean Mayer, the President's nutrition expert.

Mr. Hekman said that his department had extended the lunch program to that number of needy children by January, 1971—only two months behind schedule. He said that the number now reached was 7.4 million.

A NEW TIME TABLE

He said that statistics gathered later indicated that instead of 6.6 million, the estimate on which the president's goal was based, there were 9.3 million needy children.

"It would have been physically impossible to reach this new figure by Thanksgiving," he said.

Mr. Hekman said that the Department of Agriculture and the National Advisory Council created by the 1970 amendment of the School Lunch Act had discussed a new timetable.

"I expect the council to set a new target of about three years hence," he said. "The problem is bringing the approximately 20,000 schools not now a part of the program into the picture."

Mr. Hekman estimated that these schools—largely inner city or rural poverty areas—had one million eligible children.

A MOOT QUESTION

These, coupled with the 400,000 eligible but unreached children in schools that already participate in the program, would necessitate expenditure of about $570.4-million a year.

This is based on Congress' estimate of $100-million for equipment alone and on Mr. Hekman's estimate of a Federal share of 42 cents a lunch for each of the 1.4 million additional children.

The amount spent last year for free or reduced-price lunches totaled $356.4-million. The amount budgeted this year exceeds that amount by about $33-million, according to Mr. Hekman.

Special provisions were made by Congress to provide $38-million in the fiscal year 1971 and $33-million in the fiscal year 1972 to put facilities in nonprogram schools.

The Administration cut this amount back to $16.1-million the first year and plans to use only $16-million this year.

"It may not be enough, but it will go a long way," Mr. Hekman said.

The sizable increase in the number of needy children—from 3.8 million in 1969 to 9.3 million today—is related to state-initiated changes in eligibility guidelines, Mr. Hekman said.

The figure of 6.6 million children results from states using a $3,940 poverty level as a guideline, he said. Now, at least 22 states have raised their poverty-level standard to around $4,350.

Opponents of the department's methods of implementation and budgeting have accused the Administration in recent weeks of using calculated methods to halt the growth of the program.

The more notable critics include Senator George McGovern, Democrat of South Dakota, and a group of 35 directors of state child nutrition programs.

GUIDELINES CRITICIZED

Each charged that while not cutting back in program funds, the Administration had designed Federal reimbursement guidelines that held the state liable for a matching portion above that of last year's, in effect limiting expansion in states faced with financial problems.

Members of Senator McGovern's staff charged that funds in one special section had been released to states only after they had exhausted the two principal sections that provided funds under the lunch program act.

Senator McGovern plans a Congressional hearing on the program Sept. 7. He said that he would ask the Secretary of Agriculture, the director of the Office of Management and Budget and Mr. Hekman to testify.

[From the Washington Post, Sept. 3, 1971]

U.S. CUTTING SCHOOL LUNCH FUNDS

(By Jack Anderson)

At Christmas time, 1969, President Nixon made a sugar-plum promise to the nation's nine million needy children to end their hunger. Now his accountants are squeezing $300 million out of the states' school lunch program, which would have the effect of taking food from the mouths of those same children.

By depriving hungry children of school lunch money, the Nixon administration would save enough ready cash, say, to bail out the corporate executives who have been mismanaging Lockheed.

The school lunch budget is a complex $1.1 billion document, which provides lunch subsidies that vary according to the needs of the children. The most needy children were supposed to get 60 cents per meal until the White House Scrooges went to work on the budget. They triumphantly saved $300 million by slashing the subsidy to a stark 35 cents under a complicated new formula.

Theoretically, the states are supposed to make up the difference. But most states, lacking the funds, will merely reduce the feeding of hungry children.

This scheme to water the soup of the poor was worked out by budget and agriculture officials in a series of private meetings and telephone talks. The chief Scrooge at the backroom meeting was President Nixon's assistant budget director, Richard Nathan. The Agriculture Department was represented by Assistant Secretary Richard Lying and nutrition administrator Edward Hekman.

DOUBLE PRESSURE

They were under pressure to cut the budget not only from the President but from the equally formidable Rep. Jamie Whitten (D-Miss.). As chairman of the House Agriculture Appropriations subcommittee, he is accustomed to dictating how agriculture funds will be spent. And school lunches come out of the agriculture budget.

Part of the money set aside by Congress for the lunch program is supposed to be taken from a customs revenue fund, which Whitten has always guarded jealously. He wants to keep his fund available to bail out rich farmers who have poor harvests.

State officials, meanwhile, have raised an almighty howl over the report that their needy children will be short-changed 25 cents per meal. Agriculture Department spokesmen, talking to us, sought to minimize this outcry. But we have obtained some of the complaints from their private files. Here are typical excerpts:

Memphis School Superintendent John Freeman: "We cannot continue our free lunch program as it is presently operated if the (Agriculture Department) puts its proposed regulations into effect."

Mrs. Carl A. Peterson, Nebraska's Urban League welfare task force chairman: "It would be a grave error for the (Agriculture Department) to deny to hungry children what in thousands of families is the only real meal such children have each day."

Sen. George McGovern (D-S.D.), the Senate nutrition committee chairman, is also mad as a hornet over the school lunch slash. In a private letter to Agriculture Secretary Cliff Hardin, the senator has condemned the reduction as "regressive." He has also summoned budget and agriculture officials to an emergency hearing on Sept. 7.

This has unnerved agriculture officials who now tell us their minds are still open. The budget cut "is not locked up by any means," administrator Hekman assured us.

[From the New York Times, Sept. 6, 1971]

FEEDING HUNGRY CHILDREN

The Administration, under pressure from critics of the Federal school lunch program, acknowledges that 1.9-million needy children are still not being fed. No deluge of official statements about progress made and targets met can disguise the national disgrace involved in having so many youngsters go hungry.

The Department of Agriculture, administrator of the program, finds statistical comfort in noting that President Nixon's promise to have 6.6 million children on the school lunch roster by Thanksgiving 1970 was fulfilled, with only two months' delay. What causes the present gap, the department explains, is that the definition of poverty has changed and the number of needy children now turns out to be 9.3 million, not 6.6 million.

Such statistics do not make unfed children any less hungry. It is appalling to find Agriculture Department spokesmen estimating that it may take three years before the rest of the poverty-level children can be included in the program. By then the damage caused by nutritional deficiencies may be beyond repair.

Particularly puzzling is the department's claim that lack of food service equipment in many schools remains a major obstacle. In 1969 the Administration announced, with much fanfare, that revised regulations would speed airline-style lunches to children in unequipped schools.

All the unanswered questions and statistical alibis give credence to complaints that budget-cutting is the real cause of the delays. In two successive years the Administration has cut Congressional authorizations for food-service facilities in half, and further cuts are said to be contemplated in the amount of money to be made available for lunches in the new school year. In addition, rigid matching requirements appear to have hurt the program in precisely those states where poverty is the most serious problem.

Hearings before the Senate's Committee on Nutrition and Human Needs, scheduled for this week by Chairman George McGovern, should aim at putting an end to the battle of statistics. There is a simple yardstick: The program is inadequate if one child goes hungry.

[From the New York Times, Sept. 8, 1971]

MCGOVERN SCORES PUPIL LUNCH PLAN

WASHINGTON, Sept. 7.—Senator George McGovern, chairman of the Senate Select Committee on Nutrition and Human Needs, accused the Department of Agriculture today to bowing to pressure from the Office of Management and Budget to cut over-all costs of the school lunch program. The South Dakota Democrat agreed with school officials who have charged before the nutrition committee that newly revised rules for funding the program will bar the inclusion of 1.9 million needy children.

Specifically at issue at the hearing was a new allocation formula, revised Aug. 18, that school officials across the country contended would cut Federal reimbursement to schools from 60 cents to 35.

The school officials and a group of sympathetic Senators and Representatives contend that the reimbursement rate of 35 cents will force school systems either to provide the remaining cost of lunches out of their own funds or to curtail their programs. The average cost for each lunch is 50 cents, according to the Agriculture Department.

SUBSTANTIAL CUTS CHARGED

Lawrence Bartlett, chairman of the American School Food Service Association, testified today that the new regulations substantially cut the funds many school districts were expecting.

He said that cuts of $9-million were expected for California, $3.2-million for Massachusetts, $1.4 million for Detroit, $1.2-million for New Mexico, $375,000 for Indianapolis and $750,000 for St. Louis.

Josephine Martin, State Director of School Food Services in Georgia, told the committee that even based on the Department of Agriculture's own "inadequate" reimbursement rate of 35 cents, a minimum of $180-million was needed to sustain the lunch program at last year's level in view of its growth rate of 10 per cent.

The school lunch program budget for the fiscal year 1972 is $78.8-million above last year's, according to the Department of Agriculture.

The amount spent last year for free or reduced-priced lunches totaled $356.4-million. The amount budgeted this year exceeds that amount by about $33-million, according to the Department of Agriculture.

Critics also attacked the department for having released the proposed regulations less than a month before schools opened and while Congress was in recess.

Richard E. Lyng, Assistant Secretary of Agriculture, said that school officials misunderstood the regulations. He said that they represented a "dramatic breakthrough that will enable school systems to bring in as many needy children as they want with the assurance that they are guaranteed a minimum of 35 cents per meal per child."

PRESSURE SUGGESTED

"Is it true that you were under pressure from the Budget Director to cut the over-all costs of your program?" Mr. McGovern asked Mr. Lyng.

"We haven't cut the cost of the program," Mr. Lyng replied. "Our restraint is the amount of money appropriated by Congress."

"But what we are really talking about is a situation where the Office of Management and Budget told you to cut to a certain figure, isn't that correct?" Mr. McGovern persisted.

"In that the O.M.B. approves our budget before it is submitted to Congress, yes, it has some say," Mr. Lyng replied.

Mr. McGovern said that the reduction from 60 cents to 35 cents for each lunch would result in a $300-million cut in the program and suggested that the Nixon Administration was backing away from Congress' and its own commitment to feed all hungry school children.

[From the Washington Star, Sept. 8, 1971]

SCHOOL LUNCH CRUNCH

Agreed, that the times call for selective governmental austerity. But about the last service that should be affected by it is the feeding of school children. That's because school is the only place where millions of children get a square meal, and because many others—possibly two million—can't even get lunches there.

But the Agriculture Department, just after Congress went home for its month-long vacation, hatched some questionable new lunch regulations that took effect when schools reopened for the current term. The alterations, say the school-lunch directors of 33 states, can bring the program to "a screeching halt." That is without doubt an exaggeration. But the new spending limitations certainly can compound the inadequacies that already afflict the program, constricting it when it needs to be enlarged.

What the department plans, in essence, is to hold back half the allocations that help finance free and reduced-price lunches for poor children, until the states demonstrate by exhausting their other funds that they really need the money. They've come to expect 60 cents for each "poverty lunch" in federal aid, but now they'll have some difficulty getting more than 30 cents.

And schools will be held to a five-cent limit of federal aid on regular (non-poverty) school lunches. That was shown to be insufficient last year, and it will be even less adequate during the next school term with inflated costs and more youngsters to feed. Congress last year provided extra "bail-out" money because some states were unable to pay their share of the regular lunch program, and they were given up to 12 cents in federal assistance.

Moreover, the states contend they already have proved their needs, with detailed plans submitted to the Agriculture Department earlier this year. They see very little chance of coming up with more state matching money. So state directors fear that school-lunch prices will have to be raised as a result of the new requirements, and that food services may have to be curtailed.

The Agriculture Department's reasoning in these matters is convoluted, but some impressions are inescapable: The department is intent on holding down federal spending for school lunches, and its maneuvers and policies threaten to delay a needed expansion of the program. In announcing the new regulations, Assistant Secretary of Agriculture Richard Lyng said that "fiscal discipline" is always difficult, but is an absolute necessity "if we're to live within our budget." The problem is that Agriculture asked Congress for no increase in lunch funds for the next year in spite of the swelling costs and needs.

Nor has it moved vigorously enough to aid the 23,000 public schools, mostly in poor areas, that have no lunch programs at all. It wants to spend less than half the money that Congress authorized for that purpose.

Congress should demand explanations from Agriculture officials. The feeding of children should not be subjected to the strictest of fiscal disciplines.

[From the Washington Post, Sept. 8, 1971]

U.S. DENIES CUTTING SCHOOL LUNCH FUNDS

The Nixon administration yesterday denied repeated charges that it has cut spending for school lunch programs so severely that up to 2 million needy children will go hungry this year.

Assistant Secretary of Agriculture Richard Lyng insisted at a hearing of the Senate Select Hunger Committee that more money will be available than ever before—$667.3 million—to provide poor youngsters with a wholesome meal each day.

"We believe that significant additional progress is possible," Lyng said. "In fact . . . we believe that our proposal presents a dramatic breakthrough in program funding."

Chairman George S. McGovern (D-S.D.) said he called the hearing in response to "an outcry" raised by local and state school officials around the nation over changes in school lunch funding proposed by the Agriculture Department on Aug. 13.

Critics charged that the revisions amounted to cutting federal reimbursement from 60 cents to 35 cents per meal. They said this would force schools either to make up the difference or cut back their lunch programs.

Lyng, however, said critics have "misunderstood" the rules changes. He said the 35-cent figure would be a floor, not a ceiling, and that "neediest schools" would still be eligible for full 60-cent reimbursement.

"Our proposals are not designed to have funds," Lyng said. "We have not reduced the maximum rates of assistance that were authorized for last year."

Unconvinced, McGovern charged that the new rules amounted to "total defiance" of Congress, which last year ordered school lunch programs expanded to every needy child.

In the 1970–71 school year, the programs provided free or reduced-cost lunches to about 7.3 million of the nation's estimated 9 million hungry schoolchildren.

[From the Wall Street Journal, Sept. 16, 1971]

AGENCY SEEKS CURB ON SCHOOL-LUNCH FUNDS; STIFF QUIZ IS LIKELY BY SENATE PANEL TODAY

(By Burt Schorr)

WASHINGTON.—The Nixon administration is planning to pull the drawstring on Uncle Sam's school-lunch moneybag far tighter than local program administrators ever expected.

As a result, hundreds of thousands of low-income youngsters who are enjoying their first nutritious midday school meals at little or no cost may soon do without again.

The financial curb is contained in a set of bewilderingly complex new lunch-funding regulations that the Agriculture Department proposed just three weeks before classes resumed this month. The state school food service directors, unit of the American Food Service Association charges that the regulations "are bringing the school-lunch programs to a screeching halt . . . and preclude any expansion to reach the additional estimated three million to five million hungry children in America."

That may be overstating the case somewhat, but it's true that the Nixon administration doesn't want to spend as much money for lunches as the state directors and their congressional allies, mainly liberal Democrats, believe is needed.

State and local officials are especially peeved because until now Washington's school-lunch rhetoric didn't give any hint that federal money to feed poor kids wouldn't be ready when needed. President Nixon, signing liberalizing amendments to the school-lunch statutes back in May 1970, said the legislation "will assure that every child from a family whose income falls below the poverty line will get a free or reduced-price lunch."

But now the Agriculture Department proposes, in effect, to cut the estimated federal contribution to each such lunch to about 37 cents from the 42 cents being contributed last spring—out of a typical cash cost of 53 cents. Moreover, the proposed regulations would prevent expansion of the free and low-cost meals to more than the seven million children currently being served even if Congress should appropriate money to pay for the lunches. (Eighteen million other youngsters get lunches at higher prices.)

Agriculture Department officials face a tough confrontation today when they are due to appear before the Senate Agriculture Committee, which has direct legislative responsibility for the lunch program, to explain their position.

Initially there hadn't been any reaction on Capitol Hill, apparently because it took several weeks for local school officials to decipher the real meaning of the proposed regulations. "But now they're really screaming, and a number of Senators are concerned," says an Agriculture Committee staffer.

Yesterday, Michigan Sen. Philip A. Hart, a liberal Democrat, and Kentucky Sen. Marlow Cook, a middle-of-the-road Republican, said they had found 42 other signers for a letter to Mr. Nixon warning that the reduced funding rate will leave "hungry children in America's schools" and produce "absenteeism, dropouts and apathetic students."

Certainly, Agriculture Committee Chairman Herman Talmadge isn't pleased by the proposed regulations. Earlier this month the Georgia Democrat wrote Mr. Nixon that the rules already have "precipitated a fiscal crisis in school districts" of his home state. Waiting to hold some hearings of his own is Rep. Carl Perkins, Democratic chairman of the House Education and Labor Committee, which keeps watch on the school lunch program from the other side of the Capitol. Mr. Perkins' home state of Kentucky seems to have school lunch woes even worse than those Georgia schools face.

AN $80 MILLION JUMP

Agriculture officials, for their part, argue that the $615.2 million appropriated for Washington's direct cash contribution to school lunches in the fiscal year ending June 30, an $80 million jump from last year's spending, is, after all, what Congress voted. (Overall, the federal share comes to approximately $1.1 billion, including special milk funds and donated federal commodities. It's expected to help feed some 25 million youngsters this year, including around seven million from needy families. But it won't help roughly seven million other youngsters attending the more than 20,000 schools still without any lunch program, many of them serving low-income populations.)

Under the National School Lunch Act Uncle Sam is obliged to contribute a minimum of five cents toward every school lunch—even those for children not classified as needy—and 30 cents toward those offered free or at a reduced price. In practice, though, the contributions have been considerably greater.

The food service administrators, through a survey just completed by their Denver-based organization, respond that the appropriated funds actually are some $170 million shy of what low-income students will need by the time the last lunch bell tolls next spring. Moreover, the administrators argue, the proposed regulations are written in a way that prevents schools from spending any supplemental funds Congress might choose to appropriate.

Ironically, many of the states that strived hardest to expand feeding in their schools at the Agriculture Department's urging now are reaping the biggest headaches. Illinois, for example, foresees a statewide lunch deficit of between $13 million and $18 million in the 1971–72 school year, largely because cities like East St. Louis and Chicago have been expanding their lunch programs into older schools by means of newly installed kitchens, cold meals delivered from a central kitchen and other techniques. "We have the poverty pockets right here in the larger cities and that's where the hungry kids are," says Edward F. Gaidzik, director of Chicago's school-lunch operations.

Similar expansion is causing California officials to reckon their fund shortage at $9 million. For New Jersey, the estimate is $8 million; for Florida, $6.9 million, and for Georgia, $6 million.

The missing dollars portend an even grimmer human deficit. The nine school districts serving the Phoenix metropolitan area face a combined funding gap of only $150,000. But this may be large enough to cut off many of the 40,000 youngsters now getting free and reduced-price lunches (or roughly a fourth of total lunch program participants), estimates Norman Mitchell, food service director for Phoenix's Isaac School District No. 5.

In Detroit, public schools lunch chief Howard W. Briggs reckons that a substantial number of the 45,000 kids of the free and reduced-price-list in his district—better than half the total youngsters getting lunches this year—are threatened with loss of their prepared midday meal. Mr. Briggs worries that this will "worsen communications" with poor parents, many of them black, who only lately have been persuaded to enroll their children in the program.

For Nebraska's school food services administrator, Allen A. Elliott, the Nixon administration's proposed rules revision landed like a "real bombshell on us." Prior to the announcement, his state was betting on the addition of 45 to 50 schools to the lunch programs, but now local school boards indicate the increase will total only "10 or less," he says.

NO FOREST TO HIDE IN

There's nothing to prevent states and localities from increasing their own school lunch funding in lieu of federal aid, but school officials almost to a man declare that alternative out of the question on such short notice. One particularly hard-hit state, Kentucky, has a common problem: Its legislature won't convene until January, and then to begin work on the budget for the two years starting next July 1. Furthermore, state governments and local school boards never have been overly quick to grab the school-lunch check; last year their share of the $2.8 billion total cost for midday school feeding came to only 21%, against the 36% picked up by Uncle Sam and the 43% paid by youngsters themselves.

The new rules do grant states the right to tip federal aid toward the neediest districts within their borders, but the prospect of breaking such news to better-off districts, whose funding share would decline in proportion, frightens administrators. "They're asking state directors to be Robin Hoods; but the directors don't have a forest to hide in," says Detroit's Mr. Briggs.

The underlying issue, of course, is just how big—and firm—Uncle Sam's financial responsibility to needy students really is. "There's no place in the law that says the federal government shall foot the entire bill" for feeding needy youngsters, says Assistant Agriculture Secretary Richard Lyng. But his reading of the law and the intent of Congress does seem open to question. Section 11 of the National School Lunch Act, though it sets a minimum of 30 cents a lunch, plainly authorizes "such sums as may be necessary to assure access to the school-lunch program . . . by children of low-income families."

And an interpretation of congressional funding intent was provided by Republican Sen. Robert Dole of Kansas during the Senate debate on the 1970 amendments when Sen. Hart sought unsuccessfully to amend Section 11 by adding specific authorization figures for the 1971–73 fiscal years. Arguing against the wisdom of the Hart proposal, Sen. Dole, who often reflects Nixon administration thinking and who has since become Republican national chairman, asserted: "As I recall the deliberation of the (Agriculture) Committee when we had the hearings, and following the hearings, after consultation with the Executive Branch, we felt we should leave it (the money authorization) open-ended so that there could be provided whatever might be necessary. . . ."

[From the New York Post, Sept. 18, 1971]

FORTY-FOUR SENATORS FIGHT SCHOOL LUNCH CUTS

(By Antony Prisendorf)

WASHINGTON.—Forty-four senators have urged President Nixon to block Agriculture Dept. cutbacks in school lunch and breakfast programs.

In a letter to the White House, they said a recently announced change in formulas for the current school year would result in a loss of "millions" of dollars.

In March the Agriculture Dept. announced that the federal government was prepared to contribute a maximum of 60 cents for each free or reduced-price meal served.

But on Aug. 13, the department reported that the federal contribution would be limited to 35 cents a meal.

"This will have a disastrous effect on the school lunch and breakfast programs," the senators wrote, "and will pose a very real threat to the continued progress of the National School Lunch Program.

Neither the Agriculture Dept. nor the Senate Select Committee on Nutrition has information available to indicate how much New York State school-lunch programs would lose if the proposed cutbacks went into effect.

The chief of the state's bureau of school food programs, Richard Reed, was not available for comment.

It is known from committee sources that if the cutbacks are put into effect, the Buffalo school system alone will lose more than $900,000 in federal funding.

Data supplied by other states indicates, the senators said, that Missouri would lose $4 million, California $9 million and New Jersey $8 million.

"The states cannot make up this loss from state or local funds and will have no alternative but to reduce planned participation to stay within the limitation of available funds, the senators wrote.

"Therefore, many needy and eligible children will go without school lunches."

In some states, the effects might be even more calamitous, the senators warned. In Kentucky, for instance, the breakfast program will have to be canceled at the beginning of October unless more federal funds are allocated.

The letter, which has not yet drawn a response, was prepared by Sens. Hart (D-Mich.) and Cook (R-Ky.), both members of the Senate Committee on Nutrition.

[From the Daily Mail, Hagerstown, Sept. 16, 1971]

FORTY-FOUR SENATORS URGE NIXON TO SCRAP PROPOSED SCHOOL-LUNCH REGULATIONS

(By Austin Scott)

WASHINGTON.—Forty-four senators today asked President Nixon to scrap proposed new school-lunch regulations they said will cost states millions of dollars and force many schools out of the program.

Signers of a letter to the President include Sen. Gale McGee, D-Wyo., chairman of the Senate Agriculture appropriations subcommittee, and Democratic whip Robert Byrd of West Virginia. Ten of the signers are Republicans.

The letter said that under the proposed new regulations, announced by the Agriculture Department just 3 weeks before most schools began to open, states will be denied millions of federal dollars that would have helped school districts pay for lunches under the old regulations.

As examples, the letter said, Missouri will lose $4 million, California $9 million, Massachusetts $3.24 million, Ohio $5.56 million, Georgia $4.1 million, West Virginia $2.66 million, and Florida $6.91 million.

"The states cannot make up this loss from state or local funds and will have no alternative but to reduce planned participation to stay within the limitations of available funds," the letter said.

"Therefore, many needy and eligible children will go without school lunches," it said. "Certainly this was not the intent of Congress when it passed (the school lunch law), or your intent when signing it into law on May 14, 1970."

Aides to Sens. Philip Hart, D-Mich.; George McGovern, D-S.D., and Marlow Cook, R-Ky., circulated the letter after attending a Senate hearing last week where several state school-lunch directors testified the new regulations would reduce the scope of the program—not increase it as the Agriculture Department claimed.

Agriculture Department officials said at the time they announced the new regulations Aug. 4 that "we must have discipline if we're going to live within our budgets."

Three days later, 33 state school-lunch directors signed a protest accusing USDA of bringing school-lunch programs to "a screeching halt" by cutting the amount of money available to help the school districts pay for each lunch served.

McGovern asked Agriculture Secretary Clifford Hardin to withdraw the new rules, but a spokesman for McGovern's Committee on Nutrition and Human Needs said there is no indication the department will.

The 44 senators asked President Nixon to keep the old regulations in effect. "In this way we could be certain that the funds Congress made available . . . would be fully utilized," their letter said.

CUT IN FEDERAL SCHOOL LUNCH FUNDS REPORTED NEAR

WASHINGTON, September 24.—An official of the Department of Agriculture said today that formal approval would be soon given to several controversial amendments to guidelines governing disbursement of funds for the school lunch program.

Meanwhile, at a news conference today, the American School Food Service Association said the amendments would provide for cuts in the amount of Federal reimbursements to states for the cost of each meal by 7 cents. The group said that this would force at least 44 states to pay larger matching shares totaling more than $123-million.

The department does not deny this contention but argues that states are better off because of a $33-million increase in the budget for free and reduced priced meals over last year. And it says the states must live within their budgets.

Assistant Secrtary Richard E. Lyng, who discussed the school lunch program at a Congressional hearing recently, said that the department—like all Government agencies—had been pressured by the Office of Management and Budget to hold-the-line in expenditures.

The more controversial changes in the amendments would affect the reimbursement rates and the methods of funding.

A 35 CENT MINIMUM

Under the amendments, the Federal Government would guarantee states an average minimum reimbursement of 35 cents a meal. The average rate of reimbursement last year was 42 cents and the national average cost of a meal of 52.6 cents.

States are funded from two categories of general aid—one for all meals served and the other for free and reduced-price meals.

The department is empowered to use money from an emergency fund if necessary to insure success of the program.

Last year states could tap each of the three sources simultaneously and receive reimbursements up to 60 cents a meal.

The amendments would require that all funds in the two general categories be exhausted before the emergency funds could be tapped.

Opponents maintain that financially strapped school systems could never get emergency funds because they could not support the increased matching responsibility long enough to exhaust general funds.

Mr. Lyng said the amendments required that available funds be distributed to states in better relationship to program growth, thus avoiding the mid-year funding uncertanties that were experienced last year. He said fund shortages in some states were threatening programs while other states had millions of dollars in excess funds under existing guidelines.

EXPANSION POSSIBLE

In addition, he said, a state needing to expand its program to substantially more schools and children can do so within its available funds without fear that it will be at the expense of unwarranted reduction in funding of already participating schools.

The School Lunch Association said that the Administration had arrived at the 35-cent reimbursement rate by dividing the current $390-million budget by the expected total number of free and reduced price meals to be served this year without regard for actual needs and rising costs of food and preparation.

Josephine Martin, State Lunch Director of Georgia who is a member of the association, said that labor costs in Gary, Ind., for example were 24 cents and the cost of a serving of milk was 7 cents.

"At the 35-cent reimbursement rate this leaves only 4 cents for meat and vegetables," she said.

Miss Martin said her association had queried state school officials around the country on how they would fare with the 35-cent reimbursement rate.

"We were told that 44 of them expect deficits, ranking up to $9-million in California, $8-million for New Jersey, $8.8-million for Texas, $9-million for South Carolina and $6-million in my home state."

Other opponents of the amendments include the school lunch directors association and a group of 44 United States Senators.

The Senators have petitioned President Nixon to rescind the amendments, and two Senators, Herman E. Talmadge and David H. Gambrell of Georgia, have introduced a joint resolution in Congress that would require the Secretary of Agriculture to increase the reimbursement rate to a level "sufficient for operating the program."

The resolution will be taken up on Wednesday by the Senate Agriculture Committee, which Senator Talmadge chairs.

The committee—which shape policy for the department—is expected to approve the resolution.

Senator Talmadge was instrumental in introducing legislation to increase funding of the school lunch program in 1965.

SCHOOL LUNCH BATTLE LOOMS

(By James Welsh)

The Senate Agriculture Committee, in a showdown set for tomorrow, appears ready to demand that the Nixon administration put up at least $100 million more than it wants to for school lunch programs for the needy.

By so doing, the committee might well wreck an enduring Washington cliche.

For any conservative purpose, so the cliche holds, the congressional agriculture committees and the executive Agriculture Department always march hand in hand.

But this time around, with Chairman Herman E. Talmadge, D-Ga., in the lead, the Senate committee is not only taking on the Agriculture Department, it is ready, in an unusual move, to approve a joint Senate-House resolution that would write school lunch regulations that Agriculture refuses to set and to impose subsidy levels the President's budget-makers refuse to approve.

NEW IN POST

Talmadge, who this year replaced Sen. Allen Ellender, D-La., as committee chairman, ordered the resolution prepared last week.

It directs the Agriculture Department to subsidize local school districts by 45 cents per lunch for every needy child, rather than the 35-cent limit imposed by the department in stringent regulations announced Aug. 13. And it says the department "shall spend" whatever it has to of the $100 million extra school-lunch appropriation approved by Congress for this fiscal year but since impounded by the administration.

The committee will meet in executive session tomorrow.

Talmadge is expected to carry all of the committee's eight Democrats with him, including six Southerners.

One of the two Northern Democratic members, Sen. George McGovern of South Dakota, a liberal closely identified with the hunger issue, expects to be absent tomorrow but has given Talmadge his proxy.

The legislation, to be effective, must be passed by both houses of Congress and signed by President Nixon.

The administration could avert a showdown by relenting on its stand.

Rep. Paul Perkins, D-Ky., chairman of the House Education and Labor Committee, has introduced a resolution identical to the one the Senate committee is expected to approve tomorrow.

REBUFFED BY OMB

But the Agriculture Department was reported today to have been rebuffed by the Office of Management and Budget and ready to announce that its Aug. 13 regulations will be made final.

OMB officials are determined to keep a lid on last fiscal year's federal spending of $615 million for school lunches. More than half this amount was for the needy.

To many state and local school districts, the federal government's posture on school lunches has been a constantly shifting one.

In 1970, Congress passed the School Lunch Reform Act, sponsored in part by Talmadge. President Nixon, in signing it, called for "an end to hunger in the nation's school rooms."

Last spring, the Agriculture Department relaxed its spending regulations, permitting the federal payment per lunch to rise well above its previous 33-cent maximum. From March to May, as a result, the number of children in the program rose from 6.3 million to 7.1 million.

FORTY-TWO CENTS EXPECTED

For this school year, local districts confidently expected a federal subsidy averaging 42 cents per lunch for more than 7 million children.

The Aug. 13 pronouncement lowering that to 35 cents, proved a shocker. It came three weeks before the opening of school and well after most local school boards had set budgets.

In the wake of the announcement, a number of school districts are reported to be abandoning the school lunch program or considering such a move. They include Albuquerque, N. Mex., Bridgeport, Conn., and Buffalo, N.Y.

Josephine Martin, the State of Georgia's food services director, said today her state stands to lose $6 million if the new regulations become final.

"For our school districts, the only alternatives will be to cut participation or the quality of the lunches," she said.

Miss Martin has worked closely with Talmadge on the problem.

POPULAR ISSUE

"Talmadge," said one Capitol Hill observer, "is really taking the lead on us. He's convinced the school lunch program is very popular in Georgia. Sen. Ellender is friendly to the program too, but he would not have challenged the Agriculture Department the way Talmadge has done."

"The committee's stand has really shook up the people at Agriculture."

McGovern was the first to protest the New Agriculture Department regulations.

But it was a little-noticed Agriculture Committee hearing on Sept. 16 that set the stage for the current showdown.

At that hearing, Talmadge and fellow Southerners, including Sens. Ellender; B. Everett Jordan, D-N.C.; James B. Allen, D-Ala.; and Lawton Chiles, D-Fla., ripped into Asst. Agriculture Secretary Richard Lyng, telling him he hadn't proven his case.

SENATE ACTS TO FORCE RISE IN AID FOR SCHOOL LUNCHES

(By Marjorie Hunter)

WASHINGTON, October 1.—The Senate voted today to direct the Nixon Administration to borrow sufficient funds to feed the nation's needy school children.

The rare move was a sharp rebuff to the Administration, which just six weeks ago announced new school lunch regulations that critics say would bar some two million children from free or reduced-price lunches.

The Senate measure, approved by a vote of 75 to 5, directs the Administration to borrow money from a special Agriculture Department fund derived from import duties on farm products.

Under the Senate measure, this would enable the Federal Government to increase its payment for free or reduced-priced lunches from 35 cents to 46 cents.

A similar measure has been introduced in the House and may reach the floor within several weeks.

The lopsided Senate vote reflected widespread complaints from school administrators over the Agriculture Department's allotments formula, announced in late August, just weeks before most schools opened.

In fixing the Federal allotment to the states at 35 cents a meal, Agriculture Department officials said this was the maximum available under the $615-million voted by Congress for the year that began July 1.

Congressional critics of the Administration's cutback in school lunch allotments complained that Congress had voted every penny that the Agriculture Department had said it should have to feed the needy.

The move to force the Administration to increase the allotment was led by Senator Herman E. Talmadge, Democrat of Georgia who is chairman of the Senate Agriculture Committee.

Terming it "emergency legislation," Senator Talmadge said it was essential to relieve "chaos, consternation and confusion in school lunch programs across the country."

NIXON VOWED RECALLED

He recalled that just last year Congress passed a law requiring that every needy school child in the nation receive a free or reduced price lunch.

He also recalled that President Nixon, is signing that bill into law, "promised to put an end to hunger among American school children."

The Senate action was unusual in that it represented one of the few times that a legislative (or authorizing) committee had sought to appropriate funds. Under normal procedure, such funding originates in Senate or House appropriations committees.

Complaining that they have been bypassed, several members of the Senate Appropriations Committee opposed the Talmadge measure. They said their own committee planned to bring out a supplemental appropriations bill within several weeks to increase funds for school lunches.

Dismissing these arguments, Senator Warren G. Magnuson, Democrat of Washington, commented: "When you're hungry, you're hungry. You can't wait until some bureaucrat sends letters back and forth."

SURPLUS IN FUND

The money that the Senate ordered the Administration to borrow from the import duty fund would be paid back later through a supplemental appropriation. The import duty fund now has about $300-million in what is called "carry-over" money, not earmarked for other uses.

In addition to the extra 11-cent allotment for free or reduced-priced lunches, the Senate voted to increase from 5 cents to 6 cents the Federal allotment for all school lunches, including those fully paid by students.

Estimates of the cost of the increased allotments range anywhere from $100-million to $200-million.

Voting against the Talmadge resolution were Allen J. Ellender, Democrat of Louisiana who is chairman of the Appropriations Committee; Milton R. Young, Republican of North Dakota, ranking Republican on that committee; George D. Aiken and Robert T. Stafford, Republicans of Vermont; and Roman L. Hruska, Republican of Nebraska.

LUNCHES FOR HUNGRY CHILDREN

The 75-to-5 vote in the Senate to provide more Federal money for school lunches should be a prod to the Administration to fulfill its pledges to banish hunger among America's schoolchildren.

An allowance of 35 cents to provide each needy pupil with a nourishing meal is preposterous in this period of high costs. Even the new Senate-approved standard of 46 cents is pitifully low.

The Senate's indignation at the gulf between Administration promises and performance in combating hunger in the schools prompted it to elbow aside its own Appropriations Committee and vote to "borrow" upward of $100 million from surpluses in an agricultural import-duty fund. The justification for this unorthodox procedure was well stated by Senator Magnuson of Washington: "When you're hungry, you're hungry. You can't wait until some bureaucrat sends letters back and forth."

The nation's children will be more adequately fed if the House shows similar impatience.

[From the New York Times, Oct. 7, 1971]

U.S. INCREASES PUPIL LUNCH AID BUT TIGHTENS RULE ON ELIGIBILITY

WASHINGTON, Oct. 6.—Yielding to Congressional pressure, the Department of Agriculture today liberalized Federal payments to states under the school lunch program.

At the same time, however, the department issued a new restriction that critics estimate will eliminate about one million needy children from the program.

Under the regulations made public by the department today, the Federal share of lunch program costs was increased from a proposed level of 35 cents a meal to 45 cents a meal, one cent short of the level approved by Congress last week.

The department first sought to revise regulations governing disbursement of school lunch program funds in mid-August. Assist-

ant Secretary of Agriculture Richard E. Lyng said then that the department would for the first time guarantee a minimum Federal reimbursement to states of 35 cents a lunch. Before this, there was no set reimbursement rate, and states could get up to 60 cents a meal back from the Government.

A period of 15 days was allowed for public comment on the proposed change.

The department's original 35-cent proposal met with sharp criticism from at least 22 Congressmen and school lunch officials across the nation. These critics charged that the 35-cent rate—7 cents lower than the average rate paid last year—would necessitate massive cuts in the number of children receiving lunches.

Some of these same critics said today that the department's new stipulation, which provides that states must adhere to an income level of $3,940 a year in determining eligibility, would have the same result.

Senator George McGovern of South Dakota, chairman of the Senate Select Committee on Nutrition and Human Needs, and Representative Carl D. Perkins of Kentucky, both Democrats, estimated that one million children would be forced out of the program as a result of the new restriction.

Senator McGovern said about 40 states and the District of Columbia had used income levels higher than the official $3,940 Federal level to determine eligibility. In New York, for example, the level used to determine eligibility is $4,250, he said. In many other states the level is between $5,500 and $6,000, he said.

Mr. McGovern also said that heretofore all welfare recipients were eligible but that this would not be the case under the new regulation.

Phillip Olsson, Deputy Assistant Secretary of Agriculture, said the new restriction was aimed at halting a trend.

He said: "We have found that some school districts are raising their poverty levels so that more names can be added to lunch rolls, resulting in the Government paying for the entire program.

"In Newark for example, one district requested funds using a poverty level of $7,000," Mr. Olsson said.

Critics of the new regulation expressed concern that, unlike the other proposed regulation changes, it was not subject to a period of public comment.

Critics said this was a last-ditch effort by the department to stay within an inadequate budget.

Senator McGovern said the move might even be illegal, but Mr. Olsson said it was within the department's prerogatives.

"We usually allow a period of public comment prior to finalizing regulations because we think it's a good idea, but in cases where we must add regulations at the last minute we waive this policy," he said.

The new regulation was imposed after the department failed to reach a compromise with Representative Perkins yesterday on a Federal share of costs somewhere between 37 cents and 45 cents.

[From the Wall Street Journal, Oct. 7, 1971]

ADMINISTRATION TO LIFT SCHOOL LUNCH FUND $135 MILLION BUT TIGHTENS ELIGIBILITY RULES

WASHINGTON.—The Nixon administration, retreating before charges that it's refusing to feed low-income children, said it will increase its spending for free and reduced-price school lunches $135 million in the current school year.

At the same time, Assistant Agriculture Secretary Richard Lyng said lunch eligibility standards were being tightened, a move that critics said would continue to keep hundreds of thousands of youngsters in higher-income states from participating in the program.

The latest change in school lunch policy is incorporated in a revised version of Agriculture Department regulations to be published shortly in The Federal Register. When the original version of the regulations was proposed in August, state and local lunch administrators protested that it would hold Washington's school feeding contribution at a level lower than they had expected and possibly force an end to free and reduced-price meals in many areas.

Under the final regulations, the basic federal cost of all lunches served continues to be a minimum of five cents. For free and reduced-price meals, though, Agriculture will pay a minimum of 40 cents additional, or 10 cents more than was called for in the initial proposal. The new figures would hold Washington's share of the average school lunch cost at about the levels of last year, instead of allowing that share to decline, as the administration had intended. The Agriculture Department estimates that in the fiscal year ended last June 30, Uncle Sam picked up about 33% of the 60-cent cost of an average lunch, state children accounted for the remaining 44%.

Mr. Lyng estimated that the increase in reimbursement rates will raise the cost of the federal school lunch program to about $750 million in the current fiscal year, about 40% more than last year. The additional funds will enable the program to reach eight million needy children with free or reduced-price meals, Mr. Lyng said. This will be nearly one million more than the department first estimated, on the basis of the regulations as they originally were written.

Agriculture has enough funds to start spending at the higher level immediately but probably will go to Congress later in the year for supplemental funds, Mr. Lyng added.

Whether Congress will be satisfied with these plans isn't certain. Last week, the Senate, by a 75–5 margin, voted to impose on the administration a more generous formula for distributing school lunch funds than it originally proposed. The Senate formula is close to the one announced by Mr. Lyng, except that its basic contribution would be one cent higher, or six cents, adding $41 million more to federal costs, the Agriculture Department figures.

The House Education subcommittee wound up its hearings on school lunch regulation yesterday. Subcommittee Chairman Roman D. Pucinski (D., Ill.) and Carl D. Perkins (D., Ky.), chairman of the parent committee, both favor House passage of the Senate bill.

However, the major question now appears to be whether the House committee will challenge the Agriculture Department's new restrictions on the approximately 30 higher-income states, which define poverty at an income level higher than the one used by the department in its lunch regulations. More than 500,000 youngsters in these states, many from welfare families, who were eligible for free and reduced-price lunches on this basis last year, thus will be excluded this year.

Kenneth Schlossberg, staff director of the Senate Select Committee on Nutrition and Human Needs, who was present at the briefing by Mr. Lyng, said that some one million youngsters will be frozen out of the program by the changed regulation. "The Nixon administration is giving $135 million with one hand and taking away almost as much with the other," he contended.

This may be an overstatement, but the department doesn't have an estimate of its own to refute it. Mr. Lyng could only estimate that the federal cost of serving needy children in the 30 states last year amounted to $20 million to $30 million. A school lunch aide acknowledged, however, that, because the program had the potential of reaching more children this year than last, the federal saving through tighter poverty guidelines could be substantially larger than that figure in 1971–72.

[From the Washington Post, Oct. 7, 1971]

U.S. RETAINS LUNCH SHARE, TRIMS SCOPE

(By Nick Kotz)

The Nixon administration, bowing to congressional pressure, yesterday decided not to reduce federal contributions to the free school lunch program. But at the same time, it tightened eligibility standards, thus eliminating 584,000 children from the program.

Assistant Secretary of Agriculture Richard Lyng announced that the government will pay about 45 cents of the cost of a free or reduced-price lunch for poor children. The Senate last week had voted overwhelmingly to reject an administration plan to drop the federal contribution to 35 cents.

However, the government trimmed the rolls of children eligible for the free lunch program by limiting federal benefits to children from families with annual income of less than $3,940 for four persons.

The 1970 National School Lunch Reform Act stipulated that schools in the program must provide meals free or at a token cost (5 to 20 cents) to all children whose families met the $3,940 poverty-income guideline. But states were also permitted to establish more generous guidelines. Forty states did, including Maryland, Virginia and Washington, D.C.

These states no longer will get special federal funds to continue providing free lunches to an estimated 584,000 children from families with more than $3,940 income. The free lunches will continue only if state and local governments pick up the full costs.

A New York State school lunch official said perhaps a majority of New York City children will lose their free lunches.

In Montgomery county, Maryland, four-member families with $4,400 to $4,650 annual income, had been eligible for benefits, depending on the number of a family's children in school.

In Virginia, Arlington, Fairfax, and Falls Church provided free meals if a child's family had less than $4,940 income.

The District of Columbia gave free or reduced-priced meals to children in families with less than $4,830 income.

All children, poor and nonpoor alike, receive a partial federal subsidy of meals provided them under the National School Lunch Program set up in the 1940s. The federal government pays 5 cents in cash and 7 or 8 cents in surplus commodities toward the cost of all school lunches.

For example, the total actual cost of a Montgomery County School lunch is 68 to 73 cents. The child pays 45 or 50 cents, the federal government 13 cents, and the rest is made up in state or local funds. This applies to rich and poor children.

But in the case of a poor child, the federal government now will pay 45 cents of the total cost.

Lyng said the federal government will pay $225 million in cash and $300 million in commodities toward the lunch costs of all children and an additional $500 million toward costs of free or reduced price meals for poor children.

The dispute in Congress involved the amount of the federal share of cost for free or reduced price meals. The administration had planned to cut the average federal contribution, but now will raise it slightly over last year.

School lunch officials throughout the country had protested to Congress that the reduced federal payment would cripple their lunch programs.

Lyng said about 8 million poor children this year will receive free or reduced-price lunches.

An additional 16 million non-poor children participate in the program and benefit from the smaller federal subsidy.

Another 30 million school children are not in the national lunch program, either because they don't choose to buy lunch at school or because their school is not in the program.

Sen. George McGovern (D-S.D.), chairman of the Senate Select Committee on Nutrition praised the administration for its decision to increase federal support of lunches for the poor, but said the change in eligibility requirements "robs a poor Peter to help a poor Paul."

The increased federal payments will cost an additional $135 million a year, but the government hopes to save about $47 million by its new restrictions on eligibility.

Sen. Herman Talmadge (D-Ga.) sponsor of the Senate resolution ordering the administration not to cut payments, said he was "gratified . . . that the Agriculture Department had now agreed to obey the law."

McGovern said the Agriculture Department was clearly violating the "letter and spirit" of the 1970 School Lunch Reform Act, which provided that states can set higher eligibility standards. He pointed to legislative history, in which members of Congress stressed that states could implement more lenient standards.

Lyng, however, said yesterday that USDA can limit eligibility because the law calls for giving priority to the neediest children. Lyng said many states and school districts lack "fiscal restraint." He said one school district provided lower-cost meals to children from families with less than $7,500 annual income.

Lyng said he opposes the concept of providing free school lunches to all children and that he believed many school districts were heading in that direction.

[From the Washington Star, Oct. 8, 1971]

REMEDY FOR HUNGER

It seems a shame that the nation's school lunch program should be subjected to a shoving match between the White House and Congress. But now that the match is on, it would be well if Congress stuck to its guns by insisting that no needy American child is denied a free, nourishing lunch when he goes to school.

Only last year President Nixon, in signing the School Lunch Reform Act, called for putting an end to hunger in the nation's schools. But two months ago, responding to orders from White House budget-makers, the Agriculture Department announced it was lowering from 42 to 35 cents the federal subsidy per lunch for every needy child. It was easy to predict the consequences: Lowered participation in the program, or lowered quality of the lunches, or both.

The Senate Agriculture Committee, traditionally conservative, traditionally attuned to getting along with the Department, last month fashioned a bold remedy. With its new chairman, Herman E. Talmadge, a Georgia Democrat, taking the lead, the committee approved a resolution not only setting a new subsidy level of 45 cents per lunch but directing the Secretary of Agriculture to spend whatever funds may be necessary from an import duty over which he has discretion.

With the full Senate having passed the resolution and the House due to act soon, the administration decided to shove back. Now it says it will pay the 45-cents-per-lunch subsidy. But it will tighten eligibility, limiting federal benefits to children from families with incomes no higher than $3,940 a year for four persons. Once again it should be clear what the consequences will be if the decision is allowed to stand. About a half million of the seven million needy children now in the program will be disqualified.

It should be remembered that the prevailing school-lunch law, while setting the $3,940 income figure as an eligibility floor, specifically permits states to raise that figure. Thirty-one states have done so, including, interestingly enough, Talmadge's state of Georgia. And so we have an administration, dedicated to law and order, now seeking to save money by circumventing the law.

Congress, in completing action on the joint resolution, should flatly prohibit the truncation of the school-lunch program. Feeding needy kids should have been an exception all along to the rule of hold-the-line fiscal discipline.

[From the New York Times, Oct. 8, 1971]

FUDGE FOR LUNCH

The Administration is demonstrating a remarkable capacity for missing the point of the school lunch program. Congress has repeatedly made clear that it wants the low-income children of the nation to have lunches available to them, but the Department of Agriculture, looking at budgets rather than children, keep resisting the intent of Congress. Last week the Senate voted to direct the Agriculture Department to reimburse the states more generously than the department's formula announced last summer would allow. Overruling its own Appropriations Committee—a rare gesture in itself—the Senate authorized the temporary use of other departmental funds to expand the lunch program.

Now the Agriculture Department has increased its spending for free and reduced-price lunches but at the same time set a new, low eligibility of $3,940 a year for a family of four. At least thirty states permit children to participate although their families have incomes slightly higher than this. In New York, for example, the eligibility level is set at $4,250.

The effect of the department's bureaucratic maneuver is to cut about one million needy children out of the lunch program. It is a direct blow at the nation's working poor, who have already suffered worst from the inflation of recent years. The Administration has shown how resourceful it is at fudging the hunger issue, but fudge does not make a satisfactory lunch.

[From the Washington Post, Oct. 9, 1971]

TAKING BACK THE LUNCH MONEY

As though involved in a complicated game of football—a long gain made on one play is wiped out by a fumble on the next—the Department of Agriculture increased federal payments to the free school lunch program by $135 million a year but then cut back $47 million by imposing new restrictions on eligibility. It is a positive move that the administration is raising its share in the cost of free or reduced-price lunches for poor children to about 45 cents, even though it was forced to this generosity by the Senate. Pushed away from the table, however, are an estimated one million children; they have the bad luck to be members of families where the income is above $3,940 a year for four persons.

This figure was set as a minimum eligibility requirement by the 1970 National School Lunch Reform Act. States were allowed to help children from families earning more than the minimum; officials realized that these families—earning, say, $4,300 or $5,500 a year—are very much in poverty also and can be hard-pressed for children's lunch money. But these children are now to be cut off; the free lunches will continue only if state and local governments come through, a questionable prospect. Sen. George McGovern, chairman of the Senate Select Committee on Nutrition, aptly said that the administration's shift "robs a poor Peter to help a poor Paul." Of course, this robbing is not the kind usually associated with that unsavory word—a gun stuck in the ribs, an order to fork over the cash. An assistant secretary of the Agriculture Department was quick to express his belief that the new restrictions on eligibility were within the law. Others, including Sen. McGovern, disagree.

While the legal argument goes on, at least 600,000 children, and perhaps double that, are expected to be told, "Sorry, no more food for you." (In the District of Columbia, an estimated 12,000 children might be dropped.) What is a child to think when told this—that the cutback makes sense because the government will save $47 million? Hardly. The children will feel cruelly rejected. The parents will be embittered once again, even more so if they happen to recall the ringing words of President Nixon: "The moment is at hand to put an end to hunger in America . . . for all time." That was said in May, 1969, more than two years ago; apparently, the moment to end hunger is no longer at hand.

A possibility exists that the administration's decision can be reversed or at least eased. The Department of Agriculture is meant only to carry out the law, not make it. Rep. Carl Perkins of the House Education and Labor Committee is hard at work to bring legislative pressure to prevent the elimination of these children from the program. He expects to bring proposals before the House shortly. One can only hope his efforts will succeed.

[From the New York Times, Oct. 15, 1971]

NIXON'S OWN EXPERT CRITICIZES CUTBACKS IN SCHOOL LUNCHES

WASHINGTON, Oct. 14.—The Nixon Administration was sharply rebuked today by a House committee and by its own leading authority on hunger for seeking to eliminate federally subsidized school lunches for possibly 1.5 million needy children.

These were among developments today that strengthened the likelihood that Congress would order the Administration to reverse itself next week.

By a vote of 31 to 0, the House Education and Labor Committee reported out a measure to require such a reversal. The size of the vote was regarded as a strong sign that the House would pass the measure easily when it comes up Monday.

ECONOMY REASONS CITED

And at a Senate hearing an hour earlier, Dr. Jean Mayer characterized the proposed cuts as "mean-spirited." Dr. Mayer is a Harvard nutritionist who has served as President Nixon's special consultant on hunger and as chairman of the White House's 1969 Conference on Nutrition and Hunger.

The cuts were called for, he said later in an interview, by the White House's Office of Management and Budget for economy reasons. "We ought to find better ways to save our money than to take it out of the mouths of hungry children," he said.

The budget office, he said, is pursuing "a narrow, legalistic approach at the meanest possible level."

In a further development, it was learned that at least 50 Senators, including leaders of both parties, had signed a letter protesting the cuts, to be sent to the President tomorrow.

Such breadth of sentiment is taken as a strong indication that the Senate will endorse a House-passed bill in conference, also likely next week.

The Senate has already passed an earlier, different Administration plan to restrict lunch subsidies for needy children.

This plan would have restricted the amount of Federal subsidy for each lunch but left unchanged the number of children served. After the Senate vote, this plan was changed. The per-meal subsidy was increased, but the number of children was reduced.

This prompted angry assertions that the Administration was giving with one hand and taking away with the other.

Such reactions were renewed today in the House committee session. Representative Roman C. Pucinski, Democrat of Illinois, said, "It is amazing the extent to which the

Administration rewrites the intent of Congress. When Congress passes legislation we mean that it should be enforced."

The measure reported out by the committee expressly barred the Administration from reducing the number of children served by the subsidized school lunch program.

According to estimates by the Department of Agriculture, about 600,000 children would be eliminated from the program by the new Federal policy. The Senate Nutrition Committee, however, estimates the total at 1.5 million. The latter figure is in accord with a survey last week by the House committee showing 1.2 million in 39 states.

Of these, an estimated total of 400,000 children would be cut in New York alone. That fact prompted 19 members of the state's House delegation to send a joint letter of protest today to Secretary of Agriculture Clifford M. Hardin.

The House committee also endorsed an amendment, offered by Representative James H. Scheuer, Democrat of the Bronx, requiring reversal of recent restrictions in the school breakfast program. This is a much smaller but rapidly growing program designed for needy children.

Dr. Mayer testified at a hearing of the Senate Nutrition Committee on the desirability of free school lunches for all children. This has been proposed by Senator Hubert H. Humphrey, Democrat of Minnesota.

Dr. Mayer said he thought such a program would cost as much as $7-billion.

"I would hope," he said, "that we are smart enough not to have spent $7-billion to buy lunch for all children in order to reach all needy children.

"But if the [office of management and budget] pressures continue to exercise themselves on the school lunch program with as much mean spirit as they recently have been exercised, they will leave us no recourse but to fight for a universal school lunch program."

The present Federal policy would permit subsidies only to children of families below the federally defined poverty level, now $3,940 for an urban family of four.

"But no one who has followed the issue would have expected the Administration to interpret 'needy' to exclude people who are poor but not quite that destitute," Dr. Mayer said later.

[From the New York Times, Oct. 17, 1971]

SCHOOL LUNCHES: THE SCRIPT CALLED FOR SOME EMPTY TRAYS

WASHINGTON.—National School Lunch Week was marked here last week, and the formalities were scrupulously observed. The President issued the usual proclamation. An elaborate display of child nutrition photographs went up in the Agriculture Department lobby.

But in the eyes of many, these honorifics had ironic overtones. For while the bureaucracy was performing the mindless rituals; the Administration was trying to eliminate as many as 1.5-million needy children—perhaps 400,000 in New York alone—from the most critical part of the school lunch program.

This is the "free and reduced price" component, which now provides Federal funds for subsidized lunches for 7.3-million children, many of whom otherwise would not eat lunch at all.

Thus there was widespread outrage when the Administration pressed a sustained effort to restrict the program. Dr. Jean Mayer, who has served as President Nixon's chief adviser on hunger, said the Administration was pursuing "a narrow legalistic approach at the meanest possible level". An aroused Congress started to weigh in even more sternly.

By a 31-to-0 vote, a House committee last week cleared a bill forbidding the Administration to cut either the number of dollars, or children in the program. A protest letter to the President quickly attracted the signatures of 59 Senators, including the Republican leaders. And there was general expectation that by the end of next week, Congress as a whole will bluntly order the Administration to reverse itself.

The Administration's conduct provoked almost as much astonishment as outrage. For the Administration had pledged to provide subsidized lunches to every needy child—and it has, with Congressional prodding, come close to that goal, doubling the number of children served since it took office in January, 1969. Just last March, the Department of Agriculture greatly liberalized Federal spending for the program.

Then, on Aug. 13, the department announced sudden new cutbacks in its financial support of the program. Since the department had already approved state feeding plans on the liberalized basis, and since schools were just days away from opening, there was turmoil.

Once back from vacation, an aroused Senate quickly ordered the Administration once again to increase spending. And five days later, the Administration announced an ostensible surrender on the financial side. But there was a catch.

Having failed to cut the Federal subsidy per child, the Administration took a new tack. Now it would cut the number of children requiring subsidies, forbidding states to use Federal funds for children of the near poor (which it largely left to the states to define), only permitting their use for the poor (families of less than $3,940 income).

The official rationale was that some states had abused the program, subsidizing children who were not truly needy.

Even critics concede there is a valid question about how far up the income scale the Federal subsidy should reach. But few believe the rationale; making $3,940 the cut-off point for assistance was judged to be an obvious attempt at budget-cutting.

According to one insider's account, the August effort to restrict Federal subsidies came only after White House budget officials refused an Agriculture Department plea for more money.

And the case for cynicism about the second effort at cutting the program is plain junk from the arithmetic, says John R. Kramer, a leading figure in the antihunger lobby. The cost of the August proposal was more children but less money per child—would total $432-million. "Isn't it odd," he asks, "that the second approach—more money but fewer children—also totals out to $432-million?"

Even with legislative relief now imminent, some Congressmen are so angered by the Administration's conduct that they want to deprive it of any discretion and give free lunches to all schoolchildren to insure that all needy children are covered.

Dr. Mayer, among others, opposes this, arguing it could cost $7-billion, only a fraction of which would reach the needy. But, he said last week, if the Administration's budget pressures continue with as mean a spirit, "that will leave us with no recourse but to fight for a universal school lunch program"—even one that costs $7-billion.

[From the Evening Star, Oct. 18, 1971]

PENNY-PINCHING ON HUNGRY KIDS

(By Milton Viorst)

One of the few programs identified with the Nixon administration which can genuinely be called humanitarian is the one promising a nutritional lunch at school each day to every needy child in the country.

President Nixon pledged to meet the aims of this program after the White House Conference on Hunger in 1969. He said feeding the hungry involved "the honor of American democracy." Eliminating hunger was to be in his administration's answer to the Johnson administration's war on poverty.

But while the President has been busily giving away billions to business in questionable subsidies to stimulate the economy, he has been nibbling away at the funds to feed hungry kids.

The tragedy was eloquently summed up the other day by Dr. Jean Mayer, who served as the President's own consultant on hunger at the 1969 conference. He called the administration's penny pinching on school lunches "mean-spirited."

"We ought to find better ways to save our money," Mayer said, "than to take it out of the mouths of hungry children."

Indeed, of an estimated 14 million children of families at or below the poverty line, the administration proposes to feed barely half next year. The question at this point is how tough Congress will get to push the figure up.

Both the Senate and the House have, in fact, shown themselves uncharacteristically generous in the school lunch program. It's not a controversial experiment striking at the roots of political power, as the war on poverty started out to be. Congress has seen in school lunches a chance to help the poor without stirring up the vested interests at home.

The way the program works is that the Department of Agriculture reimburses a school district at a certain rate for every lunch it dispenses to a poor child.

The arrangement means that if a district chooses not to run a lunch program, for whatever reason, the administration does nothing about feeding the kids in that district.

It's an arrangement which gloriously preserves the integrity of the federal system, but it's knocked out about 4 million hungry kids—almost a third of the total—without a crust of bread. It's not surprising, I suppose, that most of the excluded children are black.

The law does provide the administration with incentives to offer to school districts to establish lunch programs, but these have scarcely been used. The Agriculture Department has had enough trouble reducing existing programs. It's not going out looking for more.

This year, on orders of the White House budget-cutters, the Agriculture Department notified the school districts that it would reduce its reimbursement maximum for each lunch from 60 cents to 35 cents.

Nationally, the average cost of a lunch is about 50 cents. States like New York and California, where wage costs are high, exceed this figure considerably. At 35 cents, it's likely that many districts would drop out of the school lunch program entirely.

That's when the Senate stepped in and, despite some hard lobbying by the administration, voted by an astonishing margin of 75 to 5 to increase the rate to 46 cents. The Agriculture Department agreed to the raise, but then announced smugly that at the higher rate it would have to reduce the program to feed only 8 million children.

The House Committee on Education last week went the Senate several steps better—by a vote of 31 to 0. It ordered the department to restore the 60-cent maximum and the previous standards of eligibility, to include all 9 million (Agriculture Department figure) or 10 million (Senate Hunger Committee figure) needy children in the program.

The committee also instructed the department to take the funds out of import duties—and said that Congress would make reimbursement later. The committee margin indicated that the full House was likely to go along.

There may still be a fight to resolve the House and Senate bills—but, whatever the outcome, the administration will have to run a bigger school lunch program than it planned.

The President, of course, will find that regrettable. He thinks the money can be bet-

ter used by Lockheed, Penn Central and the other big businesses that need welfare subsidies.

[From the Washington Post, Oct. 18, 1971]

NIXON ORDERS CLARIFYING OF SCHOOL LUNCH RULES

Responding to an appeal from 59 senators, the White House announced yesterday that President Nixon has ordered the Agriculture Department to "clarify" a controversial set of school-lunch regulations imposed earlier this fall.

"The President has long been committed to the achievement of a program which provides a school lunch to every needy child," Presidential Assistant William E. Timmons said in a letter to the senators. The letter, dated Saturday, was made public yesterday.

The senators asked Mr. Nixon Friday to stop the Agriculture Department from setting "unlawful" guidelines they estimated would cut more than one million children from the federal school-lunch program.

Timmons said Mr. Nixon "has been aware of questions raised concerning the Department of Agriculture's implementation of his policy and has directed the department to immediately clarify its regulations."

The controversy over school lunches began in mid-August when, just three weeks before many schools were scheduled to open, the department set new limits on how much federal help states would receive for their lunch programs.

Last year the federal government paid on a sliding scale that ranged as high as 60 cents for each lunch served for or at a reduced price to needy children.

The new guidelines guarantee 35 cents for such lunches.

[From the New York Times, Oct. 19, 1971]

HOUSE ORDERS NIXON AIDES NOT TO CUT PUPIL LUNCHES—IT PASSES BILL, 353 TO 0, ONLY HOURS AFTER ADMINISTRATION ABANDONS PLAN—MEASURE IS SENT TO SENATE

(By Jack Rosenthal)

WASHINGTON, October 18.—The House, by a 353-to-0 vote, passed legislation today ordering the Administration to abandon its plan to eliminate Federal school lunch subsidies for as many as 1.5 million needy children.

The action came only hours after the Administration, anticipating the sentiment for the House, had announced abandonment of the plan. But its new plan remains somewhat cheaper than that called for by the House.

The bill now goes to the Senate, which has already decisively voted a similar, though narrower, measure. The principal question is whether the Senate will be satisfied with the Administration's new position or order it to accept all provisions of the bill.

Today's revised Administration position came after President Nixon ordered the Department of Agriculture to clarify its subsidized lunch regulations immediately.

This order was disclosed yesterday fn a White House letter to 59 Senators who had written to Mr. Nixon Friday to protest the Administration's proposed cuts.

"The President has long been committed to the achievement of a program which provides a school lunch to every needy child," the response said.

Action by the House came only 12 days after the Administration announced its second effort to restrict Federal lunch subsidies, despite their wide popularity in Congress.

The "free and reduced price" program, a component of the national school lunch program, is designed to provide at least one decent meal daily to needy children. Some 7.3 million are now served.

On Oct 6, the Department of Agriculture announced a new, stricter definition of "needy." Congressional studies showed that this could mean the elimination of 1.5 million children, 400,000 in New York alone.

The House bill forbids the Administration to cut the number of children. It also requires sharp increases in the amount of Federal subsidy for each child.

The prior subsidy level was an average of 35 cents a meal. The bill raises the amount to 46 cents and also directs that this be the minimum subsidy, not the average.

This is one of three principal differences between the bill and the Administration's new position, expressed in revised regulations of the Department of Agriculture. The regulations adopt the 46-cent level, but as an average, not a minimum.

Congressional observers said today that use of an average would be cheaper. Agriculture officials said that use of a minimum would be a departure and extremely difficult to administer.

Even a 46-cent average, however, would mean a jump in Federal spending for the program, from about $390-million to $525-million. The latter figure is "more than 100 times—$4.8 million that was available" three years ago, according to the White House.

A second possible difference is whether the Agriculture Department will go along with states that allow cities to define "needy" children at a higher income figure than the statewide figure.

The question affects 100,000 children in Philadelphia, Newark, Portland, Oreg., and 20 other cities.

Conflicting interpretations of the House bill on this point were expressed on Capitol Hill today. Also, the new regulations are unclear on the issue, Richard E. Lyng, Assistant Secretary of Agriculture, acknowledged. "They will be clarified soon," he said.

A third difference is that the regulations say nothing about the school breakfast program, while the bill undo recent agriculture restrictions. This program now serves about a million children. Mr. Lyng said that breakfast program regulations would be issued separately.

These various issues could be resolved by Congress if the new bill is now sent to a House-Senate conference. But it is possible, Senate informants said, that the House bill may be taken directly to the Senate floor, limiting the possibility for clarifications.

The Senate bill which passed 75 to 5 on Oct. 1, directed the Administration to abandon its earlier plan to restrict the subsidized lunch program. That plan, announced Aug. 13, would have limited the amount of subsidy for each child.

The Senate bill did not refer to restrictions on the number of children covered. The Administration first proposed that plan five days after the Senate vote.

[From the Evening Star, Oct. 19, 1971]

AGRICULTURE BOWS TO CRITICS, ENDS SCHOOL LUNCH CUTBACK

The Agriculture Department's effort to cut costs in the nation's school lunch program for the needy has ended before it began.

Buckling under heavy congressional opposition, a Department spokesman announced yesterday that the new regulations, issued Oct. 6 to take effect yesterday, would be rescinded.

At almost the same time, the House took the first step toward canceling the proposed regulations with a new law. The vote was 354–0 on a bill to set the program back on its previous footing.

The dispute began Aug. 13, when the federal agency published proposed new regulations for reimbursing states participating in thes school lunch program.

TWO ACTIONS INVOLVED

Two actions were involved. First, Agriculture set a poverty-level guide at $3,940 for a family of four, raising it from $3,720 and calling it a ceiling rather than a floor. Thus, states that defined poverty at a higher income level, bringing children into the food program, would be held back.

Second, the department decided that cash assistance to states would be based on a total of 35 cents for each free or reduced-price lunch, instead of 42 cents.

Critics of the department's plan argued that it would deny 1.3 million children free or reduced-cost breakfasts and lunches.

In a state-by-state survey, the House Education and Labor Committee determined that more, not less, federal help is needed. Some 8.6 million children are covered by the program this year, the committee said, an increase of a million over last spring.

ABOUT $511 MILLION NEEDED

In dollars, the need added up to $511 million, the House panel reported. Agriculture had proposed to make $390.1 million available.

The House bill that passed yesterday would bar the federal agency from cutting back and directs that all needy children shall be fed. The minimum rate of reimbursement would be raised to a total of 46 cents per meal. The estimated cost for this year is $615.2 million.

Rep. Roman C. Pucinski, D-Ill., pressed for passage of the bill yesterday despite the change of mind at Agriculture, to assure that there would be no rollback in the future.

The Agriculture Department also got a push from the White House, which had been denounced by Democrats as an enemy of needy children. President Nixon ordered the agency to "clarify" its position. Within 24 hours, the proposed regulations were abandoned.

[From the Washington Post, Oct. 19, 1971]

UNITED STATES DROPS CUT IN SCHOOL LUNCH PLAN

The Nixon Administration, bowing to Congressional pressure, yesterday dropped a regulation that would have eliminated more than one million children from the free school lunch program.

The action came after 59 senators had protested to President Nixon against the cutback and just before the House, by a 353-to-0 vote, ordered that the children not be dropped.

The Agriculture Department announced that it would continue providing federal aid for children declared eligible by the states for free or reduced-priced lunches.

Earlier, in a cost-saving effort, USDA said eligibility would be limited to children from families of four with $3,940 or less income. The estimated saving was $47 million. Members of Congress protested that the 1970 School Lunch Reform Act permitted states to have more generous eligibility requirements.

More than 40 states would have been forced to cut back on the number of poor children eligible.

Officials of the Children's Foundation warned yesterday that the Agriculture Department still might reduce the number of eligible children in about 30 major urban school systems. These are city schools which were permitted by states to have more generous eligibility than state standards. Virginia, for example, has permitted Arlington, Fairfax, and Falls Church schools to have more generous eligibility requirements.

Richard Lyng, assistant secretary of Agriculture, said children will not be dropped if states authorize local school districts to use easier standards.

The House-passed bill, ordering the Department not to cut children from the program, now goes to conference with a similar Senate bill. Both the Senate and House reacted against various proposed changes which would have reduced federal support of the school lunch program. But the administration apparently now has complied with the congressional orders.

[From the Wall Street Journal, Oct. 19, 1971]

ADMINISTRATION CANCELS ATTEMPTS TO PARE SCHOOL LUNCH SYSTEM BY CURBING ELIGIBILITY

WASHINGTON.—The Nixon administration, in the last of several somewhat bewildering maneuvers on school lunch funding, agreed to provide free and reduced-price meals for all children qualified by state programs.

The latest announcement, made through Richard Lyng, Assistant Agriculture Secretary, puts the administration's school lunch plans where critics said they should have been all along. It also leaves uncertain the fate of somewhat different school lunch bills passed overwhelmingly by the House and Senate to force the administration's hand.

Mr. Lyng's major concession was to offer federal support for free and reduced-price lunches eaten by youngsters from low-income families qualified under state eligibility standards but whose incomes exceeded federal poverty guideline figures.

Earlier this month, the department had said it wouldn't accept the state figures for eligibility—a move some estimated would prevent more than one million youngsters, many of them from welfare families, from participating in the program.

The previous announcement was coupled with a retreat from a still-earlier department decision to hold school lunch spending to a figure lower than state and local school administrators had anticipated. In backing off from that position, the administration agreed to boost its outlays in the current year by $135 million above the sum requested in the budget for the fiscal year that began July 1.

The latest concession also promised a guaranteed federal contribution of six cents each to the cost of all school lunches. Previously, the guaranteed figure had been set at five cents. As announced earlier, the government's share of free and reduced-price lunches will be a minimum 40 cents, or 10 cents higher than the Agriculture Department originally proposed. The government estimates the cost of the typical school meal at about 60 cents. Payments by states, localities and school children cover the remainder of the cost.

The final retreat apparently was intended to get the administration out of increasingly hot water with Congress. The latest sign of this displeasure was the 353–0 House vote, taken after Mr. Lyng's announcement, in favor of a bill that would require full funding for the program and support of state-eligible youngsters.

A Senate bill failed to address the state eligibility question, and the difference would have to be reconciled in a House-Senate conference committee. But it isn't certain if school lunch backers in Congress will choose to carry the legislation any further.

[From New York Times, Oct. 21, 1971]

FOOD, NOT PROMISES

The White House statement that "the President has long been committed to the achievement of a program which provides a school lunch to every needy child" would be more persuasive had the Department of Agriculture not persisted in stratagems to bar needy children from the program.

A unanimous House action, joined yesterday in a voice vote by the Senate, has ordered the Administration to abandon plans to tighten school-lunch eligibility requirements. This clearly indicates that Congress has lost faith in White House pledges as long as bureaucratic manipulations continue to undercut them. The extent of the crisis of confidence was underscored when Dr. Jean Mayer, Mr. Nixon's chief adviser on hunger, recently denounced the Administration's action as "a narrow legalistic approach at the meanest possible level."

Apparently, the accountants have been allowed to deal with what is a humanitarian problem. The cost-cutting device is the establishment of a rigid national definition of poverty. Yet, Federal cost-of-living statistics are readily available to show how fallacious such a yardstick inevitably is in practice. It would, for example, cut off about 400,000 children from free lunches in New York because the definition of a poverty-level annual family income here is $290 above the proposed national standard. Agriculture Department staff members evidently have done little comparison food shopping.

Until there is convincing evidence that what the White House claims it is anxious to provide will not be taken away by the Agriculture Department, Congress is justified in its extraordinary action of prohibiting Administration cutbacks. Hungry children cannot eat promises.

[From New York Times, Oct. 21, 1971]

PUPIL LUNCH BILL IS SENT TO NIXON—SENATE, LIKE HOUSE, PASSES MEASURE UNANIMOUSLY

(By Jack Rosenthal)

WASHINGTON.—The Senate passed today by unanimous voice vote legislation forbidding any cuts in federally subsidized school lunches for needy children. The measure, approved Monday by the House, 353 to 0, now goes to the President.

Particularly in view of Congressional unanimity, the President is thought sure to sign the legislation. New Department of Agriculture regulations, reflecting the Congressional mandate, would follow within a matter of days, officials said.

These would end a heated controversy that began Aug. 13 when the Agriculture Department issued regulations to limit the amount of Federal subsidy for each needy child. When that step was challenged by Congress, the department announced, on Oct. 6, a plan to limit, instead, the number of children eligible to receive subsidies.

On Monday, hours before the House vote, the Agriculture Department announced a substantial reversal. It said that it would no longer seek to limit the number of children and would increase, to 46 cents, the average subsidy for each meal.

But the measure now enacted by both houses requires that the 46-cent subsidy be a minimum, not an average. This will cost at least somewhat more. How much more, officials could not estimate today.

AIDED 7.3 MILLION PUPILS

The present program of free and reduced-price lunches serves 7.3 million children. The current budget is $390-million. The Administration has estimated that it will cost $525-million, assuming a 46-cent average.

On the issue of eligibility, the new legislation forbids the Administration to change present standards during the current fiscal year. This means that children who are near-poor, as well as those whose families' income is less than the official poverty level, will continue to be served.

These near-poor children would have been eliminated by the earlier Administration plan. Congressional estimates put the number in jeopardy at 1.5-million, 400,000 in New York alone.

Before the Senate vote, Senator Herman E. Talmadge, Democrat of Georgia, sought to clarify an eligibility question left ambiguous in the House.

Some states permit individual cities to define needy children at a higher income figure than the statewide average. If this was eliminated, 10,000 children would be affected.

But it is his understanding, Senator Talmadge said in response to questions on the floor, that the legislation prohibits elimination of this procedure during the current fiscal year.

SEPARATE GUIDELINES

The new measure also calls for the Administration to lift recently proposed restrictions on subsidies for school breakfasts, a smaller but growing program. The Agriculture Department, in its reversal statement Monday, did not refer to this program. Officials say that separate guidelines are expected.

The new agriculture position came after President Nixon, responding to a letter of protest from 59 Senators, ordered the department to "clarify" its position.

In a statement on the floor today, Senator Talmadge took note of the change, saying that he was "pleased that the Department of Agriculture finally yielded on most issues."

"However," he continued, "the schoolchildren of the country deserve a final answer. They deserve to know whether they are going to receive free lunches during this school year."

[From the Washington Post, Oct. 22, 1971]

THE FREE LUNCH REVERSAL

In a burst of candor, a Department of Agriculture officials concerned with food and nutrition testified recently in Senate hearings that one way to move his agency is by Richard Lyng, an assistant secretary, "would perhaps force our hand, force us to move more quickly than we might otherwise do." This appears to be exactly what happened this week concerning the free school lunch program. Two weeks ago, the Department of Agriculture issued a regulation that would have prevented more than one million children from continuing to receive free school lunches. More than 40 states would have been forced to cut back the number of poor children eligible; the department would have saved $47 million. Quickly, the Senate and House acted. Fifty-nine senators protested directly to the President; the House, by a 353–0 vote, ordered that the children not be dropped.

This is hardly the ideal way to run a department, much less a food program—force us and we'll do it. Nor does it suggest that the administration's concern for poor children is especially high. But after the politics of it all is put aside, at least now the children will be fed. From their viewpoint—to look at it that way, for once—it matters little who came to their rescue, but only that someone in Washington did. Both Congress and the Department of Agriculture can take praise for the new policy.

It remains unclear at this moment whether the department will permit states to authorize their local subdivisions to have more generous eligibility guidelines. In Virginia, for example, the state uses the $3,940 guideline but has allowed Arlington, Fairfax and Falls Church to provide free lunches to children in families of four with less than $4,940 income and reduced-price lunches to families of four with less than $5,350 income. Now that the broad stroke of reform has been made, it is hoped these smaller—but no less crucial—concerns will be attended to by Agriculture officials.

Considering the knot in which the food lunch program is tied—Congress pulls this way and Agriculture the other, with the helpless children caught between—the time is right to begin thinking about a universal free school lunch program for all American children. Senator Humphrey and Representative Perkins have introduced legislation. The idea has merit for several reasons: first adequate nutrition is as much a part of education as adequate books and, second, if all children were to receive free lunches, the Agriculture Department would not have to solicit pressure upon itself before it can swing into action. That in itself would be a considerable gain.

[From the Washington Star, Oct. 22, 1971]

OUR CHILDREN AND THE ADMINISTRATION'S SCROOGES

(By Carl T. Rowan)

We go on placing our faith in F14 fighters, B70 bombers and new generations of missiles, but it must be obvious to most Americans that this country cannot be any stronger in the year 2000 than the Americans who are today's children.

It is appalling and inexplicable, then, that a government that talks so much about "national security" should foster so many rules and regulations that cheat and stunt the development of this generation of children.

Whether it is adequate medical care, lunches for the needy or the general welfare of millions of dependent children, the bureaucracy keeps coming up with penny-pinching measures designed to make children suffer even while adult fatcats go on enjoying governmental largesse.

It now looks as though millions of needy schoolchildren will get hot lunches this year, but no thanks to the scrooges in the Nixon administration.

For weeks someone in the Department of Agriculture, the Office of Agriculture, the Office of Management and Budget or the White House had been playing a game of now-you-see-your-lunch, now-you-don't. In August, Agriculture came up with new rules which reduced federal subsidies for each lunch served. This provoked a storm of protests from educators who said 1.9 million needy children would be excluded from the program.

There was a lot of hemming, hawing, excuse-making, and finally a Senate hearing. Agriculture officials claimed they were doing the best they could with the money they had. But angry senators pointed out that the department had gotten every cent it requested—and then some. They made clear that if there was a lack of money, it was because the administration had not wanted to spend enough.

The Senate was so upset that it bypassed its Appropriations Committee and quickly voted, 75 to 5, to authorize the administration to borrow enough money from another source to raise federal assistance by 11 cents per lunch.

Did Agriculture say, "Thanks, we're glad to have this extra help, and we'll use it to feed more children"? No, sir. They promptly changed the rules again. They increased federal support payments from 35 to 45 cents, but then turned around and lowered the eligibility ceiling for free lunches to $3,940 annual income for a family of four. Some 40 states had been using higher levels, so the result of this action was that an estimated 1.5 million of the near-poor stood to lose their free lunches.

Again, Congress came to the rescue. Fifty-nine senators shot off a letter of protest to President Nixon, and the House of Representatives voted, 353 to 0, to order the administration to abandon its latest restrictions. Faced with that kind of opposition, the Department of Agriculture backed down.

The disturbing thing is that Agriculture should try to "save money" by taking food out of the mouths of hungry children—and just two years after the celebrated White House Conference on Hunger and Nutrition which brought forth a pledge by President Nixon to wipe out hunger in America.

The dismaying thing is that anyone deemed worthy of public trust would try to take lunch away from needy pupils in a country that just shelled out $3.7 billion in farm subsidies, including millions paid for not growing food.

In 1970 the Sunflower County, Mississippi, plantation of Sen. James O. Eastland got $164,048 in subsidies from that same Agriculture Department that wanted to take bread out of the mouths of babes (a department that Eastland oversees, by the way, as a senior member of the Agriculture and Forestry Committee).

What kind of country is it that will pay $500,000 or more in subsidies to each of 23 farmers but can't find milk, meat and bread for hungry children who are in no way responsible for their plight?

Let the record show that our country has made progress in the four years since a Senate committee turned a grisly spotlight on the sick and hungry in urban ghettos and pockets of rural poverty like Appalachia.

Food stamps and surplus commodities are helping to feed twice as many people as at the time of that White House conference. The school lunch program provides free or reduced-price lunches for more than 7 million youngsters now, compared with 3 million 2 years ago.

But there are still millions of American adults who are ill-fed and ill-nourished. Millions of children still cannot learn because they go to school hungry and return home hungry. Recent Senate testimony illustrated that malnutrition is still so serious among migrant workers that some of their children suffer from marasmus, scurvy and rickets.

So this clearly is no time to rest on the laurels of what progress has been made—and surely no time for Agriculture to throw a million or more children back into the jaws of hunger.

A recent Senate witness warned that "hunger hasn't gone away; only the issue of hunger has."

The nation's needy children can be grateful to Congress for illustrating forcefully that the issue is not as dead as someone in the Agriculture Department thought.

[From the Washington Post, Nov. 14, 1971]

LUNCH FUND TO CONTINUE AT 1970 LEVEL

The Agriculture Department has announced new spending regulations for the school lunch program similar to last year's level—three weeks after Congress ordered it to stop trying to cut back the program.

The department says the new rules won't go into effect until they are officially published next Wednesday.

Sources involved in the three-month battle over school lunch funding said the regulations seem to conform to the instructions passed unanimously by both houses of Congress in mid-October.

In a news release, the department said the new rules provide federal payments averaging six cents in every state for each school lunch served under the program.

Also, the department will pay a minimum of 40 cents for reduced-price lunches served to needy children, and a 60-cent minimum for free or reduced-price lunches served to the "especially needy."

In no case, the department said, will the federal payment be more than 60 cents, or more than the cost of the lunch.

[From the Washington Post, Nov. 21, 1971]

F.Y.I.

"I believe that what I have had to say will stand the scrutiny of rational examination, whether or not one agrees with the point of view presented."—Vice President Spiro T. Agnew, in a speech at Miami Beach, Nov. 3, 1971.

Not being among those who regularly agree with the point of view of the Vice President, we probably subject what he has to say with more scrutiny than most people, especially when he is talking about us. You could call it masochism, but it has its rewards—when you discover the level of accuracy and the degree of integrity which Mr. Agnew brings to his self-appointed role as Inspector General of the media you can't help feeling just a little bit better about your own work. For example, there is the Vice President's recent tantrum about two quotations—one from a book review in this newspaper and one from a review of the same book ("Our Gang," by Philip Roth)—in Newsweek—both of which alleged that the Nixon administration had planned to eliminate free lunches for 1.5 million poor children. Mr. Agnew called this a "distortion" and a "misrepresentation" and a "propaganda *canard*" (which is an elitist way of calling something a lie) and by way of trying to prove his point he went on to assert "the facts of the case"—that the number of needy children receiving free lunch under federal programs will have increased from 2.8 million, when Mr. Nixon took office, to 8 million by the end of the current fiscal year. Now, this is fair enough and may even turn out to be accurate. But it also has absolutely nothing to do with the two quotes from The Washington Post and Newsweek which Mr. Agnew took exception to, and strictly For Your Information we would like to set the record straight.

What the Post book review said was that Mr. Nixon had "wanted to eliminate lunches for 1.5 million presumably needful schoolchildren, a proposal his own nutrition expert called 'mean-spirited' ". (Understandably, Agnew severed that last part of the sentence, for it is a fact that Mr. Jean Mayer, the former White House consultant on nutrition who was appointed by Mr. Nixon to run the 1969 White House Conference on Hunger, did characterize the Nixon administration's approach to the school lunch program in just those words.) For his part, Newsweek's book reviewer made a glancing reference to "the administration's plans to deprive a million and a half children of meals in school." Now the truth of the matter is that both of these allegations are beyond dispute; one might quibble over the precise number of children involved, but it is a fact that last month the Agriculture Department issued new regulations lowering the annual family income figure which defines "poverty" for the purpose of qualifying for free school lunches, and nobody questions that as many as 1.5 million children would have been lopped off the rolls under the new guidelines. This was not an idea under consideration, mind you; it was actually decided and publicly announced. And it was only *undone* after a howl of outraged protest from Congress, including a letter to the White House from 59 senators, Republicans as well as Democrats, who urged the President to "intervene in this situation immediately and to prevent what we must consider an unlawful interpretation (of the law) which was passed by the Congress and signed by you as a fulfillment of our pledges to put an end to hunger in America's schoolrooms." Bowing to this pressure, the Agriculture Department reversed itself. That in brief, is what we would consider to be a "rational examination" of the facts of this case and you may judge for yourself who was engaging in propaganda and dealing in "canards."

EXTENSION OF NUTRITION COMMITTEE

Mr. PERCY. Mr. President, the Senate Select Committee on Nutrition and Human Needs has decided unanimously today in its executive session to extend its life for another year.

The decision of the committee was made in light of its accomplishments during the past legislative year. The committee has performed, in my estimation, invaluable work in the area of bringing adequate nutrition to all Americans. Furthermore the committee played

a key role through its oversight function by being the focal point for initiatives of administrative action in the food stamp and school lunch areas.

The achievements of the committee are manifold; but, more important, much work remains to be done in the field of nutrition education, in revising our national approach to child feeding, in developing new ideas for institutional feeding, and in insuring that all the feeding programs are carried out adequately. I hope that Senators will see fit to renew the important work of this committee for another year.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the immediate past chairman of the White House Conference on Nutrition, Health, and Food.

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

JANUARY 26, 1972.

HON. CHARLES H. PERCY:
Ranking Minority Member, Senate Select Committee on Nutrition and Human Needs, U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: I wanted to take this opportunity to again commend you for the fine work of the Select Committee in the past year, and to urge that the Committee be continued in able to fulfill the objective of eliminating hunger and malnutrition from the nation.

Clearly, the Select Committee has important work still to do. In the area of malnutrition and poverty alone, we have not yet achieved the nation's stated commitment to ensure every poor family an adequate diet. Despite the expansion of the food stamp program, there are still millions of poor families not receiving badly needed food benefits. Although the national school lunch program now reaches over seven million poor children, there are still at least three million children being left out.

These are only the most important highlights of the Committee's remaining responsibilities. There is still the relationship of the family food programs to welfare reform to be resolved. We must be sure that whatever welfare reform program is finally enacted, that sufficient income or other means is provided for adequate nutrition. Another important area for consideration is the consumer nutrition issues which affect all American families but especially affect the ability of low-income families to purchase adequate diets. These issues include nutrition and ingredient labeling, unit pricing and open dating of food stuffs. An additional area of concern, not previously addressed by the Committee, might also be seriously considered. That is the area of institutional feeding, especially in homes for the elderly and the retarded.

In short, I applaud the past contribution of the Select Committee toward the health and well-being of all our people, and urge that contribution be continued.

Sincerely,

JEAN MAYER.

SENATE RESOLUTION 242—SUBMISSION OF A RESOLUTION RELATING TO THE RECOGNITION BY THE UNITED STATES OF BANGLADESH

(Referred to the Committee on Foreign Relations.)

Mr. McGOVERN submitted the following resolution:

S. RES. 242

Whereas the people of East Bengal have clearly indicated a firm decision, following a tragic and costly civil war, to become an independent nation called Bangladesh;

Whereas the citizens of that newly formed nation have confirmed Shiekh Mujibur Rahaman as their Prime Minister;

Whereas the government of Bangladesh is an effective government in its own country and in a position to meet all of its responsibilities and obligations: Now, therefore be it

Resolved, That it is the sense of the Senate that the President should recognize Bangladesh as an independent country, should recognize the government of Bangladesh, and should commence negotiations leading to the establishment of diplomatic relations between the United States and Bangladesh, and that the President take appropriate steps toward securing funds to be channeled through multi-lateral agencies for the resettlement of the refugees and the rehabilitation of the country.

SENATE RESOLUTION 243—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF THE REPORT ENTITLED "REPORT TO THE PRESIDENT AND CONGRESS ON NOISE" AS A SENATE DOCUMENT

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 243

Resolved, That the report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with Sec. 402 (b) of Title IV, PL 91-604), entitled "Report to the President and the Congress on Noise" be printed with illustrations as a Senate document.

Sec. 2. There shall be printed two thousand five hundred (2,500) additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 244—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs, reported the following resolution:

S. RES. 244

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1972, through February 28, 1973, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1972, through February 28, 1973, to expend not to exceed $577,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $172,000 shall be available for a study or investigation of—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within legislative jurisdiction of the committee.

SEC. 4. Not to exceed $175,000 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. Not to exceed $230,000 shall be available for an inquiry and investigation pertaining to the securities industry.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1973.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 203

At the request of Mr. HATFIELD, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of Senate Resolution 203, to establish American fishing industry representation at the 1973 United Nations Law of the Sea Conference.

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from South Dakota (Mr. McGOVERN), the Senator from Missouri (Mr. EAGLETON), the Senator from Vermont (Mr. STAFFORD), the Senator from North Dakota (Mr. BURDICK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Alabama (Mr. ALLEN) and the Senator from Georgia (Mr. GAMBRELL) were added as cosponsors of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be immediately released by the Office of Management and Budget.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 33

At the request of Mr. BROCK, the Senator from North Dakota (Mr. BURDICK), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Concurrent Resolution 33 regarding the persecution of Jews and other minorities in Russia.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENT NO. 829

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

Mr. ERVIN (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 830

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

Mr. CHILES submitted an amendment intended to be offered by him to the bill (S. 2515), supra.

AMENDMENT NO. 833

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

Mr. GAMBRELL submitted an amendment intended to be offered by him to the bill (S. 2515), supra.

AMENDMENT NO. 834

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

Mr. HRUSKA submitted an amendment intended to be offered by him to the bill (S. 2515), supra.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 831

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

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families and for other purposes.

AMENDMENT NO. 835

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

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 1), supra.

AMENDMENT NO. 836

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

Mr. PERCY (for himself, Mr. MATHIAS, Mr. MONDALE, Mr. NELSON, and Mr. SAXBE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1), supra.

AMENDMENT NO. 837

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

Mr. PERCY (for himself, Mr. CASE, Mr. HART, Mr. HUMPHREY, Mr. MATHIAS, Mr. NELSON, Mr. PELL, and Mr. SAXBE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1), supra.

AMENDMENT NO. 838

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

Mr. PERCY. Mr. President, on behalf of myself and Senators CASE, PACKWOOD, PASTORE, BAYH, COOK, JAVITS, SCOTT, and STEVENS, I am reintroducing today my emergency welfare relief proposal, revised according to White House agreement, as an amendment to H.R. 1 to bring States much needed interim fiscal relief from sharply increased welfare costs until such time as welfare reform legislation is enacted by Congress.

I had previously introduced this proposal, on November 17, as an amendment to the Revenue Act of 1971. During the course of the debate, I withdrew my amendment after gaining commitments from the administration, Senator LONG, and Senator RIBICOFF that they would each support emergency welfare relief in principle, insuring the inclusion of interim fiscal aid provisions as a part of any welfare reform program to be voted by the Senate.

I am very happy to note the growing support in Congress for relieving States of their immediate welfare cost problems. Senator RIBICOFF's introduction of the welfare fiscal relief amendment proposed in the House by the chairman of the Ways and Means Committee, WILBUR MILLS, and the Congressman from my State, GEORGE COLLINS, is a welcome addition.

However, I am not happy with two aspects of the Mills-Collins-Ribicoff amendment. Their amendment would neither protect welfare recipients from benefit cutbacks nor would it insure any element of cost control by limiting Federal reimbursements.

Therefore, I hope that whatever emergency welfare relief proposal is accepted by the Senate will include the essential features of my amendment: Protection of States from the rising costs of welfare; protection of welfare recipients from cutbacks; and Federal reimbursement based on the specific welfare costs and case needs of each State, closed ended to insure welfare cost control.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 838

At the end of title V of the bill, add the following new part:

PART F—FISCAL RELIEF FOR STATES WITH RESPECT TO STATE PUBLIC ASSISTANCE PROGRAMS

FISCAL RELIEF FOR STATES

SEC. 551. Title XI of the Social Security Act (as amended by sections 221 (a), 241, 505, 542 (10), and 512 of this Act) is further amended by adding at the end thereof the following new section:

"FISCAL RELIEF FOR STATES

"SEC. 1126 (a) The Secretary shall, subject to subsection (c), pay to any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) which has a State plan approved under title I, X, XIV, or XVI, or Part A of title IV, of this Act, for each quarter beginning after June 30, 1971, in addition to the amounts (if any) otherwise payable to such State under such title on acocunt of expenditures as cash assistance, an amount equal to the excess (if any) of—

"(1) an amount equal to the lesser of—

"(A) the amount of the non-Federal share of the expenditures, under the State plan approved under such title or such part A (as the case may be), as cash assistance for such quarter (not counting any part of such expenditures which is in excess of the amount of the expenditures which would have been made as cash assistance under such plan if such plan had remained as it was in effect on June 30, 1971) or,

"(B) an amount equal to 120 per centum of the amount referred to in clause (2), over

"(2) an amount equal to 100 per centum of the non-Federal share of the total average quarterly expenditures, under such plan, as cash assistance during the four-quarter period ending June 30, 1971.

"(b) For purposes of subsection (a), the non-Federal share of expenditures for any quarter under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of this Act as cash assistance, referred to in subsection (a)(1), means the excess of—

"(1) the total expenditures for such quarter under such plan as, respectively, (A) old-age assistance, (B) aid to the blind, (C) aid to the disabled, (D) aid to the aged, blind, or disabled, and (E) aid to families with dependent children, over

"(2) the amounts determined for such quarter for such State with respect to such expenditures under, respectively, sections 3, 1003, 1403, 1603, and 403 of this Act and (in the case of a plan approved under title I or X) under section 9 of the Act of April 19, 1950.

"(c) No payment under this section shall be made for any quarter to any State on account of expenditures, as cash assistance, under a State plan of such State if—

"(1) the standards, under the plan, for determining eligibility for, or the amount of, cash assistance to individuals under such plan have been so changed as to be less favorable, to all (or any substantial class or category) of the applicants for or recipients of such assistance under the plan, than the standards provided for such purpose under such plan as in effect on June 30, 1971, and

"(2) the amount of the non-Federal share of the expenditures, under such plan, as cash assistance for such quarter is less than 150 per centum of the non-Federal share of the expenditures, under the State plan, as cash assistance for the quarter ending June 30, 1971."

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1972—AMENDMENT

AMENDMENT NO. 832

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

Mr. KENNEDY. Mr. President, on behalf of myself and the Senator from Michigan (Mr. HART), I submit an amendment to the foreign aid appropriations bill.

Mr. President, I am dismayed that the Committee on Appropriations thought it necessary to cut the appropriation request for migration and refugee assistance, and to recommend the elimination of the U.S. refugee program for Europe. Over the years this program has effectively carried out our Nation's humanitarian concerns in Europe, and today is serving as a primary channel in our country's effort to assist Soviet Jews permitted to leave their homeland and re-

settle elsewhere. The anticipated number of persons who will be assisted by the U.S. refugee program this year is 70,000—of whom some 40,000 will be Jews from the Soviet Union and other countries in Eastern Europe. To scrap this humanitarian program now would have a disastrous effect on the international machinery to facilitate their migration and resettlement, and would bring needless hardship to those many thousands who have waited so long to join their relatives and friends overseas.

I am extremely hopeful that the Senate will support this amendment.

ANNOUNCEMENT OF HEARINGS BY DISTRICT OF COLUMBIA COMMITTEE

Mr. MATHIAS. Mr. President, on behalf of the chairman of the Committee on the District of Columbia and myself, I wish to announce that a public hearing will be held at 9:30 a.m., February 4, 1972, in room 6226, New Senate Office Building, on H.R. 9580, a bill to authorize the Commissioner of the District of Columbia to enter into agreements with the Commonwealth of Virginia and the State of Maryland concerning the fees for the operation of certain motor vehicles. Persons wishing to present testimony before the committee should contact Mr. Robert Harris, staff director of the District of Columbia Committee, room 6222, New Senate Office Building, before the close of business on February 2, 1972.

NOTICE OF HEARING ON OFFENDER REHABILITATION ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 2732, the Offender Rehabilitation Act, beginning at 10 a.m., on February 3, 1972, in room 6206 of the New Senate Office Building.

The purpose of this legislation is the quieting of old criminal records that serve as a barrier to the employment of rehabilitated first offenders. I believe it represents a vital step needed to begin facing the problem of recidivistic crime in our Nation.

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

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

ADDITIONAL STATEMENTS

FLAMMABLE FABRICS

Mr. MOSS. Mr. President, the editorial in the February issue of Consumer Reports concerning the intolerable delay from congressional passage of the 1967 Flammable Fabrics Amendment until the effective date of a flammability standard for children's sleepwear demonstrates the urgent need for the passage of legislation to create a Consumer Safety Agency as we have proposed in the committee print of S. 983.

Government performance in this field has been shoddy. The epidemiological data compiled by the Department of Health, Education, and Welfare is barely adequate. The prolonged delay by the Department of Commerce in issuing the sleepwear standard is lamentable, but even more critical, the total absence of regulations concerning stockpiling of goods before the effective date of the standard, July 1973, demonstrates a lack of comprehension of the marketplace.

I would not be so much concerned were it not for the poor job of the sleepwear manufacturers in complying with the standard. But now, more than a year after the Department of Commerce proposed its testing protocol, CU found that only one out of 76 models of children's sleepwear could meet the Commerce Department's flammability standard. With initiative like this we cannot but assume that the sleepwear industry will not make a single garment to comply with the standard until July 31, 1973. Even at that date, what with hand-me-downs and the stockpiling of inventories, there will probably be a large number of unprotected children until 1975 or 1977.

We need a Consumer Safety Agency, an agency manned by dedicated individuals, serving in the public interest, free of all conflicts, and technically capable of fulfilling the challenge of consumer product safety, which confronts the American people. The chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. MAGNUSON), and I have pledged ourselves to the creation of just such an agency.

Mr. President, I ask unanimous consent that the text of the Consumer Reports editorial and the statement of Betty Furness on behalf of Consumers Union be printed in the RECORD.

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

CHILDREN'S FLAMMABLE SLEEPWEAR

Last July, partly on the basis of reports compiled by the Department of Health, Education and Welfare, the Secretary of Commerce promulgated a new flammability standard for children's sleepwear. HEW studies had shown that, among victims of accidentally ignited nightclothes, children under six years old constituted an unusually high percentage. Stiffer standards, it was hoped, would reduce the incidence of those tragic accidents.

Even though the new standard is limited to the protection of children, its promulgation was a big step in the right direction. But a disturbing fact is that manufacturers of children's sleepwear are permitted to sell their present wares, as is, until next July. During the following year, children's sleepwear that doesn't meet the standard may be manufactured and sold if it's labeled: "Flammable. . . . Should not be worn near sources of fire." After July 1973, the law is supposed to take full effect. Even then, however, highly flammable goods of this type may be sold if they were manufactured before the cutoff date. In other words, it will have taken five years after Congress called for action in its 1967 amendment to the Flammable Fabrics Act, and two years or longer after a standard was promulgated to "protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage."

That's a long delay. But then it occurred to us that perhaps sleepwear manufacturers, having been forewarned long ago by the 1967 Congressional action, might be already striving to comply voluntarily with the new standard promulgated last year. To check, we conducted a shopping survey in the New York City area. We bought 76 models of children's sleepwear in sizes up to 6X (the largest size covered by the standard, although this is a matter of some confusion because sizing nomenclature varies throughout the industry). No model was labeled as flammable. Only one brought up the issue of flammability on its label; it was, to give it its complete designation, the *Sears Perma-Prest Flame-Retardant Gown of Cotton Flannel, Cat. No. 3326.*

All samples were tested for flammability according to the Government-prescribed procedure. Basically, the test sets limits to the char lengths of suspended specimen swatches exposed for three seconds to a controlled flame. It also sets limits to the time material fallen from the samples may continue to burn after the flame has been removed.

Seventy-five of our 76 samples failed the test. The one that passed was the *Sears 3326.*

The initial reaction of industry spokesmen to the standard the Secretary of Commerce proposed was negative. They contended that they could not meet the July 1973 deadline. They referred to the difficulty of obtaining satisfactory test results and the need for more time to develop flame-retardant sleepwear. CU's tests, of course, produced remarkably uniform results: all samples failed the flame test on the first try except the *Sears 3326;* it passed five times in a row.

As for the need for more time to develop fire retardant sleepwear, the Secretary of Commerce, presumably on considered advice, determined that two years was time enough. And, again, the *Sears 3326* is tangible evidence that the technology already exists in at least one form.

Some concern was also voiced that the imposition of stricter standards would greatly increase the price of children's sleepwear. Obviously, flame-retardant treatment costs more than no treatment at all, but the added expense needn't be exorbitant. The *Sears 3326,* listing at $3.69 plus shipping, was approximately in the middle of the price range of the *Sears* models we tested—and none of the more expensive models passed the flame test.

As of this writing, however, the industry appears to be having second—and more constructive—thoughts. The American Apparel Manufacturers Association proposed on December 13, 1971, to move forward the date for full compliance with the standard for children's flame-retardant sleepwear from the required July, 1973 date to April, 1973. In addition, the association indicated that, with some amendments to the proposed standard, it would be possible to eliminate the planned one-year grace period scheduled to begin July 1, 1972, during which manufacturers could sell flammable garments providing they were so labeled. As we go to press, we have not had an opportunity to evaluate the amendments the association has proposed, so we cannot judge whether they may have significantly weakened the proposed standard or not. If they have and if their amendments are implemented, we'll have more to say on the subject later.

But until the standard takes effect, what is the safety-conscious parent to do? Wait, for one thing. If everything goes according to schedule, flammable children's sleepwear

should be either identifiable starting next July or off the market. In the interim, all we can do is offer a few morsels of advice (in addition to the obvious one of keeping children away from sources of flame). Consider the *Sears 3326*, the only model we found that was satisfactorily flame-retardant. In lieu of that, give preference to tight-fitting nightclothes; they should ignite and burn less readily than billowing garments, which permit air to reach the fabric from both sides.

We don't know how many models of children's sleepwear are on the market. There are virtually countless combinations of styles, fabric compositions, sizes, patterns and colors—all of which may, in one way or another, have an influence on flammability. But if our sampling is at all respresentative of sleepwear marketed on a national scale, we'd say that the chances of buying at random models that now meet the Government flammability standard are mighty slim indeed.

STATEMENT BY BETTY FURNESS ON BEHALF OF CONSUMERS UNION [1]

Ladies and gentlemen, we are here today because Consumers Union, the nonprofit publisher of *Consumer Reports* magazine believes that there is no excuse for the problem of flammable fabrics to exist as it does today.

Although the first Flammable Fabrics Act was passed in 1953—nearly two decades ago—the February issue of *Consumer Reports* will reveal that Consumers Union tests of children's sleepwear showed that our children are still being dressed in unnecessarily flammable sleepwear.

And the problem doesn't stop there—it includes draperies, mattresses, bedding and upholstered products.

We are here today because we believe industry has shown pathetic little evidence of progress in marketing flame retardant consumer products.

We are here to call on our government—and specifically the Secretary of Commerce—to use the power Congress has provided—power to provide the industry with clear directions for acting promptly in the interest of public welfare on the full range of dangerously flammable fabrics.

And we are also here to demonstrate to our fellow consumers the extent of the problem so that they may become informed allies in the fight for a more active response from government and industry.

The problem is really far greater than most of us might imagine. By official government estimate, some 3,000 persons are burned to death every year by fires associated with the clothing they wear. Another 150,000 are injured.

And, the statistics show that relatively more victims are children. Many are elderly. These are two groups that are distinctly unable to fend for themselves.

Take the example of the 5-year-old boy who tipped over a candle. That innocent child paid for the accident with 60 days in the acute burn ward of a Boston hospital, then another 42 days in an intensive care tent. With repeated skin grafts, he is making a physical recovery. But what about the mental scars?

No wonder the child's father had this to say:

"The people in power leisurely debate (the subject of flammability) as though they were deciding a change in the rules of gin rummy. That they are so detached is almost as shocking as the sight of a burned child."

And that brings us to the crux of the reason why we are here to show you the results of procrastination and neglect.

Let me give a brief history which shows what we mean. The first Flammable Fabrics Act in 1953 was in response to sweaters which virtually exploded into flame when touched by a spark. The law prohibited only wearing apparel like the so-called "torch sweaters" and exempted more than 99 percent of the fabrics and garments on the market.

Nearly 10 years later, in 1963, the Federal Trade Commission sought to extend the definition of the 1953 law to include infant's receiving blankets. Industry pointed out that the FTC did not have legal authority to proceed along these lines.

In 1967 President Johnson called for immediate action to strengthen the Flammable Fabrics Law—both to improve the old flammability standards and to keep pace with technological developments.

As my first official act as the President's consumer affairs advisor I testified before Congress and urged extension of the law's coverage. I thought it should include a variety of flame-prone consumer-purchased textile products such as draperies, carpeting, bedding.

As a result of the Johnson-Administration appeal, the Secretary of Commerce was given broad administrative powers to promulgate new definitions of flammability and to establish rules for all manner of consumer-purchased textile products, not just wearing apparel.

Unfortunately, these 1967 Amendments to the law did not themselves upgrade the flammability standards. They left all that up to the Secretary of Commerce.

Since then—and largely on the urging and presentation of test results by Consumers Union—the Secretary of Commerce has set forth two carpet flammability standards. For the record, Consumers Union considers them only first-generation standards needing considerable revision.

The only other action that has been completed since 1967 has been in the area of children's sleepwear. In November 1970, the Secretary of Commerce granted formal recognition to the need for a standard to cover children's sleepwear. Some eight months later, he proposed a standard.

While we feel the definition of flammability it imposes is adequate, we feel the provisions under which it will go into effect simply are not.

For one thing, it only affects sleepwear up to size 6-X, which is what a big 5-year-old might wear. For another thing, sleepwear doesn't have to meet the flammability standard until July 1973. And even then it can continue to be sold, just as long as it was manufactured before July 1973.

All that is required is that any sleepwear produced after this July, must be labeled that it is flammable.

So what we are saying is that a year and a half from now, by law, some of our children's sleepwear will finally be flame retardant. According to the law, flammable sleepwear that is produced between July 1972 and July 1973 must carry a permanently affixed label. We have a sign here showing the wording specified by the Commerce Department:

"Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3–71.) Should not be worn near sources of fire."

I'd like to make one special point about the labeling regulation as it is presently stated. It is *negative* labeling. You are only told if a garment is flammable. Suppose there is no reference to flammability on a pair of pajamas or a nightgown? As the rules stand now, later this year you will have no way of knowing if the garment *is* flammable, but manufactured before July 1972.

CU believes that until the law takes full effect all flame-retardant children's sleepwear should *also* be labeled. Those which meet the Department of Commerce standard should state on the label "Flame-Retardant."

Action, it's said, speaks louder than words, so let us show you what we mean when we talk about flammable sleepwear . . . and then let us show you one that does not burn.

This is not, and I repeat, *not* the way these products are tested in our laboratory. The test procedure calls for a gas flame to be applied to the fabric for three seconds. We will be applying the candle for that length of time. We believe this is an accurate reflection of the laboratory standard put into a real-life situation.

(Demonstration.)

The last test sample is *the one* of 76 different brand/models we recently tested for a February *Consumer Reports* article that passed the government's flammability standard. Because of time limitation, this demonstration sample was not washed, but those samples of the product tested in our laboratories were washed the 50 times specified by the standard test procedure.

Now, the industry has said it would be an intolerable hardship to force it to mass produce flame-retardant sleepwear; that the flame-retarding additive would alter the feel of the fabric and make it unattractive to consumers; that the process would be so expensive that consumers would not be willing to pay the price; and the industry originally said it could not make flame-retardant sleepwear for years to come.

What we have just shown you is a garment which demonstrates that none of these claims is so.

We paid between two and ten dollars for each of our 76 test samples. This garment cost just about in the middle of that price range.

As for the feel of the fabric, it is not harsh or abrasive to the skin and I invite you to feel swatches of it and judge for yourself.

And as for the industry claim that it couldn't be done for years to come—well, this was on the market when our tests began months ago.

Ironically, it was sold nationally as a winter-line product and unfortunately, is probably not available. But it does prove it can be done.

And while we are deeply concerned with the problem of sleepwear, the problem of flammable blankets may be an even greater one in that there are no standards yet in effect to protect innocent shoppers.

As with sleepwear, mattresses, draperies, and all those household fabrics, the Secretary of Commerce was given the authority in 1967 to take steps to reduce the flammability hazard of blankets.

Again, what we are about to show you is not the way it is done in the labs. But this is the way it can happen in real-life.

(Blanket demo.)

The blankets that flame up after being touched for only a second with the match flame are rayon-blend blankets.

The ones on which the match extinguishes itself are made of wool.

Other fibers and blends present different degrees of hazard. What we can say clearly at this time is that Consumers Union advises everyone to steer clear of any blanket containing any percentage of rayon. The fiber content must be stated on the label. If it says "rayon"—no matter what else it says—don't buy it.

We could show you other examples—flaming drapes, smoldering mattresses, and burning upholstered products.

In short, what we have been saying is that an industry has been dragging its feet—the Secretary of Commerce has not moved with force or speed and an uninformed public has been too long an inattentive audience to this shoddy performance.

Consumers Union thinks it is time to get moving. "We call on industry and government to take a more responsible approach to the problem. CU believes strongly in the need for meaningful action. *Consumer Reports*

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[1] Miss Furness is a member of the Board of Directors of Consumers Union.

will continue to carry reports on the progress of flame-retardant products and, as they are marketed, we will help draw public attention to them in the pages of *Consumer Reports*.

TRIBUTE TO SENATOR TOWER

Mr. SCOTT. Mr. President, one of my most effective legislative leaders in the Senate is JOHN TOWER, of Texas. I have learned that when he is acting as floor leader, as he has for several bills affecting the economy, housing and national defense, that the leadership is in good hands.

The senior Senator from Texas has repeatedly demonstrated an uncanny knack for securing those crucial votes so necessary for the implementation of vital legislation.

In fact, if I could select from the Senate membership a special team to take my side on a parliamentary issue, JOHN TOWER would be among my first choices, because he is effective, articulate, and persuasive. These are qualities which command the respect of the Senate.

UKRAINE'S ANNIVERSARY

Mr. PASTORE. Mr. President, on January 22, liberty-loving people the world over observed the 54th anniversay of the independence of Ukraine—although it is an independence that has been sadly lost.

It is an occasion which causes us of America to address ourselves to the tragedy of Captive Nations—whose freedoms have been swallowed up in the oppression of the U.S.S.R.

Our repeated observance might seem to be of no avail. Yet, silence would be sadder—and to speak our minds does keep alive remembrance of our own independence not 2 centuries old—won from the great world power of that day. Ours was an adventure in government of, by and for the people themselves—setting the example and the expectancy of freedom for proud peoples anywhere.

Let us turn back half a century to what Ukraine might anticipate from the 1917 Declaration of Rights issued by the People's Commissariat. It established "the right of the Nations of Russia to free self-determination including the right to secede and form independent States."

How did it work out?

An independent Ukrainian Republic was recognized by the Bolsheviks in 1917—but in the same year they established a rival Republic of Kharkov. In July, 1923, with the help of the Red Army a Ukrainian Soviet Socialist Republic was established and interpolated with the U.S.S.R.

And so with the fate of the other captive non-Russian nations in the Soviet Union—the phantom of freedom proved only a phantom.

So we pause on this Ukraine anniversary—we pause to ponder that disaster—we shudder for the moment as we weigh what captivity means—for the individual or the nation.

Surely it makes us resolve to retain our American freedoms—and to maintain our national strength—so that we may continue to set an ideal for others—to take despair out of the hearts of the captive peoples—and keep alive that hope for freedom—that self determination that alone can be the assurance of peace in this world whose ideologies are competing for the souls of men.

As we approach the bicentennial of our own independence—may it prove the birthday of that birthright of independence for those now captive nations that have given and can still give so much of value to all mankind.

SUCCESS OF NEW HAMPSHIRE UPWARD BOUND PROJECT

Mr. MCINTYRE. Mr. President, I have closely followed the development and operation of Project Upward Bound, which is administered by the Office of Education in the Department of Health, Education, and Welfare. I feel that this program is an extremely worthwhile and effective approach to the problem of equalizing educational opportunities.

Project Upward Bound, which was moved from the Office of Economic Opportunity to the Office of Education in 1969, is a precollege program designed to give talented young people from low-income families a chance for a better education. Through intensive summer sessions, the project attempts to give these low-income high school students the added preparation they will need to successfully continue their education—and thus break the cycle of poverty.

I am pleased, today, to have the opportunity to bring to my colleagues' attention the outstanding success of the Upward Bound project operating at the University of New Hampshire. I recently received a progress report showing that, of the 40 students participating in this Upward Bound program, 83 percent showed an improvement in their first semester school grade reports.

Of course, grades are only one of many indicators of the program's results. But I feel that this is such an impressive indication of the project's success that it deserves to be recognized.

I would therefore like to congratulate all those involved in the Upward Bound program at the University of New Hampshire. All Upward Bounders contributed to the program's success. I would also like to personally congratulate the following students, whose grades in their respective high schools indicate superior achievement:

Mike Kazukiewicz, Somersworth, N.H.; Vicki Weiser, Portsmouth, N.H.; Brenda Moore, Somersworth, N.H.; Patty White, Portsmouth, N.H.; Gilda Gubellini, Portsmouth, N.H.; Denise Snyder, Durham, N.H.; and Ron Chambers, Dover, N.H.

I would also like to recognize the following students who improved at least one full grade over their last year's average:

Eunice White, Portsmouth, N.H.; Sharon Smith, Portsmouth, N.H.; Priscilla Clark, Portsmouth, N.H.; Gerry Plante, Somersworth, N.H.; Mark Siranian, Dover, N.H.; April Kliphan, Dover, N.H.; and Karen Gower, Dover, N.H.

THE PRESIDENT'S PEACE PLAN

Mr. KENNEDY. Mr. President, the President's address to the Nation is less a new initiative than it is a confession of failure. Virtually everything the President said last night could have been said months or years ago.

The only difference is that in recent months, while the killing has gone on without remission, we have been pursuing a path of secret negotiations that have now been proved a failure.

The plan we have heard last night from the President is not a plan to end the war. In spite of the years of constant promises he has made, it is clear that he is not yet prepared to make the only sort of offer that can end the killing in Vietnam.

We do not need an eight-point plan to end the war. All we need is a one-point plan—a complete withdrawal of American ground, sea, and air forces, by a date certain, in exchange for a return of our prisoners.

So long as we try to condition our withdrawal on things like free elections, a cease fire, or any of the other trappings disclosed last night, reasonable as they may seem, we shall be pursuing the same blind alley in public negotiations that we have followed with such futility in private.

When will we learn that America cannot and should not attempt to dictate the terms of the political settlement in South Vietnam? If we have not been able to achieve that settlement with the expenditure of 10 years of effort and the blood of 50,000 American lives, we will not be able to do it now or in the future.

Let us recognize the clear reality of the war. Let us recognize that the time has come for a total end to American involvement in Vietnam. Let us recognize that the only condition we can reasonably attach to America's complete withdrawal is the return of America's prisoners. That is the only way we shall ever establish the generation of peace which the President wants and which is always in our deepest prayers.

RULES OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. HARTKE. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as added by section 130(a) of the Legislative Reorganization Act of 1970, requires the rules of each committee to be published in the CONGRESSIONAL RECORD not later than March 1 of each year. Accordingly, I ask unanimous consent that the rules of the Committee on Veterans' Affairs be printed in the RECORD.

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

RULES OF THE COMMITTEE ON VETERANS' AFFAIRS

I. GENERAL

All applicable requirements of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the committee and its subcommittees.

II. MEETINGS

The committee shall hold its regular meetings on the first and third Monday of each month, when Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business.

III. QUORUM

Three members shall constitute a quorum for the purpose of transacting committee business: *Provided*, That one member shall constitute a quorum for the purpose of receiving testimony.

IV. VOTING

(a) Votes may be cast by proxy.

(b) There shall be a complete record kept of all committee action. Such record shall contain the vote cast by each member of the committee on any question which a "yea" or "nay" vote is requested.

V. SUBCOMMITTEES

(a) The committee chairman and the ranking minority member shall be ex-officio members of any subcommittee of the committee.

(b) Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship and seniority on the particular subcommittee shall not necessarily apply.

VI. HEARINGS AND HEARING PROCEDURE

(a) The committee or any subcommittee thereof shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing unless the committee or subcommittee determines there is good cause to begin such hearing at an earlier date.

(b) The committee shall as far as practicable require each witness, who is scheduled to testify at any hearing, to file his written testimony with the committee not later than forty-eight hours prior to his scheduled appearance. Said written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony.

(c) No hearing of the committee or any subcommittee shall be scheduled outside of the District of Columbia except by the majority vote of the committee or subcommittee or by authorization of the chairman of the committee.

FULL DISCUSSION AND EXAMINATION NECESSARY ON AUTO INDUSTRY REQUEST TO DELAY MEETING 1975 CLEAN AIR STANDARDS

Mr. WILLIAMS. Mr. President, information has come to my attention which is quite disturbing to me, and should be just as disturbing to every American concerned about improving the quality of our environment. I understand that General Motors has already made one attempt to initiate EPA proceedings to secure a 1-year extension of the auto exhaust emission standards mandated by Congress for 1975 automobiles. The GM application was rejected on January 19 by the Environmental Protection Agency for technical reasons, but can be refiled. And, if I understood Henry Ford's year-end statement correctly, the Ford Motor Co., is also considering an application for a 1-year extension of the deadline.

Thus, less than 15 months since this body unanimously declared that it shall be the national policy of the United States to have a nonpolluting automobile by 1975, the automakers are taking the first opportunity provided under the Clean Air Act Amendments of 1970 to claim that they will be unable to meet the deadline.

Now the Administrator of the Environmental Protection Agency announced in a release last September 24, 1971 that EPA, the Army, Ford Motor Co., and Texaco, Inc., have developed a prototype engine that has already met EPA's 1976 emission standards in initial tests. I repeat, that is the 1976 standards which have been met by this jointly developed engine. In the release, Mr. Ruckelshaus is quoted as saying:

> This engine is the cleanest we have ever tested. It represents a breakthrough in emissions-control technology and means that the truly clean car is not as far away as many people thought.

Thus it would seem to me that the auto industry, with its vast resources and massive commitment to research and development can translate these breakthroughs into showroom models in the next 3 years. And if they cannot make the commitment that Congress has, the public deserves an adequate and thorough explanation.

Mr. President, these are the major auto companies. These are the auto companies which even the very conservative report issued just 2 weeks ago by the National Academy of Sciences indicated could meet the standards. The intent of this legislation, the Clean Air Act Amendments of 1970, was very clear. The Congress did not say to the auto companies that these pollutants should be removed from auto exhaust if it was convenient—or even difficult—or even if the auto companies claimed that it was impossible. The legislation stated that these poisons must be removed from the auto exhaust because they were damaging the health and endangering the lives of millions of Americans. The author of that legislation, the Senator from Maine, was accused by the auto companies at that time of "legislating technology." He did not deny it. He said it must be done if we are, quite literally, to survive and remain in good health.

The automobile industry has the greatest of technological resources at its disposal. Their laboratories have designed and their engineers have given us automatic transmissions, power brakes, power steering, soundproofing, air conditioning, 400 horses under the hood, onboard computers, and even retractable headlights. Now, with our environment deteriorating as it is, I prefer to think that there is no paralysis of technology in Detroit.

Mr. President, it is time for the Congress and the Environmental Protection Agency to deal with the auto industry in the same way which seat belts were required to be put in cars. We must begin to use the laws and powers available to us to persuade the auto industry that it cannot indulge in the luxury of delay. Limitations on automotive traffic are already under consideration in some of our cities and large urban areas. Ultimately this can only mean fewer cars and fewer jobs. Clean cars, on the other hand, will assure the continuing growth of the industry in a responsible manner. In my judgment, this is a key aspect of the whole situation. The Congress has responded to the problem of automotive air pollution by enacting legislation that not only addresses itself to the preservation of human health and welfare, but to the economic advantages of clean-burning cars as well.

The report of the National Academy of Sciences demonstrates that the Clean Air Act legislation is flexible enough to permit the industry to meet 1975 standards under certain conditions without a delay. In fact, the latitude afforded by the legislation has been made a subject of litigation. A suit has been filed by two environmental groups, National Resources Defense Council and Center for Science in the Public Interest, alleging that the allowable emissions stipulated by the Clean Air Act already have been more than doubled by administrative action of the Environmental Protection Agency.

Obviously, to accede to the requests of the auto companies without a full hearing and final resolution of the issue does not lead eventually to achieving the goals of the legislation. EPA and the Congress must set a strong example and make a firm stand here and now.

Mr. President, I will follow very closely the EPA public hearings on the request for extension and the oversight hearings which, I understand, the able Senator from Maine will hold shortly. The purpose of those hearings is to determine what progress is being made toward achieving the 90-percent reduction in emissions mandated by the act. We cannot afford to let this matter be resolved without a full discussion and examination of these vital issues by all concerned—particularly the public who have a right to a clean environment. We must have all of the information squarely on record.

MUST AFRICA'S PROBLEMS BE RESOLVED BY VIOLENCE

Mr. KENNEDY. Mr. President, Charles Yost, formerly the Chief U.S. Ambassador to the United Nations has expressed profound feelings of concern about developments on the African Continent. With a massive wealth of experience in international affairs, Mr. Yost presents a very clear and reasonable concern about the future relations between this country and African nations. In the Washington Post today, he asks questions that may appear unanswerable. But they are questions that deserve the concentrated attention of our Government. For, Mr. Yost has raised one question that deserves very careful consideration:

Why does the U.S. continue to offer black Africa as little as we can get away with, while providing substantial comfort for the architects of the minority ruled regimes in South Africa, Rhodesia, and the Portuguese colonies?

I believe Mr. Yost has presented an exceptionally concise analysis of U.S. relations in Africa. His presentation deserves the careful review of this Senate. For that reason, I ask unanimous consent that a article entitled "Must Africa's Problems Be Resolved by Violence?" as

published in the Washington Post of January 27, 1972, be printed in the RECORD.

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

AMBASSADORS COMPLAIN OF NEGLECT BY BIG POWERS—MUST AFRICA'S PROBLEMS BE RESOLVED BY VIOLENCE?

(By Charles W. Yost)

During the decade from 1960–1970, while I served at the United Nations, the number of African states represented rose from 5 to 40. It now constitutes nearly one third of the total membership. Nevertheless, the African ambassadors complain with increasing resentment that the vital interests of their continent are systematically neglected by the United States, and the other big powers. Again and again, one or another of them has asked me: "Is violence and bloodshed the only way we can attract and hold your attention, the only means of getting sufficient help to resolve our problems?"

Several events in or affecting Africa have received some attention in the news media during the past two or three months and reminded the American public fleetingly of the existence of that continent. There was the adoption of legislation by the United States Congress requiring the President either to permit imports of chrome from Rhodesia, in violation of our U.N. obligations, or to stop imports from the Soviet Union.

There was unusual violence in Rhodesia by blacks protesting an agreement between Britain and the Smith regime. There was President Nixon's meeting with the Portuguese Prime Minister in the Azores following a new base agreement and the extension of a $435 million loan to Portugal. There was a guarantee by the United States Export-Import Bank of a $48 million loan to South Africa. There was another military coup in Ghana. There was the decision to hold an extraordinary meeting of the U.N. Security Council in Addis Ababa.

These events seemed to most Americans to be confusing, insignificant or irrelevant. To the 40 African governments they seemed acutely relevant to the issues most important to them—freedom and development—and vividly revealing of American indifference to those issues insofar as Africa is concerned.

The Africans remind us that whites constitute about 5 per cent of the population of Rhodesia, about 5 per cent of the population of Angola, Mozambique and Portuguese Guinea, about 15 per cent of the population of Southwest Africa, and about 17 per cent of the population of South Africa itself.

Yet these white minorities, miniscule in numbers in the case of Rhodesia, Southwest Africa and the Portuguese territories, wholly dominate the politics and economies of those countries, and in South Africa enforce the brutal and backward system of apartheid.

The United Nations has over the past decade, for the most part with United States support, again and again taken action designed to correct or improve these situations which are so inconsistent with the almost universal evolution toward freedom and independence elsewhere in the world. It has, on British initiative, imposed sweeping economic sanctions against the illegal regime in Rhodesia. It has terminated the South African mandate over Southwest Africa. It has embargoed the export of arms to South Africa and to the Portuguese territories. It has repeatedly denounced apartheid and called on Portugal to grant self-determination to the people of Angola, Mozambique and Guinea.

None of these actions seems to have the slightest effect. The white regimes are as firmly entrenched as ever and as determined to remain so. It is, on the contrary, the United Nations countermeasures which are falling apart. Even Britain and the United States seem about to abandon the sanctions against Rhodesia. France makes no bones about selling arms in large quantities to South Africa.

The United States, for the sake of the Azores bases, confers its blessing and economic support on the Portuguese government. All of these are easy things to do, but are they wise in the longer run?

It is quite true that economic sanctions against Rhodesia have not worked, that they would be even less likely to work against South Africa, and that no one seriously considers sending a U.N. military force to overthrow the white regimes.

What answer, then, are we going to give to the Africans when they ask, "are violence and bloodshed, black against white, the only means by which the huge black majorities in Southern Africa are to obtain equal rights and freedom?" If the answer is yes, what is the rest of the world going to do when violence and bloodshed actually break out on a large scale?

On the basis of my experience with these problems at the U.N., I am convinced that they are not going to be solved peacefully and progressively by the whites of Southern Africa without very strong outside pressure. The status quo is far too comfortable. On the other hand, if the problems are left to be resolved eventually by violence, we may expect to see a ghastly repetition of what has recently taken place in East Pakistan—except in this case with far-reaching and traumatic black-white overtones.

Frankly, the United States has never seriously addressed itself to this problem, because Africa has not seemed all that urgent or important. We have tried to do, are still trying to do, the minimum that would appease the 40 African governments without seriously incommoding our South African and Portuguese friends,

We can rock along that way for some time longer, but in the end it won't work. Some day Africa will be shockingly and hideously on all the front pages. Then we will ask ourselves why we did not, while there was still time, press and drive South Africa and Portugal into the modern world with all the non-military resources at our command.

FOREIGN TRADE

Mr. HARTKE. Mr. President, on January 25, 1972, our Government announced that in 1971 we had suffered the worst trade deficit in our Nation's history. Last year our imports exceeded our exports by more than $2 billion. A growing trade deficit is not the only index that our national trade policies are in desperate disarray. In 1970, the United States lost its position as world leader in the exporting of manufactured goods.

It was in response to these conditions, already clear in the middle of 1971, that I introduced S. 2592, the Foreign Trade and Investment Act. Capital and the jobs they produce have been flowing out of the country. A surge of imports and growing unemployment have been the result.

A recent article in the Washington Post details some of the trade and balance-of-payments difficulties that we have encountered in the recent past. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE 1971 TRADE DEFICIT: $2 BILLION

(By James L. Rowe, Jr.)

The United States last year suffered its most severe trade deficit in history, the government said yesterday, representing an adverse swing of about $4.7 billion on its trade account from 1970 to 1971.

The trade imbalance—the difference between what the nation imported and exported—was $2.05 billion last year, compared with a 1970 surplus of $2.7 billion. The last year the country had a trade deficit was 1888, a Commerce Department official said.

Harold Passer, Assistant Secretary of Commerce for Economic Affairs, said that realignment of the world's currency rates and current negotiations to remove barriers to U.S. exports should improve the 1972 picture substantially.

The nation made improving the U.S. export prospects one of its prime objectives in the President's New Economic Policy announced Aug. 15—when he also imposed the wage-price freeze.

The trade ledger is one of the major components of the total balance of payments—which measures the difference between what Americans spend abroad and foreign nations spend here.

For the first nine months of 1971, the United States experienced a balance-of-payments deficit of $7.6 billion on its trade and long-term investment accounts. Included in these figures are all U.S. trade, services, travel, U.S. government grants and loans, and long-term U.S. investment overseas.

On what is called an official reserve balance, which includes movement of short-term capital, the nation experienced a $23.3 billion outflow in the first nine months of the year.

In another economic development, the Treasury said it would ask Congress next week to temporarily increase the government's authority to go into debt by another $50 billion, the largest boost in the debt ceiling ever requested.

The request, if approved, would permit the government to borrow up to a total of $480 billion through June 30, 1973 to enable it to pay its bills. However, the President, in his budget message last week, indicated that the so-called public debt would be $493.2 billion at the end of June 1973.

A Treasury spokesman could not explain the apparent discrepancy. The House Ways and Means Committee will hold hearings on the debt ceiling increase next Monday. Last year the administration asked for a temporary $40 billion increase in the debt ceiling, and was given a $35 billion boost. The permanent ceiling is at $400 billion.

Government officials attributed part of the poor trade showing to dock strikes that alternately tied up East and West Coast ports for most of the last six months of 1971.

The Census Bureau, which collects the trade data, said, however, that it "does not have adequate information to enable it to specifically measure the influence of the strikes or anticipated strikes on the statistics."

West Coast ports were idle from July until early October, when the government obtained a Taft-Hartley injunction that sent the dockworkers back for 80 days. East and Gulf Coast ports were ordered back to work in late November after nearly a two-month strike.

West Coast dockworkers went back on strike earlier this month when the back-to-work order expired.

Commerce's Bureau of Economic Analysis said it noted "some evidence of import stockpiling" in anticipation of a resumed West Coast strike when December's net entries of imports into Customs bonded warehouses "were nearly $100 million higher than the monthly norm."

A trade deficit for 1971 had been expected since June, when Commerce Secretary Mau-

rice Stans hinted at a Senate hearing that the nation could be in a net deficit trade position for the first time this century.

But the magnitude of the deficit was not expected until October showed a trade imbalance of $821 million, by far the largest monthly deficit ever recorded.

The nation has experienced deficits in seven of the last eight months, with September showing a trade surplus of $265.4 million, most of it accounted for by a pickup in shipping in anticipation of the East and Gulf Coast strikes.

For the year as a whole, exports rose 2 per cent (from $42.66 billion in 1970 to $43.55 billion in 1971, while imports skyrocketed 14 per cent from $39.95 billion to $45.60 billion.

THE PEACE CORPS

Mr. MATHIAS. Mr. President, on January 25, the Senate Appropriations Committee reported out a proposed authorization for the fiscal year of $77.2 million for the Peace Corps. Very shortly, the entire Senate will be asked to agree to the committee's recommendation. I intend to support that figure; and, I urge each of my colleagues to do the same.

This relatively modest amount in already $5 million less than that requested of the Congress by the President. It is the absolute minimum necessary if the Peace Corps is to continue as our most positive expression overseas of American desire to assist the people of the developing nations and, by so doing, help to create a more peaceful world society.

Anything less than this amount will require the Peace Corps to immediately begin bringing home large numbers of volunteers presently engaged in vital programs and to go back on its previous commitments to the governments of the countries in which these volunteers are working.

It is a paradox that the Peace Corps should feel its continued existence threatened at the very time when applications are at the highest point in the past 5 years. This past year alone, over 25,000 Americans—of all ages and of all backgrounds—expressed their wish to join the Peace Corps; and this figure will probably be greater this year.

I am proud to note that from my own State of Maryland, there are at this very moment 122 men and women serving in such countries as Morocco, Venezuela, Thailand, Ethiopia, and Costa Rica. They are working in the schools and hospitals and on the farms, helping the people of these countries to build a better life for themselves and for their children. If we withdraw our support for these programs, we will not only be denying to thousands of other Americans the opportunity they desire to serve others but also withdrawing a measure of hope for a better future that the Peace Corps volunteer represents.

To do other than give our fullest support to this program would be to run counter to the expressed wishes of the American public. The most recent sampling of public opinion indicated clearly the strong support that the Peace Corps enjoys. Three important points were made by their replies. They found the Peace Corps to be unique—in the tasks it performs and the services it provides; they considered its work to be important—not only to the countries in which volunteers work but also to the United States, 93 percent feeling that volunteers became "more useful citizens"; and, they find it to be successful—speaking highly of the people-to-people character of its approach.

I share these views, I am pleased to make known my personal support for this program and feel certain that I will be joined by an overwhelming majority of my fellow Members in giving the Peace Corps the vote of confidence that it merits.

HUMAN RESOURCES, CREDIBILITY, AND THE 1973 BUDGET

Mr. CHURCH. Mr. President, yesterday President Nixon sent to Congress a $246.3 billion budget and a $25.5 billion deficit for fiscal 1973.

In view of this administration's poor track record in budget forecasting, doubts are already mounting concerning the credibility of this prediction. And with justification. For fiscal 1971, the administration envisioned a $1.3 billion budget surplus. It turned out to be a $23 billion deficit. For this fiscal year, the administration's miscalculations have reached new heights. Originally it predicted an $11.6 billion deficit. Now this figure has swelled to nearly $40 billion, the largest deficit since World War II.

Perhaps even more disturbing are the very inaccurate and misleading impressions that the fiscal 1973 budget attempts to create. According to administration definitions, human resources programs will account for 45 percent of the budget for next year, compared with 32 percent for national defense. This may be one way to justify an $83.4 billion expenditure for the Pentagon or a jump of $6.3 billion in defense expenditures.

But it also leads to serious misconceptions because a very substantial portion of these so-called human investment expenditures are really trust fund items, such as the social security and medicare programs. Unlike defense expenditures—which come from general revenues—these funds have been built up primarily through payroll contributions during the working lives of social security recipients.

As chairman of the Senate Committee on Aging, I am especially distressed by the gross distortions in outlay estimates for older Americans. These sleight-of-hand tactics can serve no useful purpose except to create false impressions and possibly precipitate a divisive controversy over spending priorities with regard to the young and old. And this was expressed very forcefully in an editorial in the January 25 issue of the Washington Post, which stated:

> The issue here is not whether the elderly should have been given less, but whether other parts of the population should not have been given more.

It is also a harsh irony that this administration makes it appear that the aged will be the beneficiaries of about 20 percent of our budget expenditures for fiscal 1973. According to administration figures, total spending to benefit older Americans will reach about $49.6 billion. However, about $48.5 billion—or nearly 98 percent of the administration's total outlay—is for social security, retirement, income supplement, and health programs. These outlays derived from payroll contributions by the elderly during their working lives.

The Federal Government is not giving them something extra. This is something that they have earned during their working years.

Moreover, puffing up these figures cannot conceal the hard facts of life for older Americans:

Nearly 5 million persons 65 and older live in poverty, approximately 100,000 more than in 1968.

Approximately 6 million may be living in substandard, dilapidated, or deteriorating housing.

The average health care bill for an older American is approaching $800, three times that for persons in the 19-to-64 age category and six times that for individuals under 19.

About 2 months ago a historic White House Conference on Aging was called to come to grips with these very problems and to develop a national policy on aging.

That Conference concurred with the Senate Committee on Aging in assessing the gravity of the wide array of problems facing the elderly. If we are to implement the goals of the Conference, it is also absolutely essential that we have accurate information which is in no way tainted by any question of credibility or authenticity.

Mr. President, I ask unanimous consent that the administration's table on projected outlays for the elderly be printed at this point in the RECORD.

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

BUDGET OUTLAYS FOR PROGRAMS SERVING OLDER AMERICANS

[In millions of dollars]

	Fiscal year		
	1971	1972	1973
Total all reported programs	39,178.3	44,031.8	49,616.0
Departments:			
Agriculture	341.9	410.4	467.9
Defense	408.1	470.6	517.9
HEW	31,779.2	35,752.3	40,655.4
Office of Education	2.5	2.6	2.3
Public Health Service	128.0	120.7	108.8
Social and Rehabilitative Services	2,842.7	3,234.1	3,661.3
Social Security Administration	28,826.0	32,395.0	36,883.0
Housing and Urban Development	274.2	363.3	426.6
Labor	33.3	40.2	37.0
Transportation	9.3	10.9	11.6
Independent agencies:			
Action	10.0	19.1	41.1
Civil Service Commission	1,882.0	2,138.9	2,469.5
Office of Economic Opportunity	95.1	94.0	87.7
Railroad Retirement Board	1,613.0	1,794.0	1,772.0
Veterans' Administration	2,712.2	2,938.1	3,129.3

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. BENNETT. Mr. President, in his brilliant television speech last Tuesday to the American people outlining the secret negotiations that have taken place

in Paris for the past year, President Nixon said:

> Some of our citizens have become accustomed to thinking that whatever our government says must be false and whatever our enemies say must be true.

Of course, his political opponents cannot be expected to agree with anything Richard Nixon does and I believe the American people recognize their reaction for what it is. My faith in the American people, however, has remained strong throughout the very difficult years that this country has been involved in South Vietnam. The war became our most difficult domestic problem. But through all the years of the war I think the American people have retained a good sound faith in their Government and last evening President Nixon gave them every reason to retain that faith and even strengthen it.

I believe the speech reaffirmed the greatness of Richard Nixon, and reaffirmed the total grasp that he has on his responsibilities and duties as President of the United States especially in the field of foreign policy. It revealed again that he is making every human effort to resolve the conflict in Vietnam and to bring an era of peace and stability to international relations.

I believe the proposal which Mr. Nixon has made to the Communists through Dr. Kissinger is imminently fair. Most hopefully it offers an end to the conflict through a cease-fire. It was bold in that it offered to withdraw all American troops, leaving not even a residual force, in exchange for the release of those brave Americans who are still held captive in North Vietnam.

I applaud the peace plan because of the hope it gives for the American prisoners of war. Their fate and the absolute necessity of their eventual release has never escaped the President and he has formulated his overall strategy and policy in a way designed to win their release and a return to their families. I applaud the President's efforts in this regard.

The plan is honorable because it gives freedom an excellent chance of survival in South Vietnam by allowing all the people to vote on their future form of government. That is the reason why the United States got involved in South Vietnam in the first place. I believe the President's offer to withdraw all troops and hold free elections in exchange for the release of the prisoners of war and a cease-fire is fair in the minds of any right thinking individual. The new Nixon peace plan certainly places the burden of proof on the back of the Communists.

Mr. Nixon has pursued every avenue to find a just and a lasting peace without a sellout to the enemy. The President has negotiated in Paris both secretly and openly but without success. The Vietnamization policies of the Nixon administration, masterfully implemented by General Abrams, are proving very successful. If the expected Communist offensive comes in the next few months the Vietnamization program will be tested as never before. I remain confident, however, that it will meet the test.

Finally, the President has brought nearly 500,000 Americans back to the United States since he assumed office in January 1969. Furthermore, he has reduced American deaths in that war to nearly zero. In the 1968 campaign President Nixon told the American people that he would end American involvement in South Vietnam. That was not an empty promise. Having been deeply involved in government and knowing the intricacies of foreign policy he knew that the implementation of his promise would be difficult and possibly take a long time. But he is keeping that promise and is on the verge of completing it. In the process South Vietnam is reasonably stable and able to stand on its own two feet. I am sure that most of the American people accept and believe Mr. Nixon and the only people who do not are those who seem to believe that everything the enemy does is right and everything the U.S. Government does is wrong.

PRESIDENT NIXON'S EIGHT-POINT VIETNAM PEACE PROPOSAL

Mr. THURMOND. Mr. President, the eight-point peace proposal unveiled Tuesday night by President Richard Nixon certainly proves beyond any doubt that the American Government has taken every reasonable step to end this war.

The time has come for the Communist leaders in North Vietnam to take off the false face they have been wearing and deal honestly in bringing this war to an end.

The critics of President Nixon should now be able to understand how and why the appearance of a lack of support in the Congress has undermined the courageous efforts of the President to end this war.

This eight-point peace plan could provide the basis for a settlement if the Congress and all Americans join hands in solidly backing the President in this matter. Such an action would result in a signal to the Communists which they may be unable to reject.

Further, it should be recognized that a Communist offensive could result in the occupation of some South Vietnamese territory. They would want to be in the strongest possible position when the final bargaining begins. Because the South Vietnamese forces cannot be everywhere in large numbers some towns and land could be lost. As always, the Communists choose the place and time of an attack because they are the aggressors.

Mr. President, significant developments in this ill-fought war are obviously close at hand. Hopefully, the release of American prisoners of war may now be measured in months rather than years.

In any event, everyone should now actively support the President on his eight-point peace plan not only because such support is deserved, but also because such support will accelerate the release of our long suffering servicemen being held prisoners.

FARM PRICES AND FARM COSTS

Mr. McGOVERN. Mr. President, the defeat of H.R. 1163 in the Senate Agriculture Committee was a bitter defeat for our Nation's wheat and feed grain producers. It was so bitter because these farmers had responded to the Department of Agriculture's call for greatly increased production because of the possibility of the corn blight. Secretary Butz said in no uncertain terms that he would have made the same decision as his predecessor since there was no way to predict the blight.

Secretary Butz indicated it would have been unconscionable to have risked a food shortage, so the farm program for 1971 was designed to encourage massive plantings. It is fair to say that it would have been unwise to have proceeded otherwise, given the facts at hand. Yet it seems incomprehensible to me why the Secretary and his predecessor failed to consider the possibility of plummeting prices in the event of overproduction. This possibility was considered and called to the attention of the Department of Agriculture by legislation introduced in both bodies of the Congress while the blight was still an unknown factor. We would ask no other segment of our society to work harder and receive less in return. No other country would treat its agricultural producers so shabbily.

For some time now, prices farmers receive have dropped while costs have risen tremendously. A former Senator from Minnesota and Governor of that State has detailed in very real terms just how this cost-price squeeze operates. I commend Elmer A. Benson for his continued concern for American agriculture and ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF ELMER A. BENSON

Political leaders are again suggesting plans to help agriculture and most of these plans suggest that more credit be made available to farmers. I should think by this time, even politicians would know that it is not more credit that is needed but a better price for the things the farmer produces.

For more than twenty years the price of everything the farmer buys has gone up 300 or 400 per cent while what he produces has gone down 300 per cent.

The following table should be interesting:

	1948	1968	1971
Flax	$6.96	$3.05	$2.42
Soybeans	4.16	2.55	2.79
Rye	2.63	.98	.78
Corn	2.63	1.00	1.00
Oats	1.29	.67	.53
Eggs A	.41	.18	.18
Cream L	.92	.72	.68
Tractor TD	4,500.00	16,000.00	17,500.00
Tractor MD	2,600.00	6,000.00	7,500.00
5 bottom plow	650.00	1,200.00	1,800.00
Drill	600.00	1,500.00	2,200.00
Truck 1½-ton	1,800.00	3,000.00	5,500.00
Truck 2½-ton	2,225.00	5,000.00	6,500.00
Combine	3,400.00	7,000.00	13,000.00
Jeep	1,400.00	3,500.00	4,200.00
Digger 17'	400.00	900.00	1,500.00
Taxes, R.E.	179.68	448.50	629.84

For the past twenty years we have had a Federal Law making it possible for the Secretary of Agriculture to set support prices at 90 per cent of parity or more but at no time have they been set at more than 70 per cent of parity. Furthermore, during most of the same twenty year period the government's policy has been to sell farm commodities in order to keep farm prices depressed and this

policy has been so stated by the Secretary of Agriculture.

Sincerely,

ELMER A. BENSON.

ELDERLY WOMEN: POOREST OF THE POOR

Mr. CHURCH. Mr. President, the 7.5 million widows and single women aged 65 and older probably constitute the poorest segment in our society today.

More than 63 percent of all elderly women living alone or with nonrelatives are classified as poor or near poor. Of this total, 50 percent fall below the official poverty index.

Moreover, their median annual income is only $1,888—just a few dollars above the $1,852 poverty threshold for a single person.

And there is very strong evidence to indicate that aged women suffer from deeper extremes of impoverishment. Nearly 34 percent of all elderly women living alone, for example, have annual incomes below $1,500.

Several factors account for their great deprivation. Characteristically, they have been employed in lower paying jobs than men with comparable backgrounds. Moreover, they run a much greater risk of career interruptions because of family responsibilities. And according to recent data from the Social Security Administration, nearly 7 out of every 10 persons entering the retired-worker benefit rolls with minimum benefits were women.

Probably even more significant, large numbers of women are widows with no Social Security coverage from their own work records. There are now approximately 6.3 million widows aged 65 and older. And these women are entitled to only 82½ percent of the primary insurance amount received by their deceased husbands.

A recent article in McCall's, by Ralph Nader, describes in very human terms the problems encountered by aged women. It also provides very compelling reasons for enactment of a measure I have sponsored—S. 923—to allow a widow to receive all of her husband's social security benefits instead of just 82½ percent.

Mr. President, I commend the article, entitled "How You Lose Money by Being a Woman," to Senators and ask unanimous consent that it be printed at this point in the RECORD.

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

HOW YOU LOSE MONEY BY BEING A WOMAN

(By Ralph Nader)

You're a healthy, active woman caught up in a career or a family or both. Do you ever stop to consider what your financial situation will be twenty, thirty, or forty years from now? You should. Because by then you just might not be able to afford 50 cents to buy this magazine.

Exaggerated? Unfortunately not. Women, to a far greater extent than men, have to face the prospect of poverty when they grow old. You may find yourself in the situation of Mrs. B. Portland, Oregon, who spent twenty-five years in a large suburban home raising three healthy children. Her husband, a self-employed engineer, earned a comfortable income, and Mrs. B., who had a college degree in science, was able to help him in his work. They didn't save much during those years, but they planned to start a retirement fund after the children were grown. Then, suddenly, Mr. B. died at age fifty, and Mrs. B.'s life changed drastically.

She had to give up her house. The only job she could find was as a housemother for a college fraternity, which supplied her room and board and a little extra money. When she turned sixty-five, she lost even this job and found herself ineligible for other employment. Her only income was $100 a month from Social Security. Her children lived in other parts of the country and were unable to help her financially. Now, at seventy-two, Mrs. B. has a part-time job in a nursery school and a yearly income of $1,976—just ten dollars a month more than the officially defined poverty level.

Mrs. B.'s case is far from unusual. In fact, many elderly women have to live on considerably less: The 7.5 million widows and single women over sixty-five constitute the poorest segment of our society. In 1970, half of these women had yearly incomes of $1,888 or less.

Our present retirement-security system is fragile at best, but particularly unfair to women. Our society encourages a woman, sometimes against her will, to stay home and take care of her family, and then penalizes her later for not having worked. Under the present law, a wife can receive only a portion of her husband's Social Security benefit if he dies. Widows are regularly excluded from pension benefits their husbands have earned. Women who do work feel the full impact of discriminatory wage scales and hiring practices when they retire—and discover that their retirement benefits are considerably less than the benefits for men.

Workingwomen in private industry are far less likely than men to be covered by a pension. They are more often employed by small firms without pension plans and are the first to be laid off. When they take maternity or any leave of absence, they lose the years of "continuous service" necessary to qualify for benefits. One woman worked for the same industry (and union) forty-nine years; yet because of a five-year period when she was forced to change jobs, she was denied a pension when she reached sixty-five. Currently, less than 10 percent of all unmarried retired women workers are beneficiaries of private pensions.

Significantly, industries with the greatest percentage of women workers often have the least satisfactory wage and pension arrangements for them. The $665 average annual private pension benefit for unmarried women—$200 less than the average benefit for single men—reflects the fact that women generally receive lower wages throughout their careers, that they often voluntarily work fewer years, and that sometimes they are forced by their company to retire early.

The vast majority of private pension plans have no provisions at all for income payments to a widow. When her husband dies, the income stops. This is often because her husband failed to exercise his "survivors' benefit option." It usually turns out that he neglected to fill out papers agreeing to take a reduction in his lifetime pension in exchange for a benefit for his widow. In many instances, men don't want to be bothered with what they feel is burdensome paperwork. Sometimes they simply put it off until too late. Frequently, and tragically, husbands feel they cannot afford to take a reduction in their already meager pension benefits.

Many widows get nothing, even when their husbands exercise a survivors' option, because of restrictive conditions attached. Mrs. D. of New York was recently informed by her husband's employer that she would not receive a survivors' benefit because her husband died too early—that is, before retirement. Other plans provide that a widow will receive nothing if her husband dies after retirement or fails to reach a certain age before he dies.

The inadequacies of survivors' benefits in private pension plans have been virtually ignored by lawmakers, government officials, corporate executives, and labor leaders. Business leaders disparage survivors' benefits because of their substantial cost. Anyway, they point out, their firms offer group term life insurance. Yet such insurance has numerous limitations. It does provide benefits for widows (or other named beneficiaries), but usually only if the employee dies before retirement. Even then, the payments are incredibly small. The average benefit, paid in a lump sum, is less than the deceased employees' income for one year.

Whether you work or not, you may be depending almost entirely on Social Security—yours or your husband's—to see you through retirement. If so, you may have to reduce your standard of living drastically. Social Security today provides, on the average, two-thirds of what a retired couple needs for a moderate level of living. Benefits for unmarried people (two out of three older women) are considerably lower. Social Security averages under $115 a month for older unmarried women. Older unmarried men average $145.

Women receive lower Social Security benefits because they have usually earned an average of 60 percent less than men, and Social Security benefits are based largely on earnings. Widows are entitled to only 82.5 percent of their husbands' benefits. Husbands, of course, receive 100 percent of their benefits if they outlive their wives. Are a woman's needs really 17.5 percent less than a man's?

Many women, of course, rely on other means of securing their future. Men frequently insure themselves and designate their widows as beneficiaries. Unfortunately, these life-insurance policies are no guarantee of an adequate income. A recent survey showed more than 90 percent of all policies paid beneficiaries $10,000 or less. Further, the most common type of life insurance is the cash-value policy, which allows the insured to cash in the policy to meet immediate financial needs. In numerous cases, this has meant that a wife's future is exchanged for ready cash, and she is left without any insurance protection.

Perhaps you are counting on cash savings or other forms of assets, such as stocks, bonds, or real estate. If you are able to save adequately for your retirement, you are in a very small minority. At least one-fourth of all unmarried women over sixty-five, including widows, have no assets of any kind. Most people cannot afford to begin saving for retirement until their late forties or early fifties. By then, inflation has substantially reduced the buying power of their dollars.

If you are healthy, you can work to supplement your income. One in seven unmarried women over sixty-five do. But they usually have the lowest paying jobs and are the last to be hired and the first to be fired. Until they are seventy-two, they cannot earn more than $140 a month without losing some of their Social Security benefits.

Only the most destitute of women are eligible for welfare payments. Currently about 1.4 million women are receiving Old Age Assistance. Welfare payments vary according to state, but they are never adequate. An elderly woman in California may receive $115.05 a month, while a welfare recipient in Mississippi gets only $46.65.

Living on a reduced budget is particularly difficult for the elderly. Contrary to popular belief, expenses—for food, medicine (even with Medicare), and transportation—are higher for those over sixty-five than those, say, between fifty-five and sixty-five. Rising sales, income, and property taxes and house-maintenance costs fall hardest on those with fixed incomes.

Unless women take action soon, they will

continue to face a severe drop in their living standard in their later years. Here is what to do now:

WIVES: Find out about the survivors' benefits under your husband's pension plan—or whether he is covered by a plan at all. Ask if he has exercised a survivors' option, if one is available. Find out whether you will get a benefit, and how much, if he dies while he is working or after he is retired. If he is covered by group insurance, ask whether you will get anything if he dies after his retirement.

WORKINGWOMEN: Examine your pension plans. If you find that "continuous service" or early-retirement provisions are unfair to women employees, bring it to the attention of your employer and your co-workers. If you are not covered by a pension, discuss this with your firm's executives.

Women in unions should form women's divisions to work for better retirement benefits, as well as better wages and equal hiring practices. Women workers also should press for survivors' benefits in pension plans.

A number of proposals pending before Congress have been ignored, shunted aside, or defeated, because women have not fought hard enough for their rights in this crucial area of security benefits for women.

One proposal would allow a widow to receive all of her husband's Social Security benefit instead of only 82.5 percent. Another would give widows (and widowers) a Social Security benefit equal to three-fourths of the combined benefits of husband and wife.

Both provisions are included in H. R. 1, the Social Security-welfare package. Women should express their views in letters to Sen. Russell B. Long (D.–LA.), chairman of the Senate Finance Committee.

Another proposal, H.R. 996, introduced by Rep. Bertram L. Podell (D.–N.Y.), would allow a man to set aside in a special account a "household allowance" of up to $25 a week for his wife's retirement. This amount would not be taxed until it is used as income after retirement, like the pension funds set up by self-employed people.

Sen. Charles Percy (R.-Ill.) has introduced bills proposing reduced rates for the elderly on all interstate vehicles, free prescription drugs, and tax relief on medical expenses. Rep. Henry Reuss (D.–Wis.) has introduced H.R. 6883 to allow low-income elderly people to deduct up to 75 percent of their property taxes from their federal income tax.

Express your views on this legislation by writing the sponsors in Congress. Remember, it's an election year, when letters from constituents have a special impact.

Women should also press for state laws that protect their right to a comfortable old age. Some thirteen states have already provided property-tax exemptions for the elderly. Several cities, including New York, Boston, and Washington, D.C., have reduced bus fares for older people.

Civic and religious groups should inform their members about the inequities of the retirement system as it affects women.

Finally, everyone should support groups that provide special services—home health care, homemaker aides, inexpensive or free meals—to those older women who cannot take care of themselves.

Too often, the older needy woman is ignored—even by women who might someday find themselves in her place. Proud, and often bewildered by her plight, she is one of the loneliest figures in our society. It is a special responsibility of younger women to fight for her rights—not only for her benefit but for their own future.

SOCIAL SECURITY LEGISLATION

Mr. STAFFORD. Mr. President, the distinguished senior Senator from Illinois (Mr. PERCY) testified this morning before the Senate Finance Committee to urge major improvements in our social security and medicare programs. He also recommended certain steps which, if taken, could bring about better care for elderly patients in long-term-care facilities.

So that Senators may have the benefit of the Senator's recommendations, I ask unanimous consent that his statement as submitted to the Senate Finance Committee be printed in the RECORD:

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

TESTIMONY OF SENATOR CHARLES H. PERCY, ON THE SOCIAL SECURITY AMENDMENTS OF 1972, BEFORE THE SENATE FINANCE COMMITTEE, JANUARY 27, 1972

Mr. Chairman and members of the committee: I come before you today to advocate reform in those programs of such great concern to our elderly population, Social Security and Medicare. At the outset, let me once again commend the Senate Finance Committee for its dedication to and interest in the problems of the elderly.

SOCIAL SECURITY—INCOME MAINTENANCE

Full benefits for widows

Under the present law, a retired man can draw 150 percent of his monthly Social Security allotment if he is married. If the man is a widower, he receives his full benefits, or 100 percent of what is termed his "primary insurance amount." If he leaves a widow, she can receive only 82½ percent of his total allotment as an individual, even though a widow's expenses are no less than a widower's.

This situation creates serious hardships for many elderly widows, for although their income decreases almost by half, their expenses do not. Certainly landlords do not cut rents when their tenants' income drops. Nor do grocers, utility companies or doctors cut their bills. The drastic drop in income is particularly unfortunate when one considers the emotional adjustments facing the elderly widow.

To correct this problem, I urge the committee to allow widows to receive 100 percent, rather than only 82½ percent, of their deceased husbands' primary insurance amount.

Automatic cost-of-living increases

Among all of the various groups in our society, those living on fixed incomes such as Social Security suffer the most from inflation. The cost of living may rise rapidly, as it has in recent years, but elderly Social Security recipients must wait for Congress to adjust benefits.

This can sometimes take several years. In the meantime, pensioners suffer hardships for which no belated congressional actions can compensate.

The only way to protect elderly people—many of whom are largely or totally dependent upon Social Security for their income—is to allow automatic benefit increases to correspond with rises in the cost-of-living. Cost-of-living increases have become an integral part of the salaries paid to American workers. It is my view that our elderly citizens are entitled to the same protection against inflation as that given to younger workers. I therefore urge the committee to approve automatic benefit increases in Social Security.

Earnings limitations

Perhaps one of the most unpopular aspects of our Social Security system is the limitation placed on the amount of money a recipient earns between $1680 and $2880 in one year, he suffers a $1 for $2 reduction in benefits. Beyond $2880, he loses one dollar for every dollar earned.

There is no issue about which elderly Americans are more distressed than the earnings limitation. They think it ludicrous, and so do I, that wealthy older citizens can receive $100,000 in dividends and still get their full Social Security benefits. Yet if they work, their payments are reduced after earning the first $1680.

A full quarter of the 25 million elderly Americans live at or near the poverty level. Many of these people are poor for the first time in their lives, and for reasons beyond their control. For instance, some have lost private pension rights due to plant shutdowns, even though they may have served a company for as long as 15 or 20 years. Others have worked throughout their lives, but because their incomes were never more than marginal, they never could accumulate large savings or invest sufficiently in stocks and bonds to provide an adequate retirement income. Still others may have saved for their retirement years, but found their savings completely wiped out because of serious and prolonged illnesses.

For these people, the present system offers two choices: They can try to supplement their Social Security incomes by working, or they can do so by going on welfare. Those able and willing to work can retain only a modest portion of their earnings over $1680.

In addition to economic need, we should also consider the need of elderly people—indeed, of all people—to contribute to society through working, and to feel that one's contribution has a value. In this connection, I would like to cite from the responses to a questionnaire I gave to the Illinois delegates to the White House Conference on Aging. The specific question I asked was this: Do you feel inadequate income is the most serious problem facing the aged? If not, what do you feel is the most serious problem? Some of the answers were:

"Inadequate income is one of the most serious problems, but we might give almost equal weight to the problem of loss of one's role in society."

"Insufficient income is a significant problem . . . but equally important are social interaction and work."

"I agree that inadequate income is the serious problem confronting many senior citizens today, but for many others, in almost equal numbers, lack of a satisfying role in their later years is more serious, and for them, finding a place in society will compensate for a lack of income or meet their needs more adequately than money can."

"Among the less visible problems are loneliness, a feeling of purposelessness, a feeling of rejection, and other causes that contribute to mental deterioration."

The earnings limitation not only runs counter to the high value our society places on independence and the willingness of individuals to support themselves, but it also actively discourages many elderly persons from finding meaningful jobs.

I believe this social value, as well as the desire among elderly people to find satisfying work roles, should be recognized to a greater extent in our earnings limitation policy. I would like to see the earnings limitation abolished completely, but to be practical, I urge the committee to raise it to $2400 immediately, and to $3000 by January 1, 1974. Between now and January 1, 1974, I propose that the Administration review all aspects of the "retirement test," and report back to Congress with recommendations at that time. The in-depth review should re-evaluate the retirement test in light of present-day private pension plan deficiencies and the trend toward increasing life expectancy. It should also examine the feasibility of linking the amount of allowable earnings to need.

As an additional measure of relief for those over age 65 who want to work, I propose a credit or refund of Social Security taxes withheld from their wages up to $1680 annually. There would be a corresponding reduction in the taxes paid on income of self-employed individuals.

MEDICARE AND NURSING HOMES

Prescription drugs and Medicare, and full medical expense deductibility from Federal income taxes

Despite the enactment of Medicare, medical expenses continue to take up a large portion of the elderly person's income. In 1970, the average health bill for persons 65 and over was $791, six times that of a youth, and three times that of people between the ages of 19 and 64.

Medicare pays for less than one-half of the health care costs of the elderly, and it does not cover out-of-hospital prescription drugs. Yet drugs constitute the largest personal health care cost of the elderly, accounting for about 20 percent of their out-of-pocket health expenditures. Many elderly people forego badly needed medical care simply because they cannot afford it.

The Senate Special Committee on Aging, the 1971 Advisory Council on Social Security, and the 1971 White House Conference on Aging, have all recommended that Medicare be expanded to cover out-of-hospital prescription drugs.

I urge the committee to adopt this recommendation, and in addition, to restore full deductibility for medical expenses from older person's incomes subject to Federal taxation, as provided prior to 1967.

Nursing home care and standards

There are approximately one million elderly persons residing in nursing homes and related institutions in this country. A very high proportion of these people are suffering not only from serious and chronic illnesses, but also from inadequate care. In too many cases, they suffer from severe mistreatment.

Although the reasons underlying the shortcomings in our nursing homes are numerous and complex, the subcommittee on long-term care of the Senate Special Committee on Aging has managed to pinpoint certain major problems. One cause contributing to the nursing home problems is the diffusion of responsibility among governmental agencies for administering and implementing nursing home standards. During hearings held last year in Chicago on nursing home conditions in Cook County, it was found that four levels of government—city, county, state and federal—are involved in the establishment and enforcement of nursing home standards:

County health officials inspect homes, but only the State Department of Public Health may take action to revoke licenses;

The Chicago Board of Health sets standards for homes and also issues licenses;

The State Department of Public Aid decides the level of reimbursement for public aid recipients, while the Department of Public Health oversees the City's effectiveness in licensing and inspecting;

And the Social Security Administration and the Social and Rehabilitation Service of the Department of Health, Education and Welfare administer and enforce congressionally authorized standards for the Medicare and Medicaid programs.

Since the hearings, the State of Illinois has taken commendable steps to improve the administration and enforcement of its nursing home standards, but the consequences of this diffusion of responsibility are serious enough to warrant a change in our Federal law which would vest in a single State agency the authority to administer nursing home standards and to license and inspect long-term care facilities.

To aid the States in their efforts to administer and enforce nursing home standards, I propose the institution of a training program for State inspectors under the auspices of the Department of Health, Education and Welfare.

I am pleased to note that the Administration has already initiated a Federal effort with respect to the training of State inspectors. I urge that this effort be accelerated further through the adoption of my amendment to HR 1 which authorizes $17.5 million over the next four fiscal years for this purpose.

Demonstration program for the rehabilitation and remotivation of patients in long-term care facilities

At a minimum, nursing homes should see that their patients receive adequate medical supervision and good nursing services. Beyond that, they should seek to rehabilitate nursing home patients through physical therapy and other activities which improve the physical and spiritual condition of the patient.

In their investigation of nursing homes in Cook County, *Chicago Tribune* reporters found that many patients sit for hours doing nothing, or all they do is watch television because so few opportunities for social and physical activity exist. In describing the grimness of this situation, one reporter wrote: "They sit in rooms where the paint is peeling from the walls and the windows are covered with grime and they stare." Conditions vary, of course, from the best to the worst, but there is substantial evidence to warrant fear that this dismal atmosphere prevails in too many homes.

Many nursing home administrators would like to do more in terms of rehabilitating their patients, but because of a reimbursement system which discourages the rehabilitation of patients, they cannot afford to undertake such efforts. In Illinois, it is reasonable to believe that at least 150 homes could spend this money and benefit from it.

To encourage homes to develop rehabilitation programs and to learn more about what can be done in this area, I propose the authorization of $35 million over the next four fiscal years for demonstration programs designed to rehabilitate aged in-patients of long-term care facilities.

Mr. Chairman, the elderly are neither a militant nor a loud group, and they do not have the money to finance high-powered lobbyists to fight for their needs. Instead, they are inclined to suffer their hardships in silence, even though their hardships might seem unbearable and infinite. Their sense of pride and dignity is admirable and refreshing, but we should not allow the elderly to be taken advantage of merely because they do not storm Congress with demands.

Their problems are starkly real. And their needs are immediate. It is with these thoughts in mind, therefore, that I urge the adoption of the foregoing proposals and the prompt enactment of them as part of HR 1.

THE WAR GOES ON

Mr. McGOVERN. Mr. President, I deeply regret that I have not been able to support the recent proposals Mr. Nixon has made on Vietnam. The key to ending the war is for our Government to set a definite date for the complete withdrawal of American forces from Vietnam. That is why I have proposed a bipartisan committee of Senators to work with the administration in finding a way to set the date and thus insure the release of our prisoners and the return of our troops.

It is clear that there is a great difference between offering to negotiate about setting the date and actually setting it. I believe that only the actual setting of a date for withdrawal and the end of bombing—which Mr. Nixon did not mention—will bring our forces and our prisoners home.

To those who believe that Mr. Nixon's offer will defuse domestic criticism of his war policy, I say that I wish that we could end all argument about the war. And the way to do that is to end the war itself. But I am sure that most Americans realize today that the Nixon proposals have not made any difference at all in the lives of the hundreds of prisoners still in North Vietnam or of the American soldiers still engaged in combat or of the Vietnamese who still die by the hundreds each week. No policy can be called a success until it brings relief to them.

TRIBUTE TO FORMER SENATOR HAYDEN

Mr. FANNIN. Mr. President, editorials in yesterday afternoon's Phoenix Gazette and this morning's Arizona Republic express the respect, affection, and gratitude that Arizonans feel for the late former Senator Carl T. Hayden.

I ask unanimous consent that these two editorials be inserted in the RECORD.

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

HE BELONGED TO ARIZONA

Arizona can never fully measure the debt it owes to Carl Hayden.

His name is in the nation's history books for the vast span and great accomplishments of his long service, first in the U.S. House of Representatives, then in the Senate.

But in Arizona, the name of Carl Hayden is in our hearts as well as in our histories. His death cannot remove it because, as they said of Lincoln, he was a man for the ages.

He will be with us as long as the fields are green and the cities flourish in Arizona; there is no facet of the state's development since before statehood which has not felt the imprint of Carl Hayden's quiet, often self-deprecating genius.

To try to list the achievements of this man who worked so long at the highest levels of government would be futile. The number is too great to count.

We can only say, with his passing, thank God he was permitted to be so long with us. His death sorrows us all, but even in sorrow we have the joy of knowing he was ours while he walked the earth.

THE GREATEST ARIZONAN

Many colorful figures have swept across the Arizona stage. Priests, gun-slingers, gamblers, miners, ranchers, land developers, remittance men, solid citizens—the list goes on almost endlessly. But perhaps the least colorful of them all has left the biggest mark.

Dead at the age of 94, Carl Hayden casts an increasing shadow across the state he loved and did so much to build. He decided early in life that he would be, in his own words, "A work horse, not a show horse." And so the man who served longer than any other in the U.S. Congress spent his time in committee work, not making speeches on the floor of the House or the Senate.

For many years he was chairman of the Senate Appropriations Committee, and he presided over the authorization of untold billions of dollars in government spending. While he always knew how to benefit from superb staff work, he also took the trouble to read the bills and study the appropriations. He knew where the money was going, and he tried his best to stop any possible waste.

Carl Hayden never sneered at politicians or at the give-and-take of political processes. He walked the dusty streets of small Arizona towns seeking votes; he attended party caucuses without end; he served as precinct committeeman, which prepared him for be-

ing chairman of national conventions; he was a Democrat, and he often opposed party leaders in preliminary meetings, but once a party policy had been laid down, he supported it loyally.

Naturally as a westerner he understood the problems of the West far better than the more numerous Eastern members of Congress. He also knew the hard rules of the House and Senate. Without violating his innate integrity, he was able to make the trades that are an essential part of the legislative process. To Hayden, more than to other men, should be attributed the federal appropriations for reclamation and parks that have made the West such a desirable place in which to live.

Senator Hayden played a big role on the national stage when he pushed through massive war appropriations, great veterans' measures, and all-important social welfare projects. But he never forgot the basic factor in his constituency, the little guy in Arizona. No letter to his office went unanswered; no request that could legitimately be fulfilled was ignored.

A grateful state will pay its last tribute to Senator Hayden as he lies in state at the Capitol Building tomorrow and at the funeral ceremonies in Grady Gammage Auditorium in Tempe Saturday. No man has done more, with less fanfare, for Arizona.

EDITORIAL IN AUGUSTA CHRONICLE NEWSPAPER: "YOUTH IS MALIGNED"

Mr. THURMOND. Mr. President, an editorial entitled "Youth Is Maligned" appeared in the January 18, 1972 issue of the Augusta Chronicle newspaper, Augusta, Ga.

This editorial quotes figures from a nationwide youth survey which dispel the idea that our young people are an alienated generation.

Mr. President, I ask unanimous consent that this editorial be printed in the Extension of Remarks at the conclusion of my comments.

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

YOUTH IS MALIGNED

Attitudes on the part of youth, as reflected in two new polls by Scholastic Magazine's Institute of Student Opinion, indicate very clearly the error of those who promote the idea of a racial, alienated generation.

It just isn't so, one must conclude on checking results of the polls.

The alleged generation gap seems to be largely fictitious in light of responses by more than 8,000 high school students. A closeness and sense of obligation to parents is indicated when only 9 per cent say they would not want to help their parents when they have finished school. The same group said with virtual unanimity that they wanted children in their future families—41 per cent preferring two children, 31 per cent preferring three children, 25 percent wanting four children and 3 per cent desiring one child only.

Religion is playing a greater role in American life than in the past, 40 per cent of the respondents said in a far broader poll—one one which surveyed the opinion of 85,000 junior and senior high school students in more than 2,000 schools. Of the total number an additional 15 per cent think the degree of influence by religion continues on the same level as in the past, 27 per cent did not have an opinion, and only 18 per cent think religion is declining as an influence.

In the same group of 85,000, small town residence was preferred by the greatest number—35 per cent. Another 19 per cent prefer suburban life, and 14 per cent chose cities.

It seems obvious from such responses that the overwhelming majority of students are conventional, well adjusted individuals. Those who spread sensational statements which assume resentment and rebellion as a way of life among most youth had better take a second look.

HOME REPAIRS SERVICES FOR THE ELDERLY

Mr. CHURCH. Mr. President, approximately 68 percent of all aged persons in the United States own their own homes.

But it is estimated by the Senate Committee on Aging, of which I am chairman, that 6 million older Americans live in unsatisfactory quarters.

Additionally, their housing problems are further complicated by substantially reduced income in retirement, limited mobility, and a greater likelihood of suffering from a chronic health condition. As a consequence, many elderly persons now live in run-down and dilapidated housing which is oftentimes structurally unfit for human occupancy. And in far too many cases, essential home repairs must be delayed because of limited income, failing health, or the lack of requisite skills.

Yet, with a small amount of help, these deteriorating units could be renovated and made livable again.

It was for these reasons that I recently introduced the Older Americans Home Repair Assistance Act, S. 288. Briefly, this measure would make home repair services available for elderly persons who otherwise would have difficulty in paying for these costs. Equally important, this proposal would provide new opportunities for productive employment in a wide range of helpful services—including carpentry work, painting, repairing leaky roofs, replacing rotten floors, and many others—for individuals 55 and older.

A few months ago, the Senate Committee on Aging held hearings in Boise, Idaho, on the effectiveness of the Administration on Aging. However, at these hearings the aged also discussed their problems fully and frankly. And one key concern mentioned was the need for a home repairs program, especially for elderly widows.

An excellent example of this viewpoint was presented by Mrs. Fern Trull, of Weiser, Idaho.

Mr. President, I commend the testimony of Mrs. Trull to Senators and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT OF MRS. FERN TRULL OF WEISER, IDAHO

Mrs. TRULL. Senator Church and members of the panel and friends, when most of us retired from our jobs I hope that most of us did so gracefully. But I think that when we retired it was not with the thought that we were to be placed on a shelf, and that our time of service was ended.

Most of us brought to our retirement age a vast wealth of experience, of learning, and of skills, and were lauded for that. Then we reached the age of 65 and all of a sudden nothing seemed to count, no one wanted our skills, no one cared that we might have experience to help in some of our problems.

The mental change for many of us was certainly great. We wondered how we might fill our days, besides watching TV and walking the dogs.

In Washington County, Idaho, we had a project which worked very successfully for us and I think it worked throughout the western Idaho community action group very well.

This plan was to hire senior men and women who were employable and who desired to work for various reasons to repair the homes and take care of the yards of those older Americans who were unable to do it themselves and who had no money to buy the materials or to hire a painter or a carpenter or someone to do the work from the professional fields.

Some of our women worked in the homes, cleaning up the homes of some of the bachelors, helping some of the women do their washing and ironing, preparing some meals for them, staying with them when they returned from the hospital, and working with them so that those individuals were kept from the very expensive nursing homes and hospitals, thus lowering the cost of the taxpayer in Washington County.

The Federal grant which we received for 1 year paid the minimum wage to each of these workers of $1.60 an hour, and paid for the paint and materials needed to repair that leaky roof, to have a more cheerful dining room for some elderly person, to put a railing on steps so that that person would not fall and injure him or herself, and that type of work.

We found it most successful, in fact we declared it was our most successful venture in the helping of the aging. It did not compete in the labor world, for these elderly people who had the repairs done could not have afforded a regular painter or a carpenter. Had this work not been done by senior men and women it would not have been done at all.

SUCCESSFUL PROGRAM TERMINATED

The year ended and we spoke to deaf ears. Wherever we talked to the seniors they were interested in the program, when we talked to those in power they didn't hear us, yet they were perfectly willing to continue programs for us which were not as successful as this labor program. We have not had any success in getting it back. Like many of the Idaho cities, our city and our county do not have the money to carry on such a project, and we are still trying, and trying hard, to get it back, because it benefited the individual mentally. As one man said: "I no longer wake up in the morning and wonder what I am going to do this long endless day. I know I am going out to work. I am going to meet friends, I am going to meet new people, and I will come home tired and sleep." Another man said: "I am glad I bought my winter clothing when I was working on this project, otherwise I would have had to gone to charity, and that is one thing I will not do."

It helps them maintain their independence, their self-respect and their dignity, which they had had on their jobs when they were employed prior to 65.

I think we need to take some of these things into consideration. None of us want to punch a timeclock, I certainly don't, and I usually manage to evade substitute teaching if I can possibly help it, because I have grown a little bit lazy since I have retired.

But there are things we can give to the community in the way of our skill and our experience, and we do have people who need the money economically. All of us need something to do for our mental health.

Another way we might help the employment of our senior citizens is to follow along with the line of Lewiston, Idaho, with their syringa flowers, and with the Washington

County seniors who showed you the vests and the skirts which they are making, and which they sell out in the community, and as far away as Alaska. Now, Senator Church will take one back to Washington, D.C.

This work is done by volunteers, by women who take the work home and do it on their own time. We would like to have a workshop like Lewiston has, whereby our seniors, many of whom are very skilled, can bring their handmade articles to sell at a shop in our new senior center which we purchased the middle of May. We are still paying for it, of course, for we mortgaged our souls to get it. In our new senior center we have a lovely large room for a workshop, which we are going to use to try to help our members who want extra money for their too small income. The skills are there. We can devise ways which will not compete with regular labor, for our unemployment in Washington County is very high. We seniors can devise ways whereby our people can become fully employed in various ways, or as much as they want without ever competing with the painters or the carpenters or the truckers, or those individuals who are the semiskilled. But we cannot do it without a little extra money, so we are looking to the Federal Government for a little bit of money to get us started, just as they helped us get started on our senior center. And when we have the great big bang-up opening of our center, we will invite you all and say, with the help of our community we did it ourselves. Thank you.

Senator CHURCH. Isn't she a good saleswoman?

I want to say, Mrs. Trull, that I think you hit the nail right on the head. I think of this program that you had in Weiser; I know that we had part of this impact program in Emmett. I am told there are people who worked on that program and did good work and did it for elderly people who couldn't possibly pay the normal wage to a painter, or to get such help from the labor market. It was either a question of having no work done or getting it on this basis.

Now some of these people who are cut off, because no funds are available, are forced back on welfare again to supplement their income.

In the end it is just the question of how the public will pay. You would think that we would have sense enough to try and arrange it in such a way that we can pay to get constructive work done and help the elderly, and help the community, instead of paying it out through a demeaning welfare system.

I so hope that this is one of the things that we can accomplish at the White House Conference, to get programs of this kind started again, and not just on a little experimental basis here and there, but on an extensive basis that will really reach the elderly all over the country and give them this chance.

WELFARE PROGRAMS

Mr. FANNIN. Mr. President, the Wall Street Journal today contains a very interesting article under the headline: "Welfare: Separating Myth and Fact."

This commentary was written by Richard A. Snyder, an attorney from Lancaster, Pa., and a ranking minority member of Pennsylvania's Senate Public Health and Welfare Committee.

Mr. Snyder points out that the advocates of welfare expansion are seeking to create new myths which support their point of view. Proponents of grandiose welfare programs claim to be trying to clear up misconceptions, but instead they are substituting their own interpretations and backing these up with misleading statistics.

Mr. President, I ask unanimous consent to insert in the RECORD the article from today's Wall Street Journal.

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

WELFARE: SEPARATING MYTH AND FACT

(By Richard A. Snyder)

The Department of Health, Education and Welfare, apparently stung by taxpayer criticism of ever-more-costly welfare programs, has published a booklet in its own defense. Like any piece of propaganda, it may tell us something about its creator. It certainly doesn't contribute much clarity to the confusion surrounding welfare and its dilemmas.

The booklet, "Welfare Myths vs. Facts," has been widely circulated by the department and has served as the basis for a number of newspaper articles. It purports to explode "popular misconceptions" about welfare and welfare recipients.

Such misconceptions "not only malign the victims of poverty but the social workers who labor with dedication to make the present inadequate welfare system work," says John D. Twiname, HEW's Social and Rehabilitation Service administrator, in the pamphlet.

While conceding that the current system is indeed inadequate (and putting in a plug for the Nixon welfare reform legislation), the booklet nonetheless argues that the present system is being unfairly criticized by those who suggest, for example, that many welfare recipients are lazy or unethical.

Or, as the HEW frames the proposition:

"Myth: The welfare rolls are full of able-bodied loafers!"

"Fact: Less than 1% of welfare recipients are able-bodied unemployed males."

ARE STATISTICS ACCURATE?

Even if that statistic is accurate it is deceptive, for it implies that finding jobs for these men would have a negligible effect on welfare. The fact is that there is an average 3.7 persons per family on relief, which means that this percentage, rather than 1%, would move off the rolls if the breadwinner went to work.

But is the figure accurate? Or has HEW been too generous in interpreting who is "able-bodied"? For example, it recently came to light that the Pennsylvania Department of Public Welfare had entered into a formal plan with HEW's regional office in Philadelphia to permit any physical impairment of either parent—however trivial—to qualify the family for federal and state funds under the federal work incentive program. Those with no more impairment than the need for eyeglasses qualify the family for cash, food stamps and free medical aid.

Emphasis on males alone is also misleading. It ignores the mothers, a huge and largely untapped work force. As Blanche Bernstein of the New School for Social Research in New York City has pointed out, about 25% of the welfare mothers in New York City, for example, have at least a high school education, making them eligible for many jobs advertised. Half of all mothers have only one or two children, making day-care arrangements feasible.

As part of its denial that many welfare recipients are employable, HEW makes the point that mothers and children get most of the money spent for welfare.

This is true in the sense that Mother cashes the check. However, the indirect but actual beneficiary is more often the absent father. If he leaves his family and lives alone he can spend all the wages on himself, a comfortable equivalent of bachelorhood. If he lives with a woman who is not his wife, he is similarly favored in an economic sense, especially if she is on welfare or employed and their incomes are merged. If he makes clandestine visits to his own home, his paycheck and his wife's welfare check in combination give the outwardly separated family a double income.

There are cases, of course, where the mother is widowed, or the father is ill, imprisoned or otherwise incapacitated. But these do not explain why deserted families on welfare increased from 12,000 to 80,000 in New York City within seven years. Responsible sociological opinion, typified by Nathan Glazer of Harvard, points out that there is a cash incentive to break up the family, or not to form it. For example, the unwed mother on welfare and the putative father on wages would lose her income if they marry.

For years welfare apologists prefaced any discussion of relief with references to the "aged, blind and disabled," which made any criticism of welfare seem hard-hearted. Now that these have become a bare quarter of the whole cost, the stress has been on children and mothers, with discrete avoidance of the men whose escape brought about the situation.

Another straw man from the HEW booklet:

"Myth: Give them more money and they'll spend it on drink and big cars."

"Fact: Most welfare families report (in an HEW survey) that if they received any extra money it would go for essentials."

One can hardly imagine a recipient testifying otherwise, at least in any inquiry conducted by the department. Other random surveys, however, have disclosed push-button telephones, stereos, new and expensive furniture in homes receiving public assistance, and other luxuries purchased with public assistance grants. Credit is often readily available to public assistance recipients because merchants have confidence in the flow of funds.

HEW has special difficulty in encouraging good judgment in spending because the current thrust in welfare is to separate the computing of eligibility from the rendering of social services, such as advice on budgeting, family management, child care, homemaking and employment. It is a tenet that the recipient should not be submitted to the "indignity" of having such advice thrust upon him.

"Myth: Once on welfare, always on welfare."

"Fact: The average welfare family has been on the rolls for 23 months. . . . The number of long-term cases is relatively small."

The department's own figures don't wholly confirm its position. By its charts, more than a third of those on welfare have been there three years or more. HEW personnel admit, moreover, that this does not take into account "repeaters" who have been on for varying periods previously.

In fact, "on-again, off-again" welfare is the case with many recipients, as local administrators acknowledge. For these families, welfare becomes the quickest port of call in any emergency. The easy availability diminishes the likelihood that the recipient will be resourceful, take part-time or overtime work to bridge the gap, or solicit help from relatives.

UNTO THE THIRD GENERATION

The most familiar situation in which welfare has become a way of life is the young unwed mother and her child. And when the child in turn becomes an adolescent and becomes pregnant, a third welfare generation has begun.

According to HEW's pamphlet, 32% of the more than 7 million children in welfare families were born out of wedlock, and these demonstrably constitute much of the caseload that is either on relief on a long-term basis or at recurring intervals.

HEW puts the average length of time a family is on welfare at 23 months, but information in the files of Chairman Wilbur Mills' House Ways and Means Committee establishes the figures at 42 months; this figure

would be even greater if welfare rolls weren't growing so fast.

There is an astonishing lack of data in HEW with respect to how long the closed cases had been on welfare (the Department says no studies have ever been made in this area), and data on this group is needed for an accurate index. Any figure based on those on relief at any given point in time also obviously doesn't include the prospective remaining period each case will be on the rolls, nor does it include any period present recipients may have been on the rolls prior to that point in time.

Dr. Bernstein and others have pointed out that figures on poverty and low incomes aren't reliable. Many families are prone to report net rather than gross figures and to be inexact about part-time earnings and teenagers' income. Or the wife is frequently the source of information about her husband's income but is ill-informed about it. In other words, many families commendably have income from assorted sources, which brings them slightly above the poverty line, although the statistics provided show they are below it.

This also serves to explain in part why many in rural and small-town America would be shocked to be told that they are in poverty. They live frugally but to their own satisfaction on limited resources, or sometimes on help from kin. Census figures are thrown out of kilter by the Amish farmers, for example, who would classify as underprivileged if measured by the absence of radios, TVs or cars, but who manage to earn sufficient income to buy expensive farms for their sons.

Bismarck is reputed to have said that people are happiest if they know little about how their laws and sausages are made. He might have included welfare administration. What is everyone's business has become no one's business except the social scientists', and they haven't given satisfying answers.

BURGEONING DEMANDS

Legislators, at the state level particularly, are becoming frustrated by the burgeoning demands of welfare, which drains educational and other parts of the state budget. And they bear the lament of taxpayers who feel the pinch of welfare and other costs. States, responding to grass-root pressure, cut back on grants. HEW, with its pamphlets, seeks to justify its system.

Welfare is an enormously complex issue, and one that tends to arouse strong emotions in all concerned—from the needy recipient to the taxpayer who foots the bill. Any progress toward a solution of what society can and should do to care for its destitute—a solution that has evaded man since the beginning of history—will be made only through cool rationality.

It is natural that HEW react defensively to criticism and state its case positively. It would be unrealistic to expect it to quote Edward C. Banfield of Harvard, for example, to the effect that current welfare policies encourage idleness, dishonesty, and reduced production.

The public has, however, a right to accuracy and objectivity, and HEW propaganda broadsides such as "Welfare Myths vs. Facts" are no help at all.

FREEDOM IN RHODESIA

Mr. McGOVERN. Mr. President, the situation in Rhodesia is deteriorating. As of yesterday, some 14 Africans have been killed in demonstrations against the proposed agreement between the British Government and the rebellious Rhodesian Government.

Since the Rhodesian Government declared itself independent in 1965, the British Government has tried to bring it to grant full rights of citizenship to its black citizens as a condition of recognition. British recognition is vital to the legitimacy of the Rhodesian regime. No other country has yet recognized that state. Once the British accept its independence, most other countries can be expected to follow suit.

Last November, a British commission headed by Lord Pearce concluded an agreement with the government of Ian Smith. Now that commission is attempting to convince the African population of Rhodesia to accept the agreement.

The Pearce accord gives the white minority 50 seats in the Rhodesian legislature and gives the black majority only 16. It contains the promise of equality of representation at some vague future date. Majority rule would come even later, if, in fact, at all. This agreement is a far cry from the goal one-man, one-vote set by progressive black leadership in Rhodesia.

As members of the Pearce Commission have traveled through Rhodesia, they have met with strong opposition from Africans. In some cases this has led to violence. Eight black members of Parliament in Salisbury have rejected the plan. Africans clearly doubt that, once Rhodesia is on its own, the Smith government will make a real commitment to letting 5 million Africans have a greater voice than 250,000 whites.

The position of the British Government is understandable. It wants to shed the albatross of Rhodesia—a country which has declared its independence and over which the British can now exercise only feeble control. The only measure which has had any effect is the U.N.-sanctioned economic boycott of Rhodesia. But that policy has not succeeded in changing Rhodesian policy. In short, the British now appear determined to make the best of a bad situation.

The United States and other countries can sit back and let Britain negotiate for them. The result is likely to be the acceptance into the international community of a country that is pledged only to give lipservice to the civil rights of the vast majority of its citizens.

We should not let the British make this decision for us. Instead we should put the British Government on notice that the United States will not acquiesce in the Pearce agreement since it is clearly opposed by a majority of Rhodesians. We should inform the British that the United States will not alter its policy toward Rhodesia even if the Pearce Commission flaunts the will of the majority and reports to London that the agreement should be implemented. And we should take the lead in seeking a United Nations resolution rejecting the Pearce agreement.

Because Britain is, in fact, acting on behalf of the international community, does not give us the right to shirk our own responsibility. By prompt and decisive action, we shall act in the best interest of the 5 million Africans of Rhodesia, and we may be able to show the British Government that we expect it to do more than cut them loose without any real hope for civil justice.

SENATOR CARL HAYDEN

Mr. WILLIAMS. Mr. President, I wish to join my colleagues in expressing the deep sorrow and profound sense of loss I felt upon learning of the death, Tuesday night, of former Senator Carl Hayden.

It is by now well known that Senator Hayden served as a Member of Congress longer than any other person in the history of our country—a total of 57 years. What is less widely known, perhaps, is the great esteem in which he was held by those of us privileged to work with him, and the tremendous impact he had on shaping legislative action during his years in the House and Senate.

Carl Hayden came to Congress as one of the "frontier lawmakers" from the newly admitted States of the Old West, and lived to become one of the last of that unique breed. When Arizona was admitted to the Union as the 48th State on February 14, 1912, Carl Hayden was the sheriff of Maricopa County; a few days later he entered the U.S. House of Representatives as Congressman at Large from the newest State. Following eight terms in the House, he was elected to the Senate and he served as a distinguished Member of this body from March 4, 1927, until January 2, 1969, when he retired.

During his years in the Senate he served as chairman of the Rules Committee, and later as chairman of the Appropriations Committee; it was in these posts that he quietly but decisively made his mark on the programs developed and funded by the Congresses in which he served.

Although Senator Hayden was little concerned with publicity—he held only one news conference during his first 50 years in Congress—his persistent efforts in support of highway construction and land reclamation programs were well known here and in his home State. Those efforts contributed to a large degree to helping Arizona grow from a population of some 200,000 when Carl Hayden first entered Congress, to more than 1.7 million today.

Politically, Carl Hayden's record was, to say the least, consistent. He lost his first election—for the presidency of student body at Stanford University—but won every one he ever entered from then on. Furthermore, he won on his own high terms, never needing to resort to discussing the weaknesses of his opponent.

Mr. President, I know I can confidently say that Senator Hayden, and the contribution he made to our country, will long be remembered. His passing is a deep loss to his family and friends, to the Members of Congress who knew him, to the people of Arizona, and to our entire Nation.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time set apart for the transaction of routine morning business has now expired. Morning business is closed.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair lays before the Senate the

unfinished business, S. 2515, which the clerk will please state by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment offered by the distinguished Senator from North Carolina (Mr. ERVIN), amendment No. 597.

Mr. BYRD of West Virginia. Mr. President, will the distinguished Senator

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

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. from North Carolina yield to me?

Mr. ERVIN. I am delighted to yield to the assistant majority leader.

Mr. BYRD of West Virginia. I thank the distinguished Senator from North Carolina.

Mr. President, the yeas and nays have been ordered on the pending amendment by the distinguished Senator from North Carolina (Mr. ERVIN). It is my understanding that all sides are about ready for that vote to occur. Therefore, I take the floor at this time just to alert the cloakrooms on the respective sides of the aisle that they may know that the vote is about to take place and, in turn, may inform Senators, so that they may come to the floor.

Mr. JAVITS. Mr. President, if the Senator will yield, overnight my staff and that of Senator WILLIAMS and the staff of Senator ERVIN and the agencies concerned—to wit, the Equal Employment Opportunity Commission and Government procurement people—have been in touch with each other. That is, the agency of the Department of Labor dealing with Government contractors and equal employment opportunity have been in touch with each other, and they have now produced a draft of a revised Ervin amendment which takes account of the problems raised by the Senator, with which there was substantial agreement by the Senator from New Jersey (Mr. WILLIAMS) and myself, except that I could not see that the way in which the amendment had been drafted solved the problems. I now believe that it solves the problems equitably, technically, and appropriately and I am prepared, on a rollcall vote, to vote for the amendment.

I would hope that perhaps right now the Senator from North Carolina could revise his amendment according to the new draft, so that when we come out of the next quorum call we will be ready to vote for it without further delay.

Mr. ERVIN. Mr. President. I thank the distinguished Senator from New York. Inasmuch as the rollcall vote has been ordered on the original amendment, the Senator from North Carolina has lost his capacity to modify his original amendment without unanimous consent by the Senate.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ERVIN. I therefore ask unanimous consent that my amendment No. 597 be modified to conform to the draft agreed upon by the staff of the Senator from New Jersey, the staff of the Senator from New York, and my staff. I send to the desk a copy of the revised draft and ask the clerk to state it so that the Senate may know what modifications are being made.

The ACTING PRESIDENT pro tempore. The modification will be stated for the information of Senators and then the question will be put as to whether unanimous consent is granted for the modification.

The legislative clerk read the modified amendment as follows:

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

SEC. 14. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of 5 U.S.C. § 554, and the following pertinent sections. *Provided, however,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply. *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the government at the time the appropriate compliance agency has accepted such plan unless within 45 days thereafter the Office of Federal Contract Compliance has disapproved such plan.

Mr. ERVIN. Mr. President, perhaps I should clarify the remarks I made about the manner in which the compromise draft was reached. I stated that it was worked out by the staffs of the Senator from New York, the Senator from New Jersey, and myself. I might state that they did so under our direction. The staffs did a remarkable job in putting in understandable phraseology, the agreement which we had reached in respect to this very important matter.

Mr. WILLIAMS. Mr. President, I wanted to say that rather late last evening I was working with the Senators' staffs. I think that we can all be grateful for their faithfulness to the observations made by the Senator from North Carolina on the floor and after we left the floor. It represents, in my judgment, a solution to the question and some of the anxieties felt which prompted the Senator to offer the original amendment in the spirit in which I agreed with it yesterday with certain reservations. The reservations have now been removed. I think that this modification is necessary as part of this legislation to insure that the objectives are reached and the process of scrupulous fairness preserved.

Mr. ERVIN. I thank the Senator. I would suggest, so early in the session, with so few Senators in the Chamber, that it might be advisable to have a quorum call before we vote. So far as I am concerned, I am ready to vote.

The ACTING PRESIDENT pro tempore. If the Senator will excuse the Chair, unanimous consent has not yet been given.

Mr. ERVIN. Mr. President, I ask unanimous consent that I be permitted to modify my amendment in accordance with the compromise draft worked out by the Senator from New Jersey, the Senator from New York, and myself, with our respective staffs.

The ACTING PRESIDENT pro tempore. Is there objection to the modification proposed by the distinguished Senator from North Carolina? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum so that the cloakrooms can inform Senators that a rollcall vote will be held shortly.

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

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The question is on agreeing to the amendment offered by the Senator from North Carolina 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. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. EASTLAND) is absent because of illness.

I further announce that, if present and voting, the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) would each vote yea.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

The result was announced—yeas 77, nays 0, as follows:

[No. 14 Leg.]

YEAS—77

Aiken	Fannin	Nelson
Allen	Fong	Pastore
Anderson	Fulbright	Pearson
Baker	Gambrell	Pell
Beall	Griffin	Percy
Bellmon	Gurney	Proxmire
Bennett	Hansen	Ribicoff
Bentsen	Harris	Roth
Bible	Hart	Saxbe
Boggs	Hartke	Schweiker
Brock	Hatfield	Scott
Brooke	Hollings	Smith
Burdick	Hruska	Sparkman
Byrd, Va.	Hughes	Spong
Byrd, W. Va.	Javits	Stafford
Cannon	Jordan, N.C.	Stennis
Case	Jordan, Idaho	Stevens
Chiles	Kennedy	Symington
Cook	Long	Taft
Cooper	Mansfield	Talmadge
Cotton	McClellan	Thurmond
Cranston	McGee	Tower
Curtis	McIntyre	Weicker
Dole	Miller	Williams
Ellender	Mondale	Young
Ervin	Moss	

NAYS—0

NOT VOTING—23

Allott	Gravel	Montoya
Bayh	Humphrey	Mundt
Buckley	Inouye	Muskie
Church	Jackson	Packwood
Dominick	Magnuson	Randolph
Eagleton	Mathias	Stevenson
Eastland	McGovern	Tunney
Goldwater	Metcalf	

So Mr. ERVIN's amendment as modified was agreed to.

Mr. ERVIN. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. ERVIN. Mr. President, I ask unanimous consent that the following members of my staff be permitted to be on the floor of the Senate to assist me during the remainder of the consideration of the bill: Rufus Edmisten, William P. Goodwin, Jr., and Walker Nolan.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bill in which it requests the concurrence of the Senate:

H.R. 6957. An Act to establish the Sawtooth National Recreation Area in the State of Idaho, to temporarily withdraw certain national forest land in the State of Idaho from the operation of the United States mining laws, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 6957) to establish the Sawtooth National Recreation Area in the State of Idaho, to temporarily withdraw certain national forest land in the State of Idaho from the operation of the U.S. mining laws, and for other purposes, was read twice by its title and referred to the Committee on Interior and Insular Affairs.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FIFTEEN-MINUTE RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess for 15 minutes.

The motion was agreed to; and (at 11:45 a.m.) the Senate took a recess for 15 minutes.

The Senate reassembled at 12 o'clock noon, when called to order by the Presiding Officer (Mr. GAMBRELL).

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.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT (H. DOC. No. 92-228)

The PRESIDING OFFICER (Mr. GAMBRELL) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Joint Economic Committee:

To the Congress of the United States:

The American economy is beginning to feel the effects of the new policies launched last August.

I undertook the New Economic Policy because it was becoming clear that not enough was being done to meet our ambitious goals for the American economy. The new measures are designed to bring the Nation to higher employment, greater price stability, and a stronger international position.

The essence of the New Economic Policy is not the specific list of measures we announced on August 15; it is the determination to do all that is necessary to achieve the Nation's goals.

Nineteen hundred and seventy-one was in many ways a good economic year. Total employment, total output, output per person, real hourly earnings, and real income after tax per person all reached new highs. The inflation which has plagued the country since 1965 began to subside. In the first 8 months of the year the rate of inflation was 30 percent less than in the same months of 1970.

But I did not believe this was enough to meet the Nation's needs. Although the rate of inflation had declined before August, it was still too high. Although unemployment stopped rising, it remained near 6 percent. In the first part of the year, our international balance-of-payments deficit—the excess of our payments to the rest of the world over their payments to us—had risen far too high.

The conditions called for decisive actions. On August 15, I announced these actions.

First, I imposed a 90-day freeze on prices, wages, and rents.

Second, I suspended conversion of dollars into gold and other reserve assets.

Third, I imposed a temporary surcharge on imports generally at the rate of 10 percent.

Fourth, I proposed a number of tax changes intended to stimulate the economy, including repeal of the excise tax on automobiles, a tax credit for investment, and reductions of income taxes on individuals. At the same time I took steps to keep the budget under control.

The package of measures was unprecedented in scope and degree. My Administration had struggled for 2½ years in an effort to check the inflation we inherited by means more consistent with economic freedom than price-wage controls. But the inflationary momentum generated by the policy actions and inactions of 1965–68 was too stubborn to be eradicated by these means alone. Or at least it seemed that it could only be eradicated at the price of persistent high unemployment—and this was a price we would not ask the American people to pay.

Similarly, more than a decade of balance-of-payments deficits had built up an overhang of obligations and distrust which no longer left time for the gradual methods of correction which had been tried earlier.

The measures begun on August 15 will have effects continuing long into the future. They cannot be fully evaluated by what has happened in the little over 5 months since that date. Still the results up to this point have been extremely encouraging.

The freeze slowed down the rate of inflation dramatically. In the 3 months of its duration the index of consumer prices rose only 0.4 percent, compared to 1.0 percent in the previous 3 months. The freeze was a great testimonial to the public spirit of the American people, because that result could have been achieved with the small enforcement staff we had only if the people had been cooperating voluntarily.

The freeze was followed by a comprehensive, mandatory system of controls, with more flexible and equitable standards than were possible during the first 90 days. General principles and specific regulations have been formulated, staffs have been assembled and cases are being decided. This effort is under the direction of citizens on the Price Commission and

Pay Board, with advice from other citizens on special panels concerned with health services, State and local government, and rent. These citizens are doing a difficult job, doing it well, and the Nation is in their debt.

While this inflation-control system was being put in place, vigorous action was going forward on the international front. The suspension of the convertibility of the dollar was a shock felt around the world. The surcharge emphasized the need to act swiftly and decisively to improve our position. Happily, the process of adjustment began promptly, without disrupting the flow of international business. Other currencies rose in cost relative to the U.S. dollar. As a result, the cost of foreign goods increased relative to the cost of U.S. goods, improving the competitive position of American workers and industries. International negotiations were begun to stabilize exchange rates at levels that would help in correcting the worldwide disequilibrium, of which the U.S. balance-of-payments deficit was the most obvious symptom. These negotiations led to significant agreements on a number of points:

1. Realignment of exchange rates, with other currencies rising in cost relative to the dollar, as part of which we agreed to recommend to Congress that the price of gold in dollars be raised when progress had been made in trade liberalization.

2. Commitment to discussion of more general reform of the international monetary system.

3. Widening of the permitted range of variation of exchange rates, pending other measures of reform.

4. Commitment to begin discussions to reduce trade barriers, including some most harmful to the United States.

5. Assumption of a larger share of the costs of common defense by some of our allies.

6. Elimination of the temporary U.S. surcharge on imports.

The third part of the August 15 action was the stimulative tax program. Enactment of this package by Congress, although not entirely in the form I had proposed, put in place the final part of my New Economic Policy.

In part as a result of this program, economic activity rose more rapidly in the latter part of the year. In the fourth quarter real output increased at the annual rate of 6 percent, compared with about 3 percent in the 2 previous quarters. Employment rose by about 1.1 million from July to December, and only an extraordinarily large rise of the civilian labor force—1.3 million—kept unemployment from falling.

Nineteen hundred and seventy-two begins on a note of much greater confidence than prevailed 6 or 12 months ago. Output is rising at a rate which will boost employment rapidly and eat into unemployment. There is every reason to expect this rate of increase to continue. The Federal Government has contributed impetus to this advance by tax reductions and expenditure increases. The Federal Reserve has taken steps to create the monetary conditions necessary for rapid economic expansion.

The operation of the new control system in an economy without inflationary pressure of demand holds out great promise of sharply reducing the inflation rate. We are converting the fear of perpetual inflation into a growing hope for price stability. We are lifting from the people the frustrating anxiety about what their savings and their income will be worth a year from now or 5 years from now.

For the first time in over a decade the United States is moving decisively to restore strength to its international economic position.

The outlook is bright, but much remains to be done. The great problem is to get the unemployment rate down from the 6-percent level where it was in 1971. It was reduced from that level in the sixties by a war buildup; it must be reduced from that level in the seventies by the creation of peacetime jobs.

It is obvious that the unemployment problem has been intensified by the reduction of over 2 million defense-related jobs and by the need to squeeze down inflation. But 6-percent unemployment is too much, and I am determined to reduce that number significantly in 1972.

To that end I proposed the tax reduction package of 1971. Federal expenditures will rise by $25.2 billion between last fiscal year and fiscal 1972. Together these tax reductions and expenditure increases will leave a budget deficit of $38.8 billion this year. If we were at full employment in the present fiscal year, expenditures would exceed receipts by $8.1 billion. This is strong medicine, and I do not propose to continue its use, but we have taken it in order to give a powerful stimulus to employment.

We have imposed price and wage controls to assure that the expansion of demand does not run to waste in more inflation but generates real output and real employment.

We have suspended dollar convertibility and reduced the international cost of the dollar which will help restore the competitive position of U.S. workers and thereby generate jobs for them.

We have instituted a public service employment program to provide jobs directly for people who find it especially hard to get work.

We have expanded the number of people on federally assisted manpower programs to record levels.

We have established computerized Job Banks to help match up jobseekers and job vacancies.

We have proposed welfare reform to increase incentives to employment.

We have proposed special revenue sharing for manpower programs, to make them more effective.

We have proposed revision of the minimum wage system to remove obstacles to the employment of young and inexperienced workers.

We expect that these measures, and others, will contribute to a substantial reduction of unemployment.

In addition to getting unemployment down, a second major economic task before us is to develop and apply the price-wage control system, which is still in its formative stage, to the point where its objective is achieved. The objective of the controls is a state of affairs in which reasonable price stability can be maintained without controls. That state of affairs can and will be reached. How long it will take, no one can say. We will persevere until the goal is reached, but we will not keep the controls one day longer than necessary.

The success of the stabilization program depends fundamentally upon the cooperation of the American people. This means not only compliance with the regulations. It means also mutual understanding of the difficulties that all of us—working people, businessmen, consumers, farmers, Government officials—encounter in this new complicated program. Our experience in the past few months convinces me that we shall have this necessary ingredient for success.

We embarked last year on another great task—to create an international economic system in which we and others can reap the benefits of the exchange of goods and services without danger to our domestic economies. Despite all the troubles in this field in recent years both the American people and our trading partners are enjoying on a larger scale than ever before what is the object of the whole international economic exercise—consumption of foreign goods that are better or cheaper or more interesting than domestic goods, as well as foreign travel and profitable investment abroad.

We don't want to reduce these benefits. We want to expand them. To do that, we in the United States must be able to pay in the way that is best—chiefly by selling abroad those things that we produce best or more cheaply, including the products of our agriculture and our other high-technology industries. This is our objective in the international discussions launched by our acts of last year and continuing this year.

These tasks, in which Government takes the lead, are superimposed on the fundamental task of the American economy, upon which the welfare of the people most depends and which is basically performed by the people and not by the Government. That fundamental task is the efficient and innovative production of the goods and services that the American people want. That is why I have emphasized the need for greater productivity and a resurgence of the competitive spirit.

The outstanding performance of the American economy in this respect provides a background of strength which permits the Government to face its economic problems with confidence and to bring about a new prosperity without inflation and without war.

RICHARD NIXON.

JANUARY 27, 1972.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GAMBRELL). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. ALLEN. Mr. President, I call up an amendment at the desk and ask that it be stated. It is an amendment offered on behalf of myself and the distinguished Senator from North Carolina (Mr. ERVIN).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

In lieu of the language proposed to be substituted for the original language of the bill by the committee substitute, as amended, substitute the following:

SEC. 2. (a) Paragraph (6) of subsection (g) of section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(f)(6)) is amended to read as follows:

"(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to recommend institution of appellate proceedings in accordance with subsection (h) of this section, when in the opinion of the Commission such proceedings would be in the public interest, and to advise, consult, and assist the Attorney General in such matters.

(b) Subsection (h) of such section 705 is amended to read as follows:

"(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court or in the courts of appeals of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by the Commission."

SEC. 3. (a) Subsection (a) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based and the person or persons aggrieved) that an employer, employment agency or labor organization has engaged in an unlawful employment practice, the Commission, within five days thereafter, shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the 'respondent') with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year."

(b) Subsection (d) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(d) A charge under subsection (a) shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency. Except as provided in subsections (a) through (d) of this section and in section 707 of this Act, a charge filed hereunder shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice of an employer, employment agency, or labor organization."

(c) Subsection (e) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c), the Commission has been unable to obtain voluntary compliance with this Act, the Commission may bring a civil action against the respondent named in the charge: *Provided*, That if the Commission fails to obtain voluntary compliance and fails or refuses to institute a civil action against the respondent named in the charge within one hundred and eighty days from the date of the filing of the charge, a civil action may be brought after such failure or refusal within ninety days against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or further efforts of the Commission to obtain voluntary compliance."

(d) Subsections (f) through (k) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) are redesignated as subsections (g) through (l), respectively, and, in newly designated subsection (k) the reference to subsection (i) is changed to subsection (j), and the following new section is added after section 706(e) thereof:

"(f) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge the court having jurisdiction over such action shall have the authority to grant such temporary or preliminary relief as it deems just and proper: *Provided*, That no temporary restraining order or other preliminary or temporary relief shall be issued absent a showing that substantial and irreparable injury to the aggrieved party will be unavoidable. It shall be the duty of a court having jurisdiction over proceeding under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited."

(e) Subsection (h) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) as redesignated by this section, is amended to read as follows:

"(h) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complant, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual, pursuant to section 706(a) and within the time required by section 706(d), neither filed a charge nor was named in a charge or amendment thereto, or was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a). No order made hereunder shall include back pay or other liability which has accrued more than two years before the filing of a complaint with said court under this title."

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alabama will state it.

Mr. ALLEN. Mr. President, the amendment which has been offered by the Senator from North Carolina and myself is a substitute for the committee substitute. The substitute is the exact language of the House bill, H.R. 1746, as it passed the House.

The question I wish to propound to the Chair is: Will the amendment which has just been offered itself be subject to amendment?

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator is correct. It will be subject to amendment.

Mr. ALLEN. Then, as long as this amendment is pending, it will be the vehicle by which amendments may be offered to the pending bill. It can be used as a vehicle for the introduction of amendments separate from the other measures pending; is that not correct?

The PRESIDING OFFICER. The Senator's amendment can be used as a vehicle for amendments to the bill, but also perfecting amendments can be offered to the committee amendment while the Senator's amendment is pending.

Mr. JAVITS. Mr. President, will the Senator from Alabama yield so that we can clarify this matter?

Mr. ALLEN. I yield.

Mr. JAVITS. When the Chair refers to the committee amendment, I gather it refers to S. 2515 as reported to the Senate, Calendar 412.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. So amendments will lie to S. 2515 as well as or in the alternative to the substitute of the Senator from Alabama. Will amendments to the bill of the committee, that is, Calendar No. 412, be also amendments in the second degree?

The PRESIDING OFFICER. An amendment to the committee substitute is an amendment in the first degree.

Mr. JAVITS. But amendments to the Allen substitute are amendments in the second degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. So that amendments to the committee substitute may in turn be amended.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. That is, if they are submitted at this time, under this framework.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. However, the Senate decision will then have to be mutually conclusive, am I correct, in that if the Allen amendment, as amended, is carried, that would preempt the committee bill as amended.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Just so that we have everything clear, I thought that should be explained. I have one other thing to bring out. How would the votes come? Would amendments to the committee amendment, including amendments to those amendments, be voted on first; or is it indiscriminate, depending upon when they are offered?

The PRESIDING OFFICER. Perfecting amendments to the committee substitute will have preference over the Allen substitute.

Mr. ALLEN. Mr. President, the amendment which is at the desk and up for consideration seeks to substitute for the pending committee amendment the language of House bill H.R. 1746 entitled, "A bill to promote equal employment opportunities for American workers."

The bill, S. 2515, introduced in the Senate and referred to the Health and Education Subcommittees of the Committee on Labor and Public Welfare, was amended in the committee by the writing of an entirely new bill, and that is what was the pending business until the pending amendment was offered, which would substitute the House language for the language which the committee seeks to substitute for the bill as originally introduced.

Mr. President, I feel that every Member of this body wants to see fair and equal employment opportunity for every citizen in this country. I feel that every Senator wants to see any man or woman, or any boy or girl, go just as far in life as his abilities, energies, and ambitions will take him. All of us want to see every person receive fair and equal treatment before the law.

The EEOC was set up some 7 years ago as a Federal agency, an advisory agency, and an investigatory agency to aid in the matter of seeing that everyone had an equal opportunity to obtain fortune and receive promotion. This Commission does not have the power to make orders which it cannot enforce. Some sort of machinery needs to be set up to allow the EEOC to obtain enforcement of its orders based upon its findings.

So the purpose of S. 2515 and the purpose of H.R. 1746 is to provide enforcement machinery for the orders of the EEOC. It is not a question of which one offers more substantive right. Neither bill would create a different degree or weight for equal employment opportunity. The law would be the same with regard to the enforcement procedure under either bill.

One method provides that the Commission—and this is in S. 2515—receive the charge, make the investigation, and, as now amended, refer the complaint over to the general counsel who files charges before the Commission which received the complaint originally and which made the investigation. And this Commission—under S. 2515, but not under the amendment introduced by the Senator from North Carolina and myself—receives the complaint, investigates it, and forms a judgment with respect to it, or it would not bother to send it to the General Counsel for the filing of charges. Then the General Counsel files a charge before the Commission which, the junior Senator from Alabama submits, the Commission has already formed a judgment on. Then they proceed to reach a decision and issue a cease-and-desist order that the employer must comply with.

Mr. ERVIN. Mr. President, will the Senator yield for a question at that point?

Mr. ALLEN. I would be delighted to yield to the distinguished senior Senator from North Carolina.

Mr. ERVIN. Mr. President, is it not a principle of the common law which prevails in the overwhelming majority of the States of the Union that no man can be a judge in his own case?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Mr. President, the committee bill authorizes members of the Commission to file charges of unlawful employment practices. Then these charges, if approved by the General Counsel, would be prosecuted before the Commission itself, sitting as a jury and judge, and the Commission is to make a judicial decision based upon the charges which its members have filed.

Mr. ALLEN. The Senator is correct. That is what S. 2515 provides. We are trying to get that changed.

Mr. ERVIN. As I understand it, one of the fundamental principles of the substitute offered by the Senator from Alabama on behalf of himself and myself is to make certain that, instead of having the judicial function exercised by the members of the Commission who have preferred the charges or whose associates have preferred the charges, the validity should be determined by the district courts of the United States as in all other civil actions.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Does not the fundamental principle of justice say that every person is entitled to have his cause judged, to borrow a quotation from Edmund Burke, "with the cold neutrality of an impartial judge"?

Mr. ALLEN. Yes.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that when one attempts to weigh the power to prefer charges—to conduct an investigation and prefer charges—with the power to judge the validity of those charges, he sets up a system which absolutely divorces the agency empowered to act in the matter from the fundamental principles upon which any fair system of justice must necessarily rest?

Mr. ALLEN. Yes; that is correct.

Mr. ERVIN. So the substitute amendment of the Senator from Alabama is offered for the purpose of insuring that there shall be a fair and a just determination of the charges by an impartial tribunal instead of by a tribunal which is empowered to investigate charges and make charges?

Mr. ALLEN. Yes; that is correct. This tribunal would not be an agency that is not sympahtetic to civil rights. On the contrary, the Federal district courts throughout the country have displayed great compassion, great interest, great belief in, and great determination to enforce the civil rights of all citizens. So it would not be an unfriendly tribunal by which those charges or complaints would be heard. They would be heard by the Federal district courts.

Mr. ERVIN. The Senator from Alabama is conscious of the solicitude of the Federal courts for civil rights, is he not?

Mr. ALLEN. Yes.

Mr. ERVIN. But he is also conscious of the fact that Federal courts are also more likely to enforce civil rights by procedures that do not in and of themselves constitute civil wrongs?

Mr. ALLEN. Yes.

Mr. ERVIN. I thank the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for giving me the benefit of his views and for participating in this colloquy.

Mr. President, an effort was made previously in the Senate to amend S. 2515, so as to do away with the procedure by which the Commission is judge, jury, and prosecutor, and to require that the forum for determining the rights of the parties involved would not be the Commission which received the complaint, considered it, and passed it on to the General Counsel for action. It would not be that body which had already, in effect, formed some sort of opinion about the matter. It would be a Federal district court of the place where the alleged unfair employment practice took place.

At one time, it looked as though the Senate were going to accept that amendment, because then it did reconsider the vote by which the amendment failed of adoption. But then, on a second vote on the matter, by a vote of 48 to 46, it failed to agree to the amendment, if the memory of the junior Senator from Alabama is correct.

So the strong sentiment of just about an equal number of Senators is that the forum for settling and determining the rights of citizens shall be the Federal judiciary, starting at the courts closest home.

The Dominick amendment failed of adoption. The proponents of cease and desist by Commission fiat won that battle. It may have been a most expensive victory, because, if the junior Senator from Alabama correctly interprets the feelings and the determination of a large number of Senators, this bill may not—and he says "may not"—be forced to a vote in the Senate. That would be a tragic happening. In many respects, that would be a reaching out for more than the Snate is willin gto give, going further than public opinion would require.

For 7 years, the Commission has operated without the power of cease and desist. Why does it need that power now, in this fashion? Why will it not accept going into court to prove its charges? Why does it want to try its charges itself? That just depends on the thoughts, ideas, and concepts of due process and of our Anglo-Saxon system of jurisprudence. Why not be satisfied to go into Federal court and make out the charges? "Oh," they say, "the Federal courts are just clogged with work. That would make it very difficult to get a man's rights adjudged."

Mr. ERVIN. Mr. President, will the Senator yield at that point, without losing his right to the floor, so that I may call his attention to an editorial published in the New York Times of January 25, 1972?

Mr. ALLEN. I am delighted to yield for that purpose.

Mr. ERVIN. This editorial reads:

> Superficially, the cease-and-desist route holds out the promise of swifter action and more uniform administration of the law, but experience with N.L.R.B. hearing examiners suggests that they do not dispose of cases more rapidly than Federal district judges.

I should like to ask the Senator from Alabama if the record does not show that, notwithstanding the fact that the powers of the EEOC Commission are limited by present law to the investigation of charges and the making of charges—and I might add, in the absence of an amendment like the one of the Senator from Ohio, the prosecution of charges by those who made the accusatory charges—nevertheless, the Commission is some 18 months behind in its work.

Mr. ALLEN. Yes. I understand it is 18 to 24 months behind.

Mr. ERVIN. And if the committee bill passes, giving the Commission jurisdiction over 10 million employees of State and political subdivisions, and, in addition, giving jurisdiction over the activities of every little businessman in America who employs as many as eight persons, can we not look forward to a delay of 10, 15, or 20 years in the processing by the Commission of its work unless we multiply its employees to such an extent that they will be comparable to a plague of locusts who go abroad throughout this land and eat up the substance of the taxpayers?

Mr. ALLEN. Yes; that is correct. The Commission does not now have authority, under S. 2515, to take into the Federal service or to avail itself of the use of unpaid or voluntary workers, who would have to have prejudice or bias or they would not be volunteering their services.

Mr. ERVIN. Does not the Senator from Alabama share the belief of the Senator from North Carolina that the reason why the Congress denied the EEOC cease-and-desist power when it enacted title VI of the Civil Rights Act of 1964 was to divorce the investigatory and the prosecutory power from the power to make judicial decisions?

Mr. ALLEN. Yes.

Mr. ERVIN. Is the Senator from Alabama not familiar with the decision in the case of *Wong Yang Sung* v. *McGrath*, 339 United States 33, where the Supreme Court quoted with approval a report of the Attorney General's Committee on Administrative Procedure which declared:

> These types of commingling of functions of investigation or advocacy with the function of deciding are thus plainly undesirable. But they are also avoidable and should be avoided by appropriate internal division of labor. For tne disqualifications produced by investigation or advocacy are personal psychological ones which result from engaging in those types of activity; and the problem is simply one of isolating those who engage in the activity. Creation of independent hearing commissioners insulated from all phases of a case other than hearing and deciding will, the Committee believes, go far toward solving this problem at the level of the initial hearing provided the proper safeguards are established to assure the insulation.

Is not the Senator from Alabama familiar with that decision?

Mr. ALLEN. Yes, I am.

Mr. ERVIN. I ask the Senator from Alabama if the committee bill does not leave the commission in such a situation that it has the power to investigate and also the power to try the validity of the charges which it may initiate.

Mr. ALLEN. Yes.

Mr. ERVIN. Was not that separation considered desirable by the Attorney General's committee, which was quoted by the Supreme Court with approval in the opinion from which I have just read?

Mr. ALLEN. Yes.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that the citation of that report is a strong indication that the members of the Supreme Court who participated in the McGrath decision may have believed that a situation permitting the same persons who exercise the investigating power and the power to prefer charges and the power to decide those charges, even though the individual who may have preferred the charges may be excluded from the trial process, is hardly consistent with the due process clause of the fifth amendment?

Mr. ALLEN. I certainly agree with the Senator from North Carolina.

Mr. ERVIN. Does not the Senator from Alabama believe that the members of an agency which is charged with the enforcement of a particular type of law and which is empowered to investigate alleged violations of the law and to charge violations of the law and to judge violations of the law necessarily have an interest in a decision which tends to support the charges which they or their fellow members may have filed?

Mr. ALLEN. Yes, it certainly seems that way to the junior Senator from Alabama.

Mr. ERVIN. Therefore, does not the Senator from Alabama agree that, under a setup like that, members of the agency, no matter how well intentioned they are to do justice, are under a psychological handicap which does not permit them to hold the scales of justice evenly?

Mr. ALLEN. I certainly agree.

Mr. ERVIN. Does the Senator agree that those people would certainly have a psychological tendency toward supporting the charges which they or their fellow members have filed?

Mr. ALLEN. Yes.

Mr. ERVIN. Does the Senator from Alabama recall that a few years ago the State of Michigan enacted a law which enabled a Michigan State judge to sit as a grand jury, and that under that law a Michigan judge charged that a certain individual who had appeared before him in court had been guilty of a contempt of his court, and that therefore that judge appointed himself a one-man grand jury to investigate the charge whether this individual had committed a contempt of court against the court, which was heard in that one-man grand jury, and the case went to the Supreme Court, which held that that act of the State of Michigan permitting the judge to act as a one-man grand jury under those circumstances violated the due-process clause of the 14th amendment, which was identical in meaning to the due-process clause of the fifth amendment?

Mr. ALLEN. Yes.

Mr. ERVIN. And does not the Senator from Alabama agree with the Senator from North Carolina that, if there is going to be a law providing for the adjudication of rights created by law, it is essential for that law and for law enforcement in general to be respected by the people of the United States, to make certain that the judging of the charges of violation of that law is done by a tribunal which is unbiased and impartial and which, to quote the words of Edmund Burke, is considered by "the cold impartiality of a neutral judge"?

Mr. ALLEN. Yes, it should be, and it is not under S. 2515, and would become that way under the amendment we have offered.

Mr. ERVIN. I would like to suggest to the Senator from Alabama, if I may do so without losing his right to the floor, that he insert in the RECORD as a part of his speech the editorial from the New York Times, from which I have quoted, which states in substance that the New York Times thinks that the best way to enforce the law is through the courts.

Mr. ALLEN. Mr. President, I make the request.

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

[From the New York Times, Jan. 25, 1972]

ENFORCING EQUALITY

It is more than seven years since Congress enacted a comprehensive Civil Rights Act

banning discriminatory practices in many fields including employment. But the latest job statistics show that the rate of unemployment is twice as high for Negroes as for whites. In part, this lag is attributable to the inferior education and deprivation which many blacks have suffered in the past. Unfortunately, however, it is also due to concealed racial bias on the part of some employers and some unions.

The Equal Employment Opportunity Commission established by the 1964 law lacks effective power to reach and overcome prejudice in the job market. If conciliation fails, it is up to the individual who filed the complaint to pursue the matter in the courts by suing the employer or the union. The Justice Department has the power to sue only if it can show that a pattern or consistent practice of discrimination exists.

The House last year passed a bill authorizing the commission to institute a suit in the courts at public expense on behalf of the individual. The issue is now before the Senate. A bipartisan coalition of liberals on the Senate Labor Committee has reported a different bill which would give the E.E.O.C., authority to issue a cease-and-desist order, the same authority which the National Labor Relations Board has in the area of collective bargaining. The bill would also transfer to the commission the power now lodged with the Justice Department to move against broad patterns of discriminations.

In the past, The Times has favored giving the commission this power to enforce its own findings. We are still convinced that such an arrangement would represent a vast improvement over the present ineffectual method. But a strong case can be made for the idea that effective, nonpartisan enforcement of the law may in the long run be more certain through reliance upon the courts than upon a politically appointed commission whose members change with each Administration.

Administrative agencies were given broad enforcement powers in the labor field because it used to be thought that the Federal judiciary had an antilabor bias. Whatever the truth of that estimate as applied to the courts in the 1930's, it is clearly untrue concerning their approach to racial discrimination today. Of the three branches of government, the judiciary has consistently been most vigilant and consistent in protecting minority rights in recent decades.

Superficially, the cease-and-desist route holds out the promise of swifter action and more uniform administration of the law, but experience with N.L.R.B. hearing examiners suggests that they do not dispose of cases more rapidly than Federal district judges. As for uniformity of interpretation, the harder issues will only be settled by appeal to the Supreme Court whether they originate in E.E.O.C., orders or in district court lawsuits.

A closely divided Senate will decide today whether to substitute the court approach for the cease-and-desist order. If the final Senate vote is for cease-and-desist orders, the question will go to a House-Senate conference. There is satisfaction at least in the knowledge that either version of the bill would bring about an improvement over the existing feeble arrangement.

Mr. ALLEN. Mr. President, I do not find myself too often in agreement with the New York Times, but this one I find highly enlightening.

Mr. ERVIN. The Senator from North Carolina will concede that sometimes the New York Times does seem to be right.

Mr. ALLEN. Yes, that is right, and in this case they did. I appreciate that.

I believe I was discussing the matter of the charge that the district courts might be too busy, their dockets might be clogged, and therefore there could not be a determination, a settlement, an adjudication of these disputes by requiring that the Commission go into the Federal district courts to prosecute these charges.

It so happens that there is only one Equal Employment Opportunity Commission, whereas there are 398 Federal district judges. So we have one Commission here in Washington, to have a final determination on charges and complaints, and they have built up a backlog already, without bringing in this extra work, of from 1½ to 2 years' workload.

They anticipate, I assume under the terms of the present law, 32,000 additional cases this year—that is, this fiscal year, to July 1, 1972—and they anticipate 45,000, again I assume under the existing law, in the next fiscal year.

If we are going to bring in 10 million State, county, city, and local agency employees, if we are going to bring in every teacher in the country, if we are going to bring in every employer who employs as many as eight persons, reducing that from the present 25, business is going to pick up at the EEOC.

Mr. WILLIAMS. Mr. President, will the Senator yield at that point?

Mr. ALLEN. I yield.

Mr. WILLIAMS. And also labor unions with eight members.

Mr. ALLEN. Yes, that is correct. Labor unions are governed by S. 2515. I appreciate the Senator's bringing that to my attention.

In that sense, however, I might say to the distinguished Senator from New Jersey, labor unions would be employers, I assume, to the extent that they employed people in their operations. So the word "employer" actually covers the labor unions. Labor unions can be employers as well as being representatives of their members. But be that as it may——

Mr. WILLIAMS. Well, I think there should be a little clarification on that. It is broader than the labor union as a wage-paying employer. This runs to membership, too.

Mr. ALLEN. Yes.

Mr. WILLIAMS. So it is broader than is indicated by the Senator.

Mr. ALLEN. Well, did the Senator think it would be necessary to put in a special provision for labor unions? Was that the theory?

Mr. WILLIAMS. No. In perfect equity, on the labor-management side, the present law applies to both businesses and labor unions, and as we amend that to broaden the coverage to smaller businesses, we also amend it to broaden it to smaller unions.

Mr. ALLEN. Yes.

Mr. WILLIAMS. But they are both in the present law.

Mr. ALLEN. Yes.

Mr. WILLIAMS. Unions and businesses.

Mr. ALLEN. Well, now, if they went beyond the role of employer——

Mr. WILLIAMS. As it is now, there is no change in that. It was just, I thought, a bit of a misstatement of the present law when the Senator was referring to unions only as employers.

Mr. ALLEN. Well, I did not refer to the unions. The Senator from New Jersey first mentioned them.

Mr. WILLIAMS. Yes, but in his reply to that, the Senator suggested that it was only the union as employer.

Mr. ALLEN. Well, why would it not be?

Mr. WILLIAMS. The law has a prohibition against discrimination against members.

Mr. ALLEN. Would the Senator say, then, that that would mean that a union could not discriminate in admitting to union membership certain individuals? Is that right?

Mr. WILLIAMS. Exactly. That is the whole point.

Mr. ALLEN. Would that, then, have the effect of requiring unions that are predominantly white unions, composed of white members, to open their membership ranks to all minority citizens?

Mr. WILLIAMS. Yes.

Mr. ALLEN. Yes. That is the purpose of the bill at that point?

Mr. WILLIAMS. Where there is discrimination, that is exactly correct.

Mr. ALLEN. Yes. Well, would the Senator feel that it would be discrimination if a labor union, by one method or another, prevented black persons, refused to allow them to have membership in the union?

Mr. WILLIAMS. Well, I am not going to sit as judge on hypotheticals. Every case depends on its facts. But that is exactly what we are trying to eliminate, exclusion or discrimination that is based on the various specified reasons that are listed in the bill.

Mr. ALLEN. A lot of the building trades unions, are they not composed largely of white citizens?

Mr. WILLIAMS. I would think that is accurate. But if they discriminate, they are running contrary to the law.

Mr. ALLEN. Well, now, how would they discriminate? John Jones, a black employee on a construction project, applies to a union for membership in the union, or a nonworker, a man who wants to get work, but a black citizen. Would he then, under this bill, be able to require the union to accept him into membership?

Mr. WILLIAMS. If he thought he was discriminated against, he could file a charge.

Mr. ALLEN. I guess he would be discriminated against if he was not admitted to union membership and given a job. That would seem to me to be discrimination. Is that the opinion of the Senator from New Jersey?

Mr. WILLIAMS. Well, again, this is the guts of the factual determination, whether he was discriminated against and kept out because he was black. If he was, that is contrary to the law.

Mr. ALLEN. The Senator would not have any doubt that that was discriminating against him because he was black, if he applied for membership in the union and was turned down? Would not the Senator feel that that individual was discriminated against?

Mr. WILLIAMS. If he was turned down for that reason, that is contrary to the law.

Mr. ALLEN. Well, suppose they used another reason, but that was the real reason.

Mr. WILLIAMS. That is what the process of complaint, full hearing, and

due process is all about. It is for him to have the opportunity to prove a case in support of a complaint that he was discriminated against because of his race.

Mr. ALLEN. Yes. I appreciate this enlightenment very much that the distinguished Senator from New Jersey has given on the subject.

Mr. WILLIAMS. Well, I do not know if it was enlightenment. All of this speaks for itself, really. But it is interesting.

Mr. ALLEN. Yes; it has enlightened me. I say that in all fairness, and I appreciate the enlightenment. I thank the Senator.

Mr. WILLIAMS. I appreciate the opportunity of enlightening the Senator from Alabama.

Mr. President, will the Senator yield for a question?

Mr. ALLEN. For further enlightenment?

Mr. WILLIAMS. No. This is to enlighten me.

Mr. ALLEN. I yield for that purpose.

Mr. WILLIAMS. The Senator has offered the House bill as a substitute.

Mr. ALLEN. In effect, yes—the language of the House bill.

Mr. WILLIAMS. I ask the Senator whether the substitute he has offered would cover labor unions as the bill does and as we just described it. Would labor unions with eight members or more be covered under the substitute offered by the Senator from Alabama?

Mr. ALLEN. I will say to the Senator that I am sure he knows the answer to that question, because he is the chairman of the committee to which the bill was referred, and the committee has put out a report on the bill consisting of four lines. I am sure that he read the bill at that time, or he would not have reported the bill. It is the very same provision of the House bill which the Senator studied in the committee.

Mr. WILLIAMS. This is the report to accompany H.R. 1746, in which the committee says:

> The Committee on Labor and Public Welfare, to which was referred that bill, reports thereon without recommendation.

As chairman of the committee, I joined the committee, without recommendation. But now the Senator from Alabama is recommending that bill to us, and that is why I want to know at this point whether labor unions down to eight members are covered.

Mr. ALLEN. I am not sure whether or not the bill provides that, and I was hoping that the Senator, inasmuch as he had studied it at the time the bill was considered by his committee—and extensive hearings were held on these bills—could further enlighten the Senator from Alabama.

Mr. WILLIAMS. I am not recommending the House-passed bill. I am recommending the Senate reported bill, and in that we extend coverage to unions with eight members.

I am advised that the House bill does not reach discrimination with respect to men who want to be in a union where there are only eight members.

Mr. ALLEN. It would cover the union as an employer of persons, would it not?

Mr. WILLIAMS. Again, under present law, not the smaller ones. There have to to be 25 or more employees.

Mr. ALLEN. I understand. But this bill would still apply, or the law would still apply, to labor unions as employers, would it not?

Mr. WILLIAMS. Oh, yes.

Mr. ALLEN. It does not go into the matter of who can and who cannot join a union—the language of the House bill. Is that right?

Mr. WILLIAMS. The House bill does not change the present law. Under the present law, there cannot be discrimination in a union of the size of 25 members or more. We want to reach more working people in unions as well as on the job.

Mr. ALLEN. There are many particulars in which the House bill did not cover the same ground as did the Senate bill. For example, it does not put the State, county, and city employees under the provisions of EEOC, as does the committee bill espoused by the distinguished Senator from New Jersey.

Mr. WILLIAMS. That is one of the greatest oversights of the House bill.

Mr. ALLEN. It does not cover teachers.

Mr. WILLIAMS. Another grave oversight. Of all the people who should be entitled to the protection of law and equality, it is the teachers of our young people.

Mr. ALLEN. The Senator does not seem to realize that in Alabama and in the South, the Federal district courts already, in effect, control the hiring and firing of teachers there—it is already controlled by one agency—and the placement of pupils.

I was going to go on and point out, on the matter of the overclogging of the dockets of the district courts, that whereas a large number of integration cases are pending in the district courts of Alabama and the South, very few such suits are pending in areas outside the South. So there would be plenty of time for these 398 Federal district judges to pass on some of these charges of unfair employment practices.

So it occurs to the junior Senator from Alabama that that is in the field in which the House bill seeks to act—that is, arming the Commission with the power to obtain enforcement of their efforts to eliminate particular instances of unfair employment practices. That is what the House bill seeks to do. It does give to the Commission power that it does not now have. It does not take any power away from the Commission. All it does is add to it. It finds the Commission, after 7 years, with no enforcement authority; and it gives it the authority to move into the Federal court and obtain Federal decisions and the long arm of the Federal Government, the Federal judiciary, to seek to eliminate unfair employment practices throughout the country.

Also, if a final determination is to be made on a charge of unfair employment practice, it occurs to the junior Senator from Alabama that it would be much more equitable to all concerned to have that matter tried in the area where the alleged unfair employment practice took place, rather than to have the matter finally adjudicated by a fi e-man Commission in the city of Washington. They already have a 2-year backlog. They do not need more coverage. They need to get rid of some of the backlog they have or, under the provisions of the House bill which we are seeking to substitute, have these matters decided in the Federal district court.

It would seem to the junior Senator from Alabama that the Commission would welcome this opportunity to obtain this additional power, that it would accept this additional power to better enable it to provide for equal employment opportunities throughout the country.

Mr. President, yesterday, an amendment was debated on the floor as to the ability or the power of the Commission to avail itself of the use of voluntary and uncompensated employees, and the Senate decided that it was going to continue this power in the hands of the Commission, so that it could avail itself of the use of volunteer workers who would be taken off the street and sent out over the country in connection with alleged unfair employment practices. Possibly, that is the way they are going to get rid of this tremendous backlog of cases—through the use of these voluntary employees.

Mr. President, it is one thing to introduce a bill with all these ramifications: We are going to bring in State, county, and city employees; we are going to bring in employees of all State agencies, all governmental agencies at the local level. We have a special provision for Federal employees. We are going to bring in all teachers throughout the country. It is estimated that over 10 million employees of local governments—and there is no telling how many hundreds of thousands of teachers—are being covered for the first time.

Now, Mr. President, one of the easiest ways for an institution of higher learning, or any public school for that matter, to lose its accreditation—and that is most important to young men and young ladies who are in school, it is most important to the school itself, the faculty, and all who are connected with it—it is important to the State in which an educational institution is located, that it be accredited.

One of the easiest ways for a school to lose its accreditation is to have its affairs always embroiled with governmental agencies. If the Governor of a State interferes with an institution so that politics becomes the word of the day rather than excellence in education, we will find that institution very quickly will lose its accredation.

Academic freedom is something we hear about quite often—pleas that we have academic freedom in our institutions of higher learning, not to interfere with the professor's right to express his opinion, not to interfere with his right to have a different opinion from our own. We have freedom of expression, freedom of thought, and freedom of association. But if we turn over to the EEOC the matter of determining the employment practices and promotion practices in our institutions of higher learning, and have a big wrangle over the school's right to employ the members of the faculty that

they want, we will soon have that college or that institution without any academic freedom and without any accreditation.

The amendment which the Senator from North Carolina and I have offered would not extend the power and authority of the EEOC over educational institutions. It would not extend their power over State and local governments. It would not have in it the power to employ voluntary and uncompensated employees who, of necessity, would have some interest in the work of the Commission that they were doing or they would not come in and apply to do that work. Someone would have to be paying them. Very few of them would work without compensation. Some group, some foundation, or some person with an ulterior motive, prejudice, or bias, of necessity would have to be paying these volunteer workers who, if they felt that some organizations or businesses throughout the country, small employers throughout the country, were not giving equal employment opportunities to minority groups, or to women, can volunteer their services to the Commission and the Commission could avail itself of their services and send them out throughout the country, arming them with the power of Federal authority.

Would they be Federal employees? They would be doing the work of Federal employees. As was brought out yesterday, right now the EEOC has 1,000 employees. It is suggested by the manager of the bill that in the next couple of years that will go up to 2,000.

Under the provisions of the bill we are seeking to amend, if we leave out all this additional authority, the Commission could employ 5,000 or it could arrange for the services of 5,000 people.

Well now, Congress has the power to set the limit on the activities and the scope of the work of any of its agencies.

Mr. GAMBRELL. Mr. President, will the Senator from Alabama yield for a question?

The PRESIDING OFFICER (Mr. CHILES). Does the Senator from Alabama yield to the Senator from Georgia?

Mr. ALLEN. I am happy to yield to the Senator from Georgia for a question.

Mr. GAMBRELL. I should like to ask the junior Senator from Alabama if I understand correctly the purpose of the amendment, or one of the primary purposes of the amendment which he is offering, that it is to substitute the court enforcement procedure recommended by the House of Representatives in its version of the bill for the cease-and-desist Commission enforcement procedure as recommended by the Senate committee on this subject.

Mr. ALLEN. That is correct.

Mr. GAMBRELL. That was my understanding.

If I may ask another question of the Senator from Alabama with reference to the New York Times editorial of January 25, 1972, which was printed in the RECORD a short while back by the Senator from Alabama, I should like to ask if it is not consistent with the Senator's approach to this matter which, I might say, I share, that is, favoring court enforcement procedures. Is it not also consistent with that philosophy in the statement made in the New York Times editorial, to this effect:

> But a strong case can be made for the idea that effective, nonpartisan enforcement of the law may in the long run be more certain through reliance upon the courts than upon a politically appointed commission whose members change with each Administration.
>
> Administrative agencies were given broad enforcement powers in the labor field because it used to be thought that the Federal judiciary had an antilabor bias. Whatever the truth of that estimate as applied to the courts in the 1930's, it is clearly untrue concerning their approach to racial discrimination today. Of the three branches of government, the judiciary has consistently been most vigilant and consistent in protecting minority rights in recent decades.

Mr. ALLEN. Yes, sir; that is correct.

Mr. GAMBRELL. I ask the Senator from Alabama if he would not agree that the New York Times editorial in that respect has concisely expressed the reason for supporting the court enforcement approach and that, in fact, what the Senate committee bill undertakes to do does violence to the separation of powers of our Government and, in particular, in instances where the courts have shown vigorous and, in fact, in some cases, overvigorous and overzealous efforts to pursue the protection of minority rights.

Mr. ALLEN. Mr. President, I certainly agree with the junior Senator from Georgia (Mr. GAMBRELL). He is making an important contribution to the case for the use of the language in the House bill instead of this broad, scatter-shot approach of the committee substitute.

Mr. President, I appreciate the remarks of the distinguished Senator from Georgia on this subject. He very ably points out that the Federal judiciary, more than either of the other branches of the Government, has shown a concern for the civil rights of our people. He points out that placing executive and judicial functions in one department or in one agency of the Government would do violence to the doctrine of separation of powers. Certainly under the committee substitute to S. 2515, the Commission is judge, jury, and prosecutor.

Mr. President, an amendment was agreed to by the Senate a day or so ago that was supposed to have taken out from the bill the prosecutor role for the Commission. They set up what they called an independent General Counsel. He will be independent of the Commission, and therefore the Commission would not have the role of prosecutor, judge, and jury combined in one department.

It was provided under the amendment—and it is part of the substitute as amended—that under the provisions of that amendment, the President appoints a General Counsel. Well, to show his independence then, I assume that he would have a right to appoint his regional attorneys all over the country, because I assume that the Commission is going to operate all over the country. It is doing that now and has been for the last 7 years. But we assume that since it is an independent General Counsel, he would have the right to name his regional attorneys throughout the country. That is not so at all. Before he appoints anyone under him, he has to have the concurrence of the Commission.

That seems passing strange to me if they are going to be independent. When it comes to appointing them, the general counsel will have to go to the Commission. To show his independence, the first time he tries to appoint somebody under him, he has to come in and ask the Chairman of the Commission, "Will you join with me in appointing John Jones as regional attorney for the Commission?"

The Commission says, "No, I will not do that. I do not like him. He is not zealous enough. I can't do that."

He then has to come up with another name. All of that is allowed under the bill as it exists now, the committee substitute which we are seeking to amend. So what is the position? Well, we had a colloquy on the floor, and I was asking one of the authors of the amendment about it.

Under the substitute as it exists now, in regard to the assertion that the commission is judge, jury, and prosecutor, what is the procedure? A man comes in to a representative of the Commission and reports that he feels he was denied a job. Or, a woman comes in and says that she was denied a job because she was a woman. A man comes in and says that he was denied employment, that, although there was a job there, he was denied employment because he was a member of the minority.

The Commission receives the complaint, starts a file on it, I assume, investigates it, and if it feels that a case of discrimination exists, the charge or complaint is turned over to the independent general counsel, so-called.

Then he files charges in such cases as are referred to him by the Commission. Then this independent general counsel—and I doubt if independent counsel is going to do too much of it himself, because he will be working with these attorneys and through the attorneys appointed by him with the concurrence of the Commission—will file charges with the Commission. Then the Commission sits in judgment on these charges and renders its decision.

It is stipulated in the present law that the Commission, if it finds that an unfair labor practice has been engaged in, will try to compromise or conciliate the matter.

That is fine. I think that is splendid. That is wonderful if there is a blatant case of discrimination and that can be pointed out to the employer. Whether he agrees with it or not, if he feels that the best way out of the matter is to compromise it or settle it or conciliate it, then that is done. And that much of it is fine. But if we go on and turn the complaint or grievance over to the general counsel for the filing of a charge, once they make their finding, they have no way to enforce it under the present law.

I am inclined to the opinion that this agency should be more than just a conciliation agency and that it should have some way to carry through on its findings, if they are properly arrived at; and that brings on the amendment.

I feel that some enforcement procedure should be established, and that is the reason for the amendment that has been submitted. It does provide a method by which the charge of unfair labor practice is brought before a court for the taking of testimony and for a determination of the issues. Then there is a decree by a Federal court. That will demand and command much more respect than an order of the EEOC, arrived at through the performance of its threefold function—prosecutor, judge, and jury.

Why should not the judiciary perform judicial functions? Why should not the Commission exercise its investigatory powers? Why should not the Commission investigate? Why should it not rereceive complaints, and let it prosecute? Let it perform those two functions. Let it receive complaints, and let it prosecute the complaints, but prosecute them in a Federal court, before one of the 398 Federal district judges. Do not let the Commission make a judicial finding. The present law allows the Commission to investigate, to judge, to define, and to seek to conciliate. But it does not give the Commission any enforcement powers.

The Commission can go in one of two ways. The committee bill would permit the Commission to investigate and prosecute the matter and to issue a cease-and-desist order. It would have the power of the Federal Government assigned to it, and that must be appealed to the court of appeals before it will be enforceable as the law or the mind of the Federal Government.

Mr. ERVIN. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Yes, I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. The U.S. court of appeals is the Federal appellate court having jurisdiction between the U.S. district court and the Supreme Court. Its jurisdiction covers a vast territory comprising many States, does it not?

Mr. ALLEN. Yes, that is correct.

Mr. ERVIN. The territory of one U.S. court of appeals—I think it is the fifth circuit—starts on the Atlantic coast and runs out through the State of Texas—all that distance.

Mr. ALLEN. I am sorry to say that it covers Alabama, also.

Mr. ERVIN. Yes, it does cover Alabama. I can understand why the Senator from Alabama expresses his opinion about the circuit court of appeals for that circuit.

Does not the Bill of Rights provide that before a man can be tried for a Federal crime, the case must be tried in a district court close to the city in which the man lives?

Mr. ALLEN. Yes.

Mr. ERVIN. Under the bill, an employer of eight men, a man who has invested his meager resources in his business, can be taken all the way from the coast of Georgia or the Everglades of Florida clear over to Texas to have his day in court.

Mr. ALLEN. Yes; and the trial would be on a record; it would not be a trial de novo.

Mr. ERVIN. Can the Senator from Alabama explain to the Senator from North Carolina why, when we have a Bill of Rights, for which we have so much veneration, a Bill of Rights which provides that a person charged with crime shall have a reasonable opportunity to present his case, the proponents want to drag a poor little businessman half way across the continent to a strange court, in a strange city, to defend his human right to employ persons to make his little business a success rather than a failure?

Mr. ALLEN. It is a bad departure from the concept of our Founding Fathers. It is a return to despotism, from which our Founding Fathers sought to extricate themselves when they separated from the mother country and the tyranny of King George III.

Mr. ERVIN. If there is to be a judicial trial, then the trial should be held in court, if the bill is intended to provide justice.

Mr. ALLEN. Yes.

Mr. ERVIN. The trial should occur in the district near the city where the business involved is located, should it not?

Mr. ALLEN. That is only fair. More facts can be obtained from both sides—the employer and the employee—in that way. Take the case of an employee who is supposedly discriminated against. He certainly would benefit by being able to have the case tried on his home ground, among his peers.

Mr. ERVIN. The case should be tried by witnesses who can come in person, not tried on a record.

Mr. ALLEN. Yes.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that if we reduced to cold writing, in the form of a record, the testimony of a man as truthful as George Washington is reputed to have been, and the testimony of as big a liar as Ananias was said to be, we could not tell the difference between the two?

Mr. ALLEN. In cold print, they would look very much alike.

Mr. ERVIN. Does the Senator from Alabama recognize that if truth is to be developed by the testimony of witnesses, the body which is to determine what the truth is should have the right to observe the conduct and demeanor of witnesses while they are testifying?

Mr. ALLEN. Yes; even a criminal has a right to be confronted in person by his accusers, not by persons who have testified somewhere else.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that it makes a mockery of justice to require that a court hearing be held on a printed record, in the absence of witnesses, and before a tribunal which may be located hundreds and hundreds of miles away from the place where the business is located?

Mr. ALLEN. Yes; that is mockery and a travesty of justice.

I thank the distinguished Senator from North Carolina for his sage comments. I know that he has not said all that he wants to say on this subject. For that reason, I yield to the distinguished Senator from North Carolina, who has other remarks to make with regard to the bill and the amendment.

Mr. ERVIN. Mr. President, I advocate the adoption of the amendment in the nature of a substitute offered by the distinguished Senator from Alabama in his own behalf and in my behalf.

I should like to point out that the substitute bill, which is in identical form to that passed by the House of Representatives, makes a very substantial change in the method of enforcing title VII of the Civil Rights Act of 1964. As I construe title VII of the Civil Rights Act of 1964, the aggrieved party—that is, the party who complained that he had been discriminated against on the grounds of race or religion or national origin or sex—would have to bring the action in the district court in his own behalf to obtain a remedy for the discrimination.

The substitute, which is identical with the House-passed bill, has substantially different provisions on this point. It still preserves the right of the party aggrieved to bring a suit in the district court for relief against the discrimination allegedly practiced against him, but it contains these additional provisions, and I read from page 4 of the substitute:

"(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c), the Commission has been unable to obtain voluntary compliance with this Act, the Commission may bring a civil action against the respondent named in the charge . . .

Mind you, Mr. President, the Commission brings the action in the district court at the expense of the taxpayers, because it is a public agency, supported with tax funds, whereas the poor little businessman, with as few as eight employees under the Senate bill, or even under the substitute, would have to bear the entire expense of defending against the charges of the Commission in the district court.

Then the substitute further provides, on page 6:

"(h) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice).

And here the Commission is given full authority, under the substitute, to sue in the Federal district court, at the expense of the taxpayers, to obtain relief for the aggrieved party, and the right of the aggrieved party, as defined under the Civil Rights Act of 1964, is still retained in full force.

The substitute, which has already passed the House, also contains these further provisions, and I read from the top of page 6:

Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge and the court having jurisdiction over such action shall have the authority to grant such temporary or preliminary relief as it deems just and proper:

Provided, That no temporary restraining order or other preliminary or temporary relief shall be issued absent a showing that substantial and irreparable injury to the aggrieved party will be unavoidable.

The last proviso is merely a statement of the rule of equity which ordinarily exists in any suit brought for a temporary restraining order or a temporary injunction, and is a very just and time-honored principle of equity.

The constitution of my State of North Carolina contains a statement of undeniable truth. It says that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

I should like to direct the attention of the Senate to the Preamble to the Constitution of the United States of America. I read the Preamble:

We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The Preamble to the Constitution states that the people established and ordained that instrument for the following purposes: First, to form a more perfect Union; second, to establish justice; third, to insure domestic tranquility; fourth, to provide for the common defense; fifth, to promote the general welfare; and sixth, to secure the blessings of liberty to ourselves and our posterity.

I assert, without fear of successful contradiction, that the bill reported by the Senate committee and now pending before the Senate is utterly repugnant in a number of respects to the objectives which the people of the United States had in mind when they ordained and established the Constitution of the United States. From what has been said, the committee bill is incompatible with the objective of the people of the United States to ordain and establish a Constitution to form a more perfect Union.

The Constitution of the United States was drawn to create the United States of America, not to create one centralized, united state. I shall elaborate in detail at a subsequent time why this bill is incompatible with the objective of the Founding Fathers to form a more perfect union of 13 colonies and the States subsequently admitted to the United States of America.

Here we have a Federal agency, which has headquarters in the city of Washington, given power under the committee bill to dictate to every one of the 50 States in the United States, to every county within those 50 States, to every city and town within the borders of those 50 States, to every school board operating within the boundaries of those 50 States, to every educational institution, in addition to the public schools, which undertakes to afford education even at the higher levels, whom they must hire, whom they must promote, and whom they cannot discharge.

If Congress should give such concentrated and dictatorial powers to a Federal agency over all the States of America, over all the political subdivisions of all the States of America, and over the employment practices of every person within the borders of these 50 States who invests his talents or his resources in an enterprise which employs as many as eight or more persons, Congress would do more to destroy than to improve the perfect Union which the people of the United States drafted and ratified the Constitution to ordain and establish.

The committee bill is also utterly repugnant to the objective of the American people expressed in the Preamble to the Constitution to establish justice. The bill is cleverly contrived to make it virtually impossible to achieve justice in the employment area which is committed to the jurisdiction of the EEOC by the Senate committee bill. I say this for a number of reasons.

In the first place, the Senate committee bill is inconsistent with the ancient principle of the common law that no man can be a judge in his own case. The common law decreed that no man could be a judge of a case in which he has an interest in the outcome of the case. The Senate bill clearly would set up a politically appointed commission, which changes as the national administration changes, composed of men who are responsible to nobody on earth for their official actions, men who are not elected by the people to exercise any governmental function whatever, and who are not answerable to the people in any respect whatsoever; and this provision of the Senate committee bill is not only inconsistent with the purpose of the people who drafted and ratified the Constitution to establish justice, but it is also contrary to the principle of the Declaration of Independence that all just power is derived from the consent of the governed.

Another reason that the Senate committee bill is repugnant to the objectives of the people of the United States who drafted and ratified the Constitution to establish justice is that it concentrates in this agency the duty to enforce a specific law, and thereby gives them the same interest in the enforcement of the law that field prohibition agents had in the enforcement of the Volstead Act, and which the Alcohol Board employees had in the enforcement of our revenue laws. It gives this board the same interest in the enforcement of the law prohibiting discrimination that the Internal Revenue Service has in the act of Congress which provides for the levying and the collection of revenues. Yet nobody could be so presumptuous as to say that the Internal Revenue Service should have the power to make judicial determination in respect of controversies between the Internal Revenue Service and a taxpayer with respect to the validity of the amount of a tax.

It is incompatible with any fair system of justice to vest the power to judge whether violations of law have been committed in the people who are empowered to charge violations of such law, and to judge whether such violations have occurred.

The Supreme Court of the United States declared in the McGrath case, reported in 339 U.S., commencing at page 339, that the function of being a prosecutor and a judge—uniting those functions in one agency or one individual—is indefensible; and they struck down the regulations of the Immigration Service which had so united these two inconsistent and repugnant functions in agents of the Immigration Service.

The proponents of this bill will assert that they have divorced the function of a prosecutor from that of a judge by the milquetoast amendment offered by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER). This amendment undertakes to create the office of general counsel and undertakes, in a rather specious way, to declare that the general counsel shall be independent of the EEOC. But the same paragraph which engages in this unattained objective makes the general counsel dependent upon the consent of the Commission in respect to the appointment of the regional counsel who are to act on behalf of the supposedly independent general counsel in the various regions of the United States.

So I assert, without fear of successful contradiction, that notwithstanding the good motives which actuated these distinguished Senators to offer this amendment to the committee bill, this amendment, in its ultimate analysis, merely represents the symbol of an homage which unrighteousness pays to righteousness.

I have elaborated upon some of the provisions of the Senate-passed bill which I say are absolutely inconsistent with the purpose expressed in the preamble to the Constitution to establish justice. Let me elaborate a little more on this aspect of the bill.

After charges have been filed with the commission, and after the charges have been investigated by the commission or some of its members or some of its agents, members of the commission can prefer charges, based upon their investigation, in which they charge that the respondent has discriminated against some person in employment on the basis of his race or his national origin or his religion or his sex.

It is the commission which sets in motion the action of the supposedly independent general counsel; and when the general counsel, after being so set in motion by the commission, prosecutes the case, he has to prosecute it before the members of the commission, who sit as a jury and as a judge—I might add that, under the terms of the Senate bill, they also sit as executioners—of the poor, little businessman who is haled before them by the might of the United States of America and who has to defend himself against the charges investigated, preferred, and judged by the same agency which investigated and preferred the charges.

With all due respect to the proponents of the bill, I would have to submit that, in my judgment, a respondent's chances to obtain a fair trial and a just judgment under these circumstances are about on a par with the chances of a snowball to exist throughout the month of August in the hottest spot in hell.

So I say that this bill commits what I consider—and rightly consider—the

greatest affront which can be committed against justice, and that is that it prostitutes the judicial process in order to make as certain as possible that only one side of a proceeding instituted before the commission can have any reasonable opportunity to win a favorable decision.

To be sure, the Senate committee bill provides that after the members of the commission or their agents have preferred charges against the respondent and have investigated those charges and have ruled as judges on those charges, the respondent can take an appeal to the Court for redress.

I will proceed further on this in a moment. Before doing so, however, I invite the attention of the Senate again to what the Supreme Court said in the McGrath case, by way of quotation from the report of a committee appointed by the Attorney General of the United States to consider the abominable practice in certain executive departments and agencies of concentrating the investigatory power, the prosecuting power, and the judging power in one individual or one agency.

I read from page 44 of the McGrath decision. It is a quotation from the report of the Attorney General's Committee on Administrative Procedure which the court cited with approval:

> These types of commingling of functions of investigation or advocacy with the function of deciding are thus plainly undesirable. But they are also avoidable and should be avoided by appropriate internal division of labor. For the disqualifications produced by investigation or advocacy are personal psychological ones which result from engaging in those types of activity; and the problem is simply one of isolating those who engage in the activity. Creation of independent hearing commissioners insulated from all phases of a case other than hearing and deciding will, the Committee believes, go far toward solving this problem at the level of the initial hearing provided the proper safeguards are established to assure the insulation.

Now the Senate committee bill leaves the investigating function and the judging function to the members of the commission. To be sure, it states, in effect, that a member of the commission or an agent of the commission who has investigated a matter and made charges shall not sit on the trial of those charges, but that provision does not get away from the evil which the Attorney General's Committee on Administrative Practices pointed out. It still leaves each member of the commission and each agent of the Commission with investigatory powers in some cases and with judicial powers in other cases. The Supreme Court, by citing this statement of the Attorney General's Committee on Administrative Procedures and Practices, has stated that that is not sufficient, that we have to separate the hearing power—not the person that does the hearing—but the hearing power rather than the investigatory power and the adjudicatory power from each other, and that the evil of such a system is not removed by merely allowing the members of the commission to judge cases which some of them have investigated, and to hear the charges which some of them have made, merely precluding those who exercise the adjudicatory power, rather, on a particular occasion, from exercising the investigatory and charging power on other occasions.

When people desire to accomplish an objective which they fear cannot be accomplished by fair methods, they adopt procedures which are inconsistent with fairness but which at the same time give a little appearance of some remote relationship to fairness.

So the Senate bill says that after the biased commission and its agents who are charged with the duty of enforcing the law have investigated charges and have preferred charges and have rendered decisions adverse to the respondent on the charges which the commission or some of its members have preferred against him, that respondent can apply to the circuit court for some pretended relief.

I pointed out a moment ago, in colloquy with the distinguished Senator from Alabama, that when the provisions of the Constitution were written to govern the places where criminal trials were to be had in Federal court, the sixth amendment declared:

> In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial judge of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.

That amendment sets forth the places where those who drafted and ratified the Constitution thought that criminal charges should be tried and determined. They said it had to be in the district in which the trial was alleged to have been committed. Yet, under the Senate committee bill, the review of the decisions of the commission on the charges investigated by it, preferred by it, and judged by it, must be in a circuit court. Some of the circuit courts sit at points hundreds of miles away from the place where the alleged unfair or discriminatory practice occurred. That is bad enough. In my judgment, the old adage, "All seasons for justice and in every place a temple," would require as a matter of fair play that a man be given a trial, or the right of review from an adverse judgment of the commission in a court which sits somewhere in the neighborhood of where he resides or where his alleged illegal act occurred. So that these provisions, giving jurisdiction to the circuit courts, are an affront to any fair system of justice which contemplates, as the sixth amendment does, that a man shall be tried somewhere in the locality where the crime is being investigated a reviewed and obviously somewhere in the locality where he resides. But the attempt of this bill to frustrate the purpose of the men and women who drafted the Constitution to establish justice does not stop there.

I invite the attention of the Senate to certain provisions on pages 42, 43, 44, and 45 of the Senate committee bill, that provide that an employer has been condemned for alleged discriminatory practices in employment by the EEOC on charges investigated and made by the EEOC and if he goes to a distant court of appeals seeking relief from a judgment that the law ought not to have ever permitted to have been made—that is, a judgment by biased, willful judges—he finds that he cannot get any relief whatever if there is more than a scintilla of evidence tending to support the conclusion of a biased commission.

Page 42 of the Senate committee bill, in lines 16, 17, 18, and 19 read:

> The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

Page 43 of the bill has a similar provision with respect to the burden of evidence where the commission hears additional evidence and modifies its original findings. It states on page 43, beginning with line 1 and ending with line 6:

> The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, . . .

Mr. President, I charge that those provisions are placed in the bill to disable the court from reversing the finds of fact in decisions of the commission even in cases where the court finds that the findings of the commission are repugnant to the greater weight or preponderance of the evidence. To be sure, some similar provisions with respect to the version of the evidence can be found in some of the laws enacted by Congress at the instance of regulatory bodies. But I submit that the fact that iniquitous legislation had been enacted by Congress in times past is no justification for enacting new iniquitous legislation, as Congress would do if it should pass the Senate committee bill.

To argue that because iniquitous legislation appears in other areas where regulatory bodies wish to compel courts to affirm their rulings have much that may be repugnant to the preponderance of the evidence or its greater weight is no justification for doing so here.

We might as well argue that we can argue with equal intelligence that because murder and stealing have occurred in times past, we ought to declare that murder is meritorious and larceny is legal.

In reference to reviewing the other circumstances by the courts, it is stated on page 44 of the Senate bill that:

> The findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

On page 45 we find this additional provision with respect to these other cases under review:

> The commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive . . .

These are provisions which are designed to bar a court which reviews the findings and judgments of the EEOC to discover what is true with respect to such findings. They are designed to make the court accept as conclusive 1, 2, 3, 4, or 5 **percent** of the evidence in the case

even though 95 percent of the other evidence shows that the findings of the commission are untrue.

I submit here that if the substitute amendment offered by the distinguished junior Senator from Alabama and myself is not agreed to by the Senate, I shall offer an amendment to the Senate bill which would strike out these clauses I have read concerning substantial evidence being conclusive and would provide that where a court reviews the findings and judgment of the Commission, the court shall be at liberty to disregard the findings of fact of the Commission if it concludes that those findings of fact are not supported by the preponderance of the evidence.

I could cite multitudes of cases on this point, but it is the case of Se-Ling *Hosiery Company, Inc.* v. *Margulies,* 364 Pennsylvania 45, 70 Atlantic 2d 854, which says that:

> Proof by a preponderance of evidence is the lowest degree of evidence recognized in the administration of justice, and that the evidence which the burdened party offers does not become proof unless it preponderates in evidentiary weight against the opposing evidence.

In other words, the court there declares what is recognized as the rule in all civil cases in the United States—that the prevailing party—that is, the party who makes the charges—must establish that charge by a preponderance of evidence; and that he fails to establish the charge unless the evidence he offers preponderates in evidentiary weight against the opposing evidence. This is a far different requirement from the provisions of the bill, which burdens the courts in their research for proof when a respondent seeks review from the findings of fact and judgment entered by the Commission on charges investigated and preferred by the Commission itself.

What is proof by a preponderance of evidence?

> Proof by a preponderance of evidence means that the jury must believe that the facts asserted are more probably true than false. Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth.

The first of this quotation was from the Oregon case of *Cook* v. *Michael,* 214 Oregon 513, 330 Pacific 2d 1026, 1032. The second was from a Kentucky Federal court case, *Asher* v. *Fox,* 424 Federal 2d, 727, 729.

Then, in the case of *Marcantal* v. *Aetna Casualty and Surety Company,* a Louisiana case reported in 219 Southern 2d, 180, at page 183, we have this definition of "preponderance of evidence."

> By a preponderance of evidence is meant simply, evidence which is of greater weight, or more convincing, than that which is offered in opposition to it; that is, evidence which, as a whole, shows the fact or causation sought to be proved is more probable than not.

I could multiply the quotations of what is meant by "preponderance of evidence" scores and scores—yes, hundreds—of times. Let us see what "substantial evidence" is.

In the case of *Kelly* v. *Celebreze,* 420 Federal 2d, page 614, we read:

> Substantial evidence is more than a scintilla but less than a preponderance.

In the case of *Carpenter* v. *Flemming,* 178 Federal Supplement 791, page 793, a Federal court sitting in West Virginia declared:

> Under a statute providing for final decision of a social security disability, claim must be accepted as conclusive if there is substantial evidence to support. Substantial evidence is more than a scintilla but less than a preponderance.

I could cite scores and scores of cases to the effect that substantial evidence is merely evidence which is not entirely imaginary or which is more than a scintilla but is less than a greater weight or preponderance of the evidence.

Some courts define "substantial evidence" as evidence which is merely sufficient to carry a case to a jury and resist a nonsuit. Under that ruling, if 5 percent of the evidence is to one effect, and 95 percent of the evidence tends to show that that effect is not true, then there is a substantial degree of evidence.

So everything in the procedures which the Senate bill is designed to authorize for the avowed purpose, the professed purpose, the plain purpose of doing justice is repugnant to every sound rule devised by the experience of the English-speaking race to secure justice and reveal truth.

The Senate-passed bill is repugnant to the purpose declared in the Preamble of the Constitution, "to form a more perfect union," and the purpose, also declared in the Preamble of the Constitution, "to establish justice." It simply rapes and ravishes the provision of the assertion in the Preamble of the Constitution that "the people of the United States ordain and establish this Constitution for the United States" and to "secure the blessings of liberty to ourselves and our posterity."

I have had the privilege of serving in three legislative bodies: namely, the legislature of North Carolina, the House of Representatives of the United States for a brief period, and the Senate of the United States for 17 years.

I assert, without fear of contradiction, that this bill does more to destroy the freedom of the American people than any legislative proposal which ever came before any of those three legislative bodies while I was privileged to be a member of them.

I say the entire foundation underlying this bill is unsound. The bill does not make illegal the hiring of any person by any employer as such. Under the terms of this bill and under the terms of every other principle of law, the hiring of one man by another to perform services for an employer is a perfectly legal external act. Under the law a man can hire anybody he pleases, and under this bill he can hire anybody he pleases, as long as he does not have some intent down in the innermost recesses of his mind that accompanies that act.

I have a right, if I am an employer, even under the Senate bill, to hire anybody I please as long as I am not moved to hire him because of his race or because of his religion or because of his national origin or because of his sex. It is only the intent or the motive which accompanies the hiring which makes the hiring illegal under this bill and under the original title VII of the Civil Rights Act of 1964.

Mr. President, I respectfully submit that there is nothing iniquitous in a free American preferring to hire a man of one race rather than a man of another race, or preferring to hire a man of one religion rather than a man of another religion, or preferring to hire a man of one national origin rather than a man of another national origin, or preferring to hire a person of one sex rather than a person of another sex. But under this bill a hiring prompted by any one of these preferences—and all discrimination is a preference for one man over another—is made illegal. A commission is selected because it is biased to turn itself into a psychologist and determine from innermost recesses of a man's mind, which they cannot see, whether the innocent motive which Congress declares iniquitous accompanied the hiring.

This is a dangerous law for that reason. In the first place, it makes illegal acts which are entirely natural for a human being to do. I think it is natural, and certainly not iniquitous, for an American employer to prefer a person whose national origin is American rather than a person whose national origin is foreign. Yet under this bill, if an American employer prefers to employ an American, and does employ an American, in preference to a person of foreign origin, he is declared to be an iniquitous man, performing an illegal act, and he can have charges preferred against him by the Commission and have the Commission judge the validity of the charges which it has already investigated and found to be true. The notion that he can get any justice at the hands of such a Commission is unrealistic. Rather than get justice in court and have the court determine the truth by the evidence, which shows what is true rather than false, they create artificial rules to prevent the court from being free to search for the truth.

I have very little faith in the capacity of people to determine the motives of other people. In this respect, the bill is different from every other law. Under every other law we punish people for external acts which are iniquitous, and under this bill we castigate and punish people, by unfair methods, for thoughts. I do not think men are quite capable of doing that.

I want to read from the 7th verse of the 16th Chapter of the First Book of Samuel:

> But the Lord said unto Samuel, Look not on his countenance, or on the height of his stature; because I have refused him: for the Lord seeth not as man seeth; for man looketh on the outward appearance, but the Lord looketh on the heart.

Here a commission is to be appointed that is going to assume to exercise the power of the Almighty—not to judge men by external appearances, not to judge men by their external acts, not to judge men because they hire this man or that, but to judge men on the basis of what the commission thinks or imagines they had in their hearts at the time

they did what was otherwise a perfectly natural and a perfectly legal act, namely, hiring an individual to perform service for them.

One of the proponents of the bill stated on the floor that he supported this bill because it was designed to enforce human rights. We have a habit of using cliches to explain or justify our actions.

Mr. President, I submit that if a man belonging to a minority race, or professing a minority religion, or having a particular racial origin, or a person of a particular sex, has a human right to seek employment because of those factors, that is, because he is a member of a minority race or of a minority religion, or of a foreign national origin, then, by the same token, a man of a majority race, or a man of a majority religion, or a man of American origin, has an equal human right to seek employment; and that any law which undertakes to compel employers to hire people of a minority race or a minority religion or a minority national ancestry in preference to a man of a majority race or a majority religion or a majority national origin is not a law to promote equality, but a law to promote discrimination.

I also submit that there are such things as human rights, and I maintain there is no kind of rights recognized in the law except human rights. But if there is such a thing as a human right, the supposedly free American who has a little capital or has some talent, who invests his resources and talents in a little business for the purpose of making a livelihood for himself and his family and a profit, has a right to select as his employees the persons who be believes will aid him to make his business a success rather than a failure; and I say that when the Federal Government undertakes to deny him that right, it is denying him a human right, and is engaged in a course of conduct which is incompatible with freedom.

You know, when I hear people advocate bills which are repugnant to freedom, they so often prate about the superiority of human rights over property rights. In 1946, when I had the privilege of serving a few months in the House of Representatives, there was a Congressman who claimed to be a liberal in the modern use of that very much abused and misleading term who used to rise on the floor of the House of Representatives every time he had an opportunity and proclaim his conviction that human rights are superior to property rights.

One day, however, a Member of the House who might be described as something of a moth-eaten conservative, in the much-abused modern-day use of that term "conservative," became aroused while the Congressman was expounding superiority of human rights over property rights, and silenced him with a question. I shall never forget that occasion.

This person I have designated as having the appearance, in the modern parlance, of being a moth-eaten conservative, arose and stated this question:

He said, "In the early days of this Nation, a settler would go out into the wilderness and carry his rifle to protect himself and his family against the Indians, his Bible so that he might strengthen his faith in the Divine, and an ax which he might use for material purposes." He said, "This frontiersman, when he got out into the forest, took his ax and cut down some trees, and he fashioned those trees into a little cabin which he used to shelter himself, his wife, and his children."

This old man who I say could be described as a moth-eaten conservative then said, "Now, all of us, including my friend who extols human rights over property rights, will agree, I think, that that frontiersman had a right to use that cabin erected by his own hands in the wilderness as a shelter for himself, his wife, and his children." Then he said, "Mr. Speaker, the question I put to my friend is this: Was the right of that frontiersman to occupy that cabin as a home for himself and his family a property right or a human right?"

Well, the person to whom the question was addressed never answered the question, and I would have to testify on his behalf that subsequent to that time, he did not so frequently extol the superiority of human rights over property rights.

As a matter of fact, there is no such thing as a property right. There is not a single piece of property or a single inanimate object of any kind which has any rights in this Nation under the law of this Nation. Every right belongs to a human being, and in that sense is a human right.

It is a human right which the law gives to a man to acquire, to own, to use, or to dispose of property, and it is this legal right which has made this Nation the most powerful economic entity the earth has ever known.

There is a professor of law at New York University who is one of the most valiant fighters for the preservation of freedom in human rights of any man of my acqaintance. He wrote a book entitled "The Labor Policy of the Free Society." This is Prof. Sylvester Petro. I want to read some words from a chapter of his book entitled "Property Rights, Human Rights, and the State." He says:

> Denigration of the right of private property usually begins with a sharp distinction between "human rights" and "property rights." Those who habitually make this distinction normally go on to contend that society—and by society such persons usually mean government—may qualify property rights without seriously affecting the "essential human freedoms." They argue, indeed, that the restrictions on property rights which they favor will in fact expand the "essential human freedoms."
>
> There is no truth in any of these assertions. Property rights are human rights, and nothing else. The various human rights comprehended in the general right of private property cannot be neatly distinguished, portioned out, and separated in the real world of action; those are things which cannot be done satisfactorily even in analytical abstraction. Pruning and excisions, divestitures and re-allocations of property rights, all necessarily amount to arbitrary action which reduces human freedom and social productivity. Everyone now realizes that slavery is arbitrary; but few, apparently, know why it is arbitrary. For most people who oppose slavery are in favor of discriminatory taxation, in spite of the fact that such taxation is arbitrary in exactly the same sense that slavery is arbitrary.

I digress from the reading a moment to note this. If the law says to A, "You must work for B even though you do not choose to do so," that is slavery, by any definition of the term. If the law says to A, "You must hire B to work for you, even in a small personal company, even though you do not want to do so or even though you prefer someone else of another race or religion or national origin," you may not call that slavery, but you certainly cannot call it freedom so far as an employer is concerned. It is only a question of degree between the servitude you impose upon the one man and the servitude you impose upon another. Either one of these servitudes is an infringement of freedom.

I continue reading from Dr. Petro's book:

> Some objections to the right of private property are of a relatively superficial kind, easily cleared up by placing the right in its appropriate social context. The right of private property did not spring full-blown upon the world. Nor did the intimately related idea of the strictly enforceable contract have an easy time of it. Sir Henry Maine was of the opinion, indeed, that "the positive duty resulting from one man's reliance on the word of another is among the slowest conquests of advancing civilization." As defined in this book, property and contract rights are the end products of a long and fitful evolutionary process; they are understood and appreciated only by men in a relatively sophisticated stage of development.
>
> The evolution to the final, symmetrical form was dictated by the necessities which presented themselves to our forebears who wished to live in free and productive societies. Private property in its broad form commended itself to those men because it worked. It offered both freedom and order. It set loose the constructive energies of men, and at the same time constituted a rational, social basis for the integration of the activities of all men. It was a great central organizing principle that carried within itself the idea of the society which might be both free and harmonious. Private property in its comprehensive form is not merely indispensable to the free society; it is the free society itself. Once this is perceived, a good many of the objections disappear.
>
> Yet there are still many who rebel against the comprehensive definition, who insist that the "good of society"—a concept which they never define—absolutely requires that the state be generally empowered at all times to expand or diminish or revise the right of private property. These are the people who see red when they hear the words "inalienable property rights," no matter how carefully those words may be used. The idea of property rights secured to all persons against invasion by the state or anyone else, seems hopelessly "dated," even "reactionary," to them. Rejecting both "totalitarianism" and comprehensive property rights as the central principles of social organization, they call themselves "liberals," "progressives," or some other such modest name, and announce that they have found a "middle way."
>
> Beyond any question, application of the private-property principle does create difficult problems at times. Emotional and intellectual difficulties present themselves even when the general principle itself is rightly understood. The more complicated the society, moreover, the more frequently do difficulties of application arise. But this kind of thing is unavoidable. As a matter of fact, in the free society it really reflects the existence of a state of affairs which most find highly desirable. For property problems become the

more complicated the more widely dispersed the property rights happen to be, and the more intensely human affairs are integrated. Restrict property rights narrowly, reduce personal autonomy to the minimum, and you will have a minimum of property problems. Take away private-property rights completely, destroy entirely the autonomy of the person, and you have no private-property problems at all. If no person *legally* owns or controls anything, including himself, the problem of control is solved quite simply by force. If all property rights are vested in the state (that is, in the strongest force in the community) problems of personal *right* likewise do not arise to complicate the social structure. A monolithic structure of this kind may appeal to some. But it is no way to achieve personal freedom, well-being, and security.

As to the so-called "middle way" in current usage, this is actually a misnomer. Personal private-property rights, in the sense of the common-law doctrines and old-fashioned liberal political theory, represent as meaningful a pursuit of the "middle way" between the political absolutes of anarchy and socialism as straight thinking has yet produced. One may, in short, make a respectable argument to the effect that the private-property way is the only meaningful "middle way," since totalitarianism and anarchy are the only other pure forms of social organization which may be meaningfully conceived.

But the "middle way" as used in current debate is only a semantically attractive synonym for the *interventionist* state. It defines a condition in which the state is at all times authorized to modify personal property rights at will: the state may expand or contract the rights of persons as political exigency may seem to dictate to those in public office. The perpetual dynamic equilibrium of personal rights as here defined is anathema to the interventionists.

Many interventionists insist, it is true, upon respect for the rights of free speech, free thought, and free press. But they are apparently not aware of the unity of all personal rights. They do not see that all personal rights have a common core in the autonomy of the person, that the so-called "human rights" are merely one surface manifestation of the elemental right of private property.

The interventionist state is actually a state moving intermittently toward the complete destruction of all the personal freedom which it can reach. As such, in terms of formal analysis it must be defined as a totalitarian state, since its own proponents insist that the state is the source of all rights. In empirical terms it might be called a potential totalitarian state.

How long will freedom of the press endure, if interventionism finally triumphs? Freedom of the press is nothing more nor less than the condition which exists when publishers have their property rights intact. Even in the United States today, when interventionism is still struggling to substitute political exigency for private property rights, interventionists have unconsciously shown what they genuinely think of freedom of the press. The term "captive press" gets a great deal of use from trade unionists and from politicians who consider themselves "moderates."

If interventionism finally triumphs, will its less moderate apostles limit themselves to this mere vilification of those who oppose them? Have interventionists, when they have come to full power and when political conditions have been propitious, ever so limited themselves? Is not vilification always the first step—and only the first step—of demagogues? When Juan Peron tired of freedom of the press in Buenos Aires, he expropriated the publishers. If "it" happens here, expropriation in one form or another will be the means used. The basis for such expropriation exists in the way that interventionists look at property rights, thinking of them as subject to revision whenever the "good of society" so requires. The Union of Soviet Socialist Republics may very well today have a law or a bill of rights which "guarantees" both freedom of speech and freedom of the press. But what good is such a guarantee when no private person or group may own a printing establishment?

It is inaccurate to describe a press based on private property rights as "captive." Publishers under such conditions are limited in what they print only by their own personal views or interests and by the libel laws—and those laws are themselves an expression of the property right in the integrity of one's character. It is inaccurate also to say that the editorial policies of newspapers are determined by advertisers. Businessmen may be the greatest source of advertising revenue of one branch of the press, the dailies and the other periodicals. But advertising revenues rise and fall in accordance with the circulation of the particular newspaper or magazine, not with the secret or public ideology of the publisher. . .

We in the United States compose a still largely free society, based on private property and freedom of contract. But, as a matter of history, the distortions of the principles of property and contract which mar our society trace to the demagoguery implicit in the characterization of our pioneering businessmen as "robber barons" and "malefactors of great wealth."

Mr. President, Professor Petro expounds the doctrine that the right of private property and the right to contracts are human rights and that each is essential to the existence of the country as a free society.

This bill would interfere very greatly with the right of contracts. I cannot see why, as an American, there is anything iniquitous in employing a fellow American, because I prefer to do so, rather than having to employ a person of another national origin. I do not think there is anything iniquitous in a person preferring to employ a member of his own race, or of his own religion, or a person of the same national origin as himself.

Just calling it iniquitous does not make it so, but, unfortunately, when the country embarks upon a policy of restricting freedom in order to deprive people of their liberty to choose those whom they seek to employ to make their business a success, no one can again say the fact that it is not iniquitous. It is only iniquitous because it is declared by act of Congress to be so. An act of Congress does not make that iniquitous which is natural and the right of every American.

The trouble with laws of this kind is well illustrated in an action which is frequently taken in employment cases. We have the Office of Federal Contract Compliance in virtually every case, and the EEOC in many cases, compelling businessmen of America to practice discrimination in employment. Congress attempted to prevent that. Congress attempted to make it so that each case would be judged on its merits, that it be judged as an individual case. So Congress wrote into the Civil Rights Act of 1964 that no employer should be compelled to employ people of any race, religion, national origin, or sex by quotas; and yet we have decisions made almost every day in the Office of Federal Contract Compliance to order the businessmen of America to practice discrimination in reverse by hiring a person of a particular race, a particular religion, of a particular national origin, of a particular sex. That is discrimination in reverse.

I say, in all seriousness, that I do not see how we can expect criminally minded people to obey the laws when men in public office disobey the very laws and the very Executive order they are supposed to enforce. The Executive order which the Office of Federal Contract Compliance in the Department of Labor is charged with enforcing is an Executive order which says that there shall be no discrimination in Government employment or by a person having Government contracts, on the basis of race, religion, national origin, or sex. Yet the very Office of Federal Contract Compliance makes it a consistent practice to violate the very Executive order it is charged with the duty of enforcing. It orders businessmen who desire Government contracts to employ persons of a particular race, or a particular religion, or a particular national origin, or a particular sex—or particularly persons of a particular race according to fixed or variable numbers, proportions, percentages, quotas, goals, or ranges, and thus violates the very Executive order it is charged with the duty of enforcing. The same thing on occasion can be said about the EEOC.

I do not see how we can better conditions in America and promote law and order while governmental agencies created for the avowed purposes of preventing discrimination in employment may discriminate in employment.

I expect to offer an amendment to the original bill in the event the substitute amendment offered by the Senator from Alabama on behalf of himself and myself is rejected by the Senate. I hope that this substitute amendment will be agreed to. It provides that we will have enforcement in the courts. It affords an adequate procedure by which the EEOC, suing at the expense of the American taxpayers, can have a right of vindication in the court according to the established rules of procedure and the established rules of evidence. And that is all that any American ought to ask for. He ought not to ask to have specific procedures established for or designed to prevent the fulfillment of the men and women who drafted the Constitution to establish justice.

Mr. President, I yield the floor, and suggest the absence of a quorum.

Mr. BYRD of West Virginia. Mr. President, will the Senator withhold his request?

Mr. ERVIN. Mr. President, I withhold my request.

REFERRAL OF RESOLUTION

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from South Dakota (Mr. McGOVERN), I ask unanimous consent that the resolution he submitted today (S. Res. 241) to extend the life of the Select Committee on

Nutrition and Human Needs be referred to the Committee on Rules and Administration. I am advised by the Senator from South Dakota that this matter has been cleared.

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

ORDER FOR ADJOURNMENT TO 10 A.M.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements limited therein to 3 minutes, and that at the conclusion of the routine morning business, the Chair lay before the Senate the unfinished business.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. JAVITS. Mr. President, I wish to announce on the part of the Senator from New Jersey (Mr. WILLIAMS) and myself that at 3:30 I shall move to table the substitute.

Mr. President, I would like to state to the Senate our reasons for this action. No one knows better than I the feelings of Senators with regard to a tabling motion.

Personally, I do not remember having made, perhaps, more than one or two. I have had a long career, and I am very respectful of Senators' opportunities to debate and consider questions at the greatest length they feel they should. I have myself been cut off far more often by tabling motions than I have ever cut off other Senators. But in this particular case, I will explain why, not because I am an advocate of the bill, but because I think this is almost a classic example of the proper use of the tabling motion.

We have been given notice that this is the beginning of a filibuster, and the notice has been given in unequivocal terms. I invite the attention of the Senator from Alabama (Mr. ALLEN) to his words that I am about to read to the Senate. I have the written record from the Official Reporter. The Senator from Alabama said as follows:

> The Dominick amendment failed of adoption. The proponents of cease and desist by commission fiat won that battle. It may have been a most expensive victory, because if the junior Senator from Alabama correctly interprets the feeling and the determination of a large number of Senators, this bill may not—and he says "may not"—be forced to a vote in the Senate. That would be a tragic happening. In many respects, that would be a reaching out for more than the Senate is willing to give, going farther than public opinion would require.

It seems to be obvious that the Senator from Alabama would not have said that if it did not represent his own feeling; and from the indications of the debate which we have already heard, coupled with this statement, I think we get the point. I do not think we need to have a finger put in our eyes to understand exactly what to expect.

In addition, the move which has been made is clearly an unnecessary one. We have voted five times. When we take into consideration the first vote, the vote on the motion to table the first vote, the vote on the reconsideration of the first vote, then the second vote, then the motion to table reconsideration of that second vote, we have voted five times on the Dominick amendment. It seems to me that that is a very adequate expression by the Senate.

The Senator from Alabama himself admitted, when he submitted the substitute, that it is open to any amendment to which the original bill is open. He also said—and the Chair confirmed this—that the original bill also is open to amendment in any respect. Indeed, the Chair ruled that it is open in two degrees. So nothing whatever is accomplished by substitutes of any kind or character except an opportunity to reargue and revote on the Dominick amendment.

After all, I think we have a right to vote on a tabling motion because an unnecessary action is being asked of the Senate, an action which does not represent any decision by the Senate, which is a substantial requirement for a decision on a procedural ground; that is, no conceivable opportunity to amend is cut off, or to table, or to move in any way that the opponents of the legislation desire, by tabling; and obviously, as they themselves were entirely receptive to any amendment that would substitute in the shape it ought to be in, they do not have to extend, as far as they are concerned, as it is very clear that the essential argument is that it is simply a "re-do" of the Dominick amendment.

It is entirely the privilege of the opponents to talk as long as they can and as long as the rules will allow. If we wish to invoke cloture, we know exactly how to do it. That is fine and legitimate. But at least the Senate ought to take a direct approach to that question: Has it heard enough upon this measure, and does it now want to restrict amendments to those which are at the desk? Second, does it wish to provide 1 hour for each of the 100 Senators? Or does it wish to hear more debate? Those are legitimate questions, and we may be required to decide them. From what I see, we probably will. But why have the screen of this substitute as the subject for debate when its only purpose, obviously, is to reconsider the amendment, which, as I say, has already been voted on five times?

For these reasons, I believe a tabling motion is perfectly proper. I speak of this in a sense of explanation, because I am not happy about such a motion; I do not like it; as I say, I have been the victim of a tabling motion far more often than I have been the beneficiary. I seek to justify the reason why, in this particular case, such a motion is proper.

Also, as a very necessary part of making this motion, I wish to spread upon the RECORD the differences between the House bill, which is sought to be substituted, and the Senate bill. The differences are significant and substantial, the most significant being the difference between cease and desist and court enforcement. In the second place, State and local people are covered by the Senate bill, but are not covered by the House bill.

Third, the House bill does not extend coverage to more private enterprise employers; the Senate bill does, to employers of eight or more persons, as distinguished from 25 in the House bill; and

Fourth, educational institutions are included in the Senate bill.

Other amendments which relate to the importance of whether the Senate bill should be the one that prevails include one which deals with the coverage of Federal employees and the extent of coverage. They include one which deals with the transfer of pattern and practice suits from the Department of Justice to the Commission after 2 years.

Another deals with backpay limitations for 2 years from the date of complaint, which is in the House bill, rather than from the date of the charge—that is, the filing of the charge—with the Commission, which is now in the Senate bill, as it is amended.

There are other differences, but I have given the basic and significant differences which, it seems to us, dictate that the Senate has a superior instrument for working the Senate's will on the House bill.

But in the final essence, the matter is very clear. This is simply an effort to reargue and revote on the Dominick amendment. It results in giving us an issue that is not a substantive issue that ought to tie up further debate on the bill. If we are going to get cloture, let us get it directly on the fundamental issue involved; namely, does the Senate wish to hear further debate on the bill, and how much? Or does it wish to limit debate,

remembering that every Senator is limited in his right to speak?

Mr. ALLEN rose.

Mr. JAVITS. Mr. President, I will yield for a question, of course.

Mr. ALLEN. Mr. President, will the distinguished Senator from New York allow me to speak for some 15 minutes, with the assurance that I will return the floor to the Senator, so that I may make a statement with regard to the pending amendment?

Mr. JAVITS. I am sorry to tell the Senator that I am unable to do that, and that I do not wish to yield my right to the floor, because I must make my motion. But I will certainly yield to the Senator and ask unanimous consent that he may make a statement in lieu of a question without my losing my right to the floor. I have talked for 5 or 6 minutes—I will say 5 minutes—and will yield him 5 minutes, if that is agreeable to the Senator.

Mr. ALLEN. I appreciate the Senator's position of kindness and courtesy. That is all the junior Senator from Alabama was asking for. He agrees that the Senator from New York should have the floor back.

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

Mr. JAVITS. It is 5 minutes, then; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. Mr. President, the distinguished Senator from New York made two points, as the junior Senator from Alabama understood his remarks: One, that on account of some remarks by the junior Senator from Alabama to the effect that this bill without the Dominick amendment having been added might be difficult to bring to a vote, and that for that reason he is going to move to table this amendment, and he indicated that he would go on with a motion of cloture, indicating that the remarks of the junior Senator from Alabama provoked that action. Let me say that the junior Senator from Alabama, in coming to the Capitol this morning from his home in Virginia, heard on the radio that the proponents of the measure were planning to file a cloture motion. So the Senator from Alabama does not feel that any action by him has brought the proponents of the measure to that decision.

The Senator also stated that this is rearguing the Dominick amendment and that is all it is. The junior Senator from Alabama begs to differ on that point, because the amendment offered by the distinguished Senator from North Carolina and myself substitutes the language, not of the Dominick amendment, but of the House bill, which a majority of the Members of the House have passed as the proper method of giving the EEOC more authority to enforce its findings.

The junior Senator from Alabama respectfully submits that if this amendment is adopted and it does become the bill and the bill is passed by the Senate, it will go to the House and, it being the exact language that the House has already approved, we will get earlier approval of the bill, and this additional power will have been conferred on the EEOC; whereas, if the amendment or a similar one is not adopted, there is a good chance we will have no bill whatsoever.

So this is not a reargument of the Dominick amendment—far from it. This is saying that the Senate, if it will agree to the House language, in all likelihood will get a bill, there being a chance that no bill will be enacted if this amendment is not adopted.

I yield back my time.

Mr. JAVITS. I thank my colleague.

Mr. President, I move to table the pending substitute.

CALL OF THE ROLL

Mr. ALLEN. 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 further proceedings under the quorum call be discontinued.

Mr. ERVIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was resumed and concluded, and the following Senators answered to their names:

[No. 15 Leg.]

Aiken	Cotton	Pastore
Allen	Ervin	Pearson
Baker	Hatfield	Percy
Bellmon	Inouye	Roth
Bennett	Javits	Schweiker
Brooke	Jordan, N.C.	Scott
Byrd, Va.	Jordan, Idaho	Stafford
Byrd, W. Va.	Mansfield	Talmadge
Case	Mathias	Thurmond
Church	Mondale	Williams
Cook	Montoya	Young

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Anderson	Gambrell	Miller
Bayh	Griffin	Moss
Beall	Gurney	Nelson
Boggs	Hansen	Pell
Brock	Hart	Proxmire
Burdick	Hartke	Randolph
Cannon	Hollings	Ribicoff
Chiles	Hruska	Saxbe
Cooper	Hughes	Smith
Cranston	Kennedy	Sparkman
Curtis	Long	Stennis
Dole	McClellan	Stevens
Ellender	McGee	Symington
Fannin	McGovern	Tower
Fong	McIntyre	Weicker

The PRESIDING OFFICER. A quorum is present.

Mr. JAVITS. Mr. President, I ask for the yeas and the nays.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. Does the Senator from Alabama seek recognition?

Mr. ALLEN. I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is that in order?

The PRESIDING OFFICER. It is in order. There has been business since the last quorum. The ordering of the yeas and nays is business, under the Senate precedents, and the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 16 Leg.]

Aiken	Fannin	Montoya
Allen	Fong	Moss
Anderson	Gambrell	Nelson
Baker	Griffin	Pastore
Bayh	Gurney	Pearson
Beall	Hansen	Pell
Bellmon	Hart	Percy
Bennett	Hartke	Proxmire
Boggs	Hatfield	Randolph
Brock	Hollings	Ribicoff
Brooke	Hruska	Roth
Burdick	Hughes	Saxbe
Byrd, Va.	Inouye	Schweiker
Byrd, W. Va.	Javits	Scott
Cannon	Jordan, N.C.	Smith
Case	Jordan, Idaho	Sparkman
Chiles	Kennedy	Stafford
Church	Long	Stennis
Cook	Mansfield	Stevens
Cooper	Mathias	Symington
Cotton	McClellan	Talmadge
Cranston	McGee	Thurmond
Curtis	McGovern	Tower
Dole	McIntyre	Weicker
Ellender	Miller	Williams
Ervin	Mondale	Young

The PRESIDING OFFICER. A quorum is present.

The question now recurs on agreeing to the motion of the Senator from New York (Mr. JAVITS) to table the amendment of the Senator from Alabama.

On this question the years and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Washington (Mr. JACKSON), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Virginia (Mr. SPONG), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. EASTLAND) is absent because of illness.

On this vote, the Senator from Washington (Mr. JACKSON) is paired with the Senator from Mississippi (Mr. EASTLAND).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "nay."

The result was announced—yeas 45, nays 32, as follows:

[No. 17 Leg.]

YEAS—45

Aiken	Hatfield	Pearson
Anderson	Hughes	Pell
Bayh	Inouye	Percy
Beall	Javits	Proxmire
Boggs	Kennedy	Randolph
Brooke	Mansfield	Ribicoff
Burdick	Mathias	Saxbe
Byrd, W. Va.	McGee	Schweiker
Case	McGovern	Scott
Church	McIntyre	Smith
Cooper	Mondale	Stafford
Cranston	Montoya	Stevens
Fong	Moss	Symington
Hart	Nelson	Weicker
Hartke	Pastore	Williams

NAYS—32

Allen	Ellender	Long
Baker	Ervin	McClellan
Bellmon	Fannin	Miller
Bennett	Gambrell	Roth
Brock	Griffin	Sparkman
Byrd, Va.	Gurney	Stennis
Chiles	Hansen	Talmadge
Cook	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Jordan, N.C.	Young
Dole	Jordan, Idaho	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against.

NOT VOTING—22

Allott	Goldwater	Muskie
Bentsen	Gravel	Packwood
Bible	Harris	Spong
Buckley	Humphrey	Stevenson
Dominick	Jackson	Taft
Eagleton	Magnuson	Tunney
Eastland	Metcalf	
Fulbright	Mundt	

So the motion to table the Allen amendment was agreed to.

Mr. COTTON. Mr. President, before the next amendment is offered, I would like to use not more than 5 minutes for some observations on the bill itself. I wish to get these remarks into the RECORD at this time because I am compelled to be away for at least part of tomorrow.

Mr. President, the Senator from New Hampshire voted for every civil rights bill back through the years in the 17 years he has been in the Senate except for the so-called omnibus civil rights bill of 1964. The reason that the Senator from New Hampshire could not vote for the 1964 bill, although he voted for cloture in order that the Senate would have its opportunity to work its will on the measure, was because of title VII in that bill.

The Senate will recall how the coverage of the Equal Employment Opportunity Commission was automatically expanded over a 4-year period. The first year after it became law, the application of unfair employment practices and unfair discrimination between color, sex, national orgin, and so forth, would only apply to those establishments employing at least 100 employees. The second year it automatically would go down to 75. In the third year, it would automatically go down to 50. In the fourth year it would automatically go down to 25.

At that time the Senator from New Hampshire approached the distinguished Senator from Minnesota (Mr. HUMPHREY), who was managing the bill. At that time it was the position of the Senator from New Hampshire that he could not support a measure that enabled the Federal Government to permit discrimination in employment in those establishments employing a small number of employees.

I offered an amendment to hold it at 100 instead of dropping it to 25. I do not want to go into that in detail. I was and am perfectly willing to support legislation creating a Commission and creating machinery to prevent discrimination in employment so far as it concerns large plants, plants large enough to permit discrimination by reason of the policies of a corporation, the policies of a labor union, or the policies of a hiring hall.

But I am one who happens to live in a little county-seat town of 10,000 population. In my State there are many small but active communities. When a country bank, for instance, employs only 30 or 40, or even 50, employees, or a small insurance agency has perhaps only 15 or 20 employees, and the proprietor or the organization operating that business selects an employee, that is an intensely personal relationship. It is almost like selecting a partner. For the Federal Government to move into situations involving small business institutions and try to enforce a discriminatory law which forces the employer to deal with this nationality or that nationality, this color or that color, is a naked display of Federal power that goes far beyond the reasonable views of those who framed this Republic.

Furthermore, I feel that it impedes rather than promotes fairness and a lack of discrimination anywhere. For instance, if a black man has worked long and hard, has built up a small business, employs 25, 30, or 35 employees, and is prospering through his ability and his long years of hard work, I would not, for the life of me, want to be a party to going in and saying to him, "You have to employ so many white people. You cannot give persons of your own race a chance in this business that you have built up." I am still referring to a small business, not to a factory, not to an industry, not to a large department store, or any enterprise like that. I cannot understand how any law can be administered justly that applies to small institutions.

Furthermore, there be many a case, as a practical matter, when an employer having a small business wants to give a break, perhaps, to a person of a different color, or to one who has not had many opportunities or much education. That employer also knows that once he admits that he is in need of an extra employee, and he gives such a person a break, he cannot fire him if it develops he is not a good employee.

There are white men who are industrious and white men who are lazy—just as there are black men who are industrious and black men who are lazy. Perhaps I should not say it but there may also be women who are industrious and women who are not industrious.

A person having a small business depends on his associates with almost a family relationship. He is not going to indicate that he needs another employee until he gets the one he wants, if he knows that once he has given a less advantaged person a chance, he is stuck with him; and while he could fire a white Anglo-Saxon Protestant, if he turns around and has to discharge a member of another nationality or another color, he may find himself in trouble with his government.

So I took the position that unless the limit for title VII, which I had hoped would be held to 100, was held at 50, I could not vote for the entire measure, and I did not do so.

I was pointed out and subjected to a good deal of attack because I was one of five Senators from north of the Mason-Dixon Line who voted against that particular civil rights bill.

The measure before us reduces the number to eight employees. It imposes certain safeguards, but it permits the Commission to go into a man's business, if he employs just eight employees. If it is a family business, he can be harassed, penalized, and handicapped in trying to make his business go, because he does not have the free and full opportunity to employ those with whom he has been closely associated and in whom he has complete confidence.

It will be said, and it probably has been said, that the enforcement arm of the Commission would not, in its discretion, harass the persons running a very small business or a family business. That is the reason why business institutions that are connected with religious organizations are permitted to discriminate in favor of members of their own religious group. Nevertheless, it is never safe to write into the statutes an opportunity for a naked display of Federal power in such a way as to oppress and harass citizens of this country simply on the assumption that whoever may be charged with enforcement will do so carefully and discreetly.

I could not vote for the civil rights bill of 1964, even though I was able to support every other title and section in the bill, because of my strong objection on the point I have just spoken about—and I feel just as strongly about it now.

Regardless of any other amendment, if, when we come to the final passage of this measure, it still places in the hands of the Commission the power to deal with

small business institutions of eight—which is ridiculous—or 25 or 35 or 50, I shall be compelled to vote against this whole measure, just as I was compelled to vote against the civil rights bill of 1964.

I appreciate the patience of the Senate. I wanted to get that statement clearly in the RECORD at some time during the debate so that when the time comes when and if I am compelled to vote against this measure, the reasons will be clear.

I yield the floor.

Mr. PEARSON. Mr. President, the Civil Rights Act of 1964 made clear that every person in this Nation is entitled to equal treatment with regard to a job. The Equal Employment Opportunity Commission, under the provisions of that act was charged with a responsibility of making that policy a reality. But the only enforcement power granted the EEOC was the authority to seek voluntary compliance with the law, a weakness which the legislation before us today would correct.

I think it is clear that the majority of this Nation's employers recognize the intent of Congress to insure fair employment practices and have abided by the law. But it is also clear that unemployment discrimination still exists today, a situation which fairminded people cannot and should not tolerate.

Mr. President, the immediate issue before us is not whether the EEOC should have enforcement powers. Rather the issue is what procedures must be used in the exercise of that power. As the Senate is aware, the House of Representatives has approved a measure which requires the EEOC to go to court to enforce their rulings. The legislation before us here, however, would authorize the EEOC, following an investigation of unlawful employment practices and an administrativee hearing on such complaints, to issue an appropriate enforcement order. That order would be subject to a full and complete review in the U.S. Courts of Appeals.

It has been argued that this grant of authority is without precedent in the law. But that is not the case. The National Labor Relations Board and the Federal Trade Commission have similar authority. For each of these Agencies, this grant of authority has improved their capability to protect the public from unfair labor practices and consumer fraud and deception.

Mr. President, the technical nature of this issue should not confuse the fact that this is a matter of civil rights. It is a matter which tests our commitment to equality and basic human fairness. My record in the Senate on civil rights legislation is one which reflects, I believe, a commitment to these values. And though some would ask me to do so, I will not deviate from the course I have set over the last 10 years.

I support the Equal Employment Opportunity Enforcement Act of 1971.

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.

REPORT OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I transmit herewith the Sixth Annual Report of the Department of Housing and Urban Development for the calendar year 1970.

RICHARD NIXON.

THE WHITE HOUSE, *January 27, 1972.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. STAFFORD) laid before the Senate a message from the President of the United States submitting the nomination of Peter G. Peterson, of Illinois, to be Secretary of Commerce, which was referred to the Committee on Commerce.

THE PRESIDENT'S ECONOMIC REPORT

Mr. JAVITS. Mr. President, the key factor in the economic report of the President is the continued stubbornness of unacceptable unemployment. The prediction of a reduction in unemployment from 6 percent to 5 percent this year based on the present economic plans of the Federal Government seems to me too optimistic. I had hoped that the economic report would have provided a bolder approach to the stubborn problem of unemployment through a greatly strengthened program of productivity increase, adjustment assistance to workers and others adversely affected by the sudden impact of imports or other economic dislocations and manpower training.

Turning to the section of the report dealing with the United States and the world economy, the administration is to be commended for the open-minded way in which it is approaching the long-term reform of the international monetary system. However, I would caution against expecting too much, too soon from the historic interim monetary agreement of December 16, 1971. Over the long run, this agreement, which includes the devaluation of the dollar, will strengthen the competitive position of American-produced products at home and abroad. However, it is probable that 1972 will see another trade deficit, and this should be expected. Our rapidly expanding economy will generate increased demand from imports in 1972 at the same time that the relatively stagnant economies of Japan and Western Europe will limit the demand for American products despite the newly more competitive position of these products. While I recognize that the forces of protectionism may seek to use this short-term development to their advantage and may attempt to discredit the December 16 agreement as the elections approach, it should be widely recognized that the full benefits of the currency realinement package will not be felt until 1973 and 1974.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

Mr. GAMBRELL. Mr. President, I have filed an amendment at the desk. I shall not call it up at this time, but I would like to take these few movements to address myself to the bill as a whole, or the pending business, and in connection therewith to make some comments in reference to the amendment which I have offered. The amendment which I have offered, incidentally, is a revision of a previous amendment which I have on file No. 810. I propose to call up the amendment which I filed today at a later time in place of calling up No. 810. However, what I have had to say on a previous occasion in reference to amendment No. 810 would be equally applicable to the one I have filed today.

Mr. President, on January 21, the date on which I filed the amendment which now bears the number 810, I addressed myself to the purposes of the bill and also to the purposes of the amendment. I might say we have had some considerable debate, and at least three or four votes, which in substance dealt with the question of how the Equal Opportunity Employment Act was to be enforced. Of course, the RECORD will show that I have voted on a number of occasions to substitute the so-called Dominick plan or the House plan for the plan contained in the Senate committee report, which now apparently will be the method of enforcement, the cease-and-desist method adopted by the Senate committee and now proposed for adoption by the Senate as a whole.

Of course, as I understand the procedure, if this bill in its present form is adopted by the Senate as a whole, there will be a conference with the House of Representatives, which adopted the court enforcement procedure called for in the Dominick plan, and there will be some further discussion of the type of enforcement procedure to be used.

This entire question of the method of enforcement seems to me to place many Senators, including myself, in a very awkward position. I would like to support equal employment opportunities, but the bill in its present form does not, I think, permit me to do so. As I said on January 21 when I offered my amendment, there seems to be an undue surge toward the adoption of the cease-and-desist method, which smacks of an effort to play politics with job discrimination, and to leave the entire field in a constant uproar, resulting in continued racial tension and consequent disruption of trade and commerce.

Mr. President, it seems to me, if the present conciliation method of enforcement has not proved to be effective, that rather than racing in an unseemly way to the ultimate enforcement method or technique available, the cease-and-desist

method, in an attempt to achieve the goals of fair employment practices and conciliation of animosities that exist between the races, an effort should be made to carry this forward on a step-by-step basis, to try to demonstrate confidence rather than lack of confidence in the American court system.

The Senator from Alabama this morning put in the RECORD an editorial from the New York Times which I think very ably sets forth one of the fundamental concepts in our system of law and law enforcement, based on the separation of powers: That courts, and not executive or administrative agencies, are much better able to give a consistent enforcement pattern to the enforcement of laws of all kinds; that courts historically and traditionally are not subject to the ebb and flow of political opinion, they are not nearly as subject as political agencies to excesses of enforcement, and the judgments of courts are much more likely to have acceptance by the people and by the public than are those of political bodies, which the public, or parts of the public, would hope, from time to time, to be able to sway either to more aggressive or less aggressive, or more conservative or more liberal, interpretations of the law.

Therefore, for that reason I have concluded in my own mind that I could not possibly support the bill in its present form, because the enforcement practice that is set forth in the bill contains this cease-and-desist provision, which I think is an excess which is only warranted, if at all, by the most extreme and most aggravated condition of noncompliance with law.

Mr. President, this same thought, the excesses or the possible and I would say historically probable excesses of executive or political agencies in enforcing laws of this type, has led me to the introduction of the amendment which I have sent to the desk this afternoon.

The amendment which I have offered seeks to grant some relief to small businesses and small labor unions which may, under this act, be accused of engaging in unfair, discriminatory employment practices which are banned by the act. The amendment does not seek to exempt small businesses or small labor unions; it simply seeks to put them on an equal footing in terms of enforcement with the Federal Government agency which confronts them.

I think all of us have files loaded with complaints and concerns expressed by constituents of government agencies abusing the tremendous economic resources available to them to compel and enforce and bully to achieve so-called compliance with regulatory authority. I know in many cases in my own experience as a practicing lawyer of clients who have come to my office and said, "You know, we have got this complaint," or, "We are under investigation for thus and so, and it looks like it is going to cost us thousands and thousands of dollars even to find out whether we are liable or responsible or guilty or not, and frankly, we would just rather give in, accept whatever they say, and do it their way, rather than try to find out whether we are right or wrong in the first place, because we can see a swarm of Federal agents coming in here, examining our books, reviewing our practices, interviewing our employees, and churning up our business here, where our margin of profit is very small, and we just economically cannot afford to combat in the courthouse with a Federal agency, much less combat before that same agency which is making the charges."

I have no answer to that. I guess in a sense I may be an idealist. I would like to tell this client, "Well, you owe it not only to yourself but to other businesses similarly situated to make this point of law or to try to establish this question of fact that is in issue in this case, but I cannot, in good conscience, tell you to set out to defend yourself against the many, many very highly qualified experts in this field."

At the same time, Mr. President, I in my practice of law have had large corporations come in, under the same circumstances, who have told me, "Mr. Attorney, we want you to fight a scorched-earth policy on this subject, if it takes 10 years. We are not going to submit to this, and we are willing to set aside the expenses that it takes to defend it."

I have seen that carried out, and I have seen such corporations obtain consent judgments, where the Government finally said, "My God, we cannot afford this expenditure any more; we have had it out with this company, and we cannot afford to devote all our resources to fighting with this one company. We could go after all these little bitty fellows and get a lot of precedents established by them giving in, so why should we fight the big fellow? Let's take this consent judgment and let this big guy off with an easy slap on the wrist."

Mr. President, I think that is entirely unfair, and yet I think every Member of the Senate who has had any experience with Government activities knows that this type of thing goes on. I do not mean to be critical, or contend that it is done with malevolent intent, but in enforcement practices, just like anything else, the line of least resistance is the one that people take.

If you have two cases and one is easy to prosecute and one is difficult, you take the one that is easy. If your opposition is going to cave in, you push him real hard. If the opposition in the other case is going to fight back, you say, "Let's dodge that as long as we can."

I suggest that we very much need to reconsider and review this matter. When this amendment is called up, I expect to point out a number of instances of other enforcement agencies where abuses—what I would consider abuses—have been committed, as I say, in good faith in most instances. But in an unknowing effort and an insensitive effort to achieve a favorable result, to build a good file, a Government agent has driven a small business out of business, into bankruptcy, in a good faith effort to enforce the law.

Mr. President, at this time I will not call up my amendment, under the understanding with the assistant majority leader that there will be no rollcall votes today. But I do intend to call it up in due course in the consideration of this bill. I might say that ultimately, and unfortunately, if the bill finally comes to a vote, with or without the amendment I suggest, it will be necesary for me to vote against it.

I yield the floor.

Mr. WILLIAMS. Mr. President, just a word in reference to the amendment that will be called up at a later time by the Senator from Georgia. It deals with a matter that has been discussed at length in the committee, relating to attorneys' fees and other costs recoverable by a party who is involved in a complaint and prevails.

I believe that when the amendment is offered by the Senator from Georgia, there will be comprehensive consideration of the costs of these employment suits, both from the standpoint of small business and from the standpoint of individuals who are complainants under the law.

Mr. President, the situation as we assess it at this point is that there will be full opportunity, as we return tomorrow on this bill, for the proposed legislation to be considered for further amendment. I know that at this time some amendments that have been suggested are being considered very carefully. It is my hope that some of the suggestions that will be in amendments can be worked out toward the objective of fashioning a stronger and sounder bill. I know that one which was considered briefly yesterday—we had a record vote on it—dealt with the services of volunteers. There was limited debate, and the record vote retained the provision as it is in the bill. It was suggested that there is some ambiguity as to exactly what is meant by the authority to accept volunteer services. It might well be that we will have further discussion of that, and perhaps by amendment a clarification of it will be generally acceptable on the permitted volunteer services—those who, for good reason, the Commission should be in a position to accept as volunteers.

These are two of the amendments. There will be others. We are on the seventh day, I believe, of debate on this issue. Its importance is emphasized by the longevity of the debate in which the Senate already has engaged. This was the first measure to come before the Senate upon our return from recess. It has been the only major legislative business. We have had a week of debate. The amending process is working well and will continue to be available to us as we return tomorrow.

Mr. GAMBRELL. Mr. President, will the Senator yield to me, without losing his right to the floor, for a comment on what he has said in reference to my amendment?

Mr. WILLIAMS. I yield.

Mr. GAMBRELL. The Senator and his staff has worked with me in connection with the amendments I have offered and it has resulted in a division of the amendment which I have offered today.

I have no enormous disagreement with the committee on the subject they wish to bring up; but, as I understand, they are insisting on my including in my amendment something which is different from the purpose of the amendment.

I would suggest that if they wish to pursue the provision of attorneys' fees for individual intervenors in this case, they offer an amendment to that effect themselves. I simply do not care to insert that in my own plan.

Mr. WILLIAMS. It was not my intention to suggest that the Senator did want personally to include this in his amendment, but it is part of the general subject matter and probably will be discussed at that time. It may be offered as an amendment to the Senator's amendment.

Mr. BYRD of West Virginia. Mr. President, based on what the distinguished Senator from Georgia has stated, it is my distinct understanding, after consultation with other Senators, that there will be no additional rollcall votes today.

I thank the able Senator for yielding.

AMENDMENT NO. 818

Mr. ERVIN. Mr. President, on behalf of myself and the distinguished Senator from Alabama (Mr. ALLEN), I call up amendment No. 818.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 41, lines 15 and 16, strike out the words "or in the Court of Appeals for the District of Columbia Circuit.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ERVIN. Mr. President, it is my understanding that the leadership does not contemplate any more votes, so I will not undertake to present the argument in favor of this amendment this evening.

Mr. WILLIAMS. Mr. President, may I have the amendment restated?

The PRESIDING OFFICER. The clerk will restate the amendment.

The legislative clerk read as follows:

On page 41, lines 15 and 16, strike out the words "or in the Court of Appeals for the District of Columbia Circuit.".

Mr. ERVIN. The effect of the amendment is merely to require that all the reviews be had in the circuit court of the circuit where the proceeding arose, rather than having an option of bringing them into the Circuit Court of the District of Columbia regardless of where they originated.

Mr. WILLIAMS. It has been announced that there will be no further votes; so if there is no further debate, this will be something for this Senate to think about over the evening.

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

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

AUTHORIZATION FOR COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS TO FILE REPORT ON CERTAIN NOMINATIONS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs have until midnight tonight to file a report on certain nominations which the committee has considered today.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, that was the final quorum call of the day, for the information of the cloakrooms.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Chair will lay before the Senate the unfinished business.

The pending question at that time will be on agreeing to amendment No. 818 of the distinguished Senator from North Carolina (Mr. ERVIN). No time agreement has been entered into on that amendment.

I would say, Mr. President, that there is a likelihood of one and possibly more rollcall votes tomorrow.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. WILLIAMS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 5:07 p.m.) the Senate adjourned until tomorrow, Friday, January 28, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 27, 1972:

DIPLOMATIC AND FOREIGN SERVICE

Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

U.S. NAVY

Rear Adm. William W. Behrens, Jr., U.S. Navy, for appointment to the grade of vice admiral for the duration of his service in duties determined by the President to be of importance and responsibility within the contemplation of subsection (a), title 10, United States Code, section 5231, for which duties I have designated Admiral Behrens.

DEPARTMENT OF COMMERCE

Peter G. Peterson, of Illinois, to be Secretary of Commerce, vice Maurice H. Stans.

HOUSE OF REPRESENTATIVES—*Thursday, January 27, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let us therefore follow after the things which make for peace.—Romans 14: 19.

Almighty God, our Father, from whom all thoughts of truth and peace proceed, kindle, we pray Thee, in the hearts of all men a true love for peace and guide with Thy wisdom those who take counsel for the nations of the earth, that in deed and in truth Thy kingdom may go forward in our world.

By the might of Thy spirit quench the animosity, the greed, and the pride which cause man to strive against man, nation against nations, and people against people. Lead us all in the ways of truth and love and hasten the day when war shall be no more and when peace shall live in the heart of Thy glorious creation.

We thank Thee for Carl Hayden and for his devotion to our country. May we learn from his life to be gentle in goodness, strong in spirit, and faithful to the highest we know.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE SUPPLEMENTAL REPORT ON H.R. 10086

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee