H.R. 16136. A bill to amend the Interstate Commerce Act to provide increased fines for violation of the motor carrier safety regulations, to extend the application of civil penalties to all violations of the motor carrier safety regulations, to permit suspension or revocation of operating rights for violation of safety regulations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16137. A bill to amend section 1306(a) of the Federal Aviation Act of 1958 to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. WHALLEY:

H.R. 16138. A bill to authorize the Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of natural disasters during the month of June 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN (for himself, Mr. FOUNTAIN, Mr. WALDIE, Mr. HARVEY, Mr. LANDGREBE, Mr. MALLARY, Mr. DERWINSKI, Mr. GUBSER, Mr. ARCHER, Mr. WAGGONNER, Mr. COLLIER, Mr. HOGAN, and Mr. KEATING):

H.R. 16139. A bill to amend the Federal Property and Administrative Services Act of 1949 to prohibit the making available of Government procurement sources to Federal grantees and contractors; to the Committee on Government Operations.

By Mr. CLANCY (for himself, Mr. DEVINE, Mr. HUNT, Mr. KING, Mr. THOMPSON of Georgia, Mr. COLLIER, Mr. DEL CLAWSON, and Mr. MICHEL):

H. J. Res. 1267. Joint resolution proposing amendment to the Constitution of the United States to permit the Congress to provide by law for the imposition and carrying out of the death penalty in the case of certain crimes involving aircraft piracy; to the Committee on the Judiciary.

By Mr. FRASER (for himself, Mr. BINGHAM, Mr. FASCELL, Mr. HALPERN, Mr. ROSENTHAL, and Mr. WHITEHURST):

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears; to the Committee on Foreign Affairs.

By Mr. CHAPPELL:

H. Res. 1072. Resolution expressing the sense of the House that the Federal Communications Commission establish advisory guidelines which recommend that certain physical violence not be broadcast over television during certain time periods, because such violence is not suitable to be viewed by children; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLS of Arkansas (for himself and Mr. BYRNES of Wisconsin):

H. Res. 1073. Resolution authorizing the employment of additional personnel by the Committee on Ways and Means; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ICHORD presented a bill (H.R. 16140) for the relief of John W. Hollis, which was referred to the Committee on the Judiciary.

SENATE—*Tuesday, August 1, 1972*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

O Thou Infinite and Eternal Spirit, in whose will all events move and have their meaning, we who are finite and know not what a day may bring forth offer to Thee the love of our hearts and the service of our lives. Whatever the day may bring of success or failure, of reward or disappointment, enable us to turn it into a testimony of Thy grace and grow in wisdom and in character. Help us to distill from each experience a new joy and beauty of life which does not turn from difficulty nor flinch in hardship but moves steadily onward for the making of a better world according to Thy will. Grant that all our leaders and all who follow them may heed Thy written word, "Commit thy ways unto the Lord, trust also in Him and He shall direct thy paths."

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 31, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Indian Affairs Subcommittee of the Committee on Interior and Insular Affairs, the Subcommittee on Health of the Committee on Labor and Public Welfare, and the Committee on Finance be authorized to meet during the session of the Senate today.

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

Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

WORKMEN'S COMPENSATION LAWS

Mr. JAVITS. Mr. President, a very remarkable report has just been issued by the National Commission on State Workmen's Compensation Laws, which was appointed pursuant to an amendment in the bill relating to industrial safety, which amendment I had the honor to offer, and which, Mr. President, represents a drastic improvement in the workmen's compensation system as we all know it, and fully justified the action which the Senate and the House of Representatives confirmed, of which I had the honor to be the author, for appointment of this commission, and I believe requires Federal legislation.

The point of my statement this morning is to call to the attention of the Senate and the country the fact that legislation is desirable and necessary, and to state my intention to introduce it.

Mr. President, I ask unanimous consent that a summary and the introduction to the report of the Workmen's Compensation Commission as authorized by the Occupational Health and Safety Act of 1970 be printed in the RECORD.

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

MAJOR CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION

Congress, in the Occupational Safety and Health Act of 1970, declared that: the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation. . . .

Congress went on to find, however, that: in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

For these reasons, Congress established the National Commission on State Workmen's Compensation Laws to "undertake a comprehensive study and evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation." The Act required that a final report, containing a "detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable," be transmitted by the Commission to the President and to the Congress no later than July 31, 1972.

Activities of the Commission

On June 15, 1971, the President appointed 15 Commission members, representing State workmen's compensation agencies, business, labor, insurance carriers, the medical profession, educators, and the general public. In addition, the Act designated three members of the President's cabinet as Commissioners.

The Commission faced a formidable task. We were asked to evaluate 56 diverse jurisdictions and 16 specific topics, many complex. Our effective working period was less than a year. We resolved at our first meeting to meet our deadline despite the advantages that would have flowed from additional time. We made this decision because important and pressing issues dictated prompt action. The Congress had expressed a keen sense of urgency about workmen's compensation in setting the July 31 deadline. The Commission members and staff have responded to this urgent concern with their best effort.

The Commission has had an active and productive year. Since its first meeting, on July 21, 1971, ten additional meetings have been held to develop the plan and review the substance of this Report. In total, these sessions consumed 32 days with, on the average, 17 Commissioners in attendance.

In addition to the meetings, the Commis-

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sion held nine public hearings for a total of 18 days. These hearings included three in Washington, plus regional hearings in Chicago, Boston, San Francisco, Dallas, Atlanta, and New York. Because the first hearing was scheduled on short notice, only 10 Commissioners were able to attend. For the subsequent eight hearings, never were fewer than 15 Commissioners present. More than 200 witnesses appeared. The edited transcript of the hearings, to be published, is expected to exceed 800 printed pages.

A full-time staff of 30 employees assisted the Commissioners. The professional staff included economists, lawyers, physicians, statisticians and others specialising in workmen's compensation and rehabilitation. More than 200 documents were provided to the Commission by the staff, including selections from previous publications and original reports based on staff surveys and studies.

The Commission was authorized to enter into contracts with government agencies, private firms, institutions, and individuals for the conduct of research or surveys and the preparation of reports to be published by the Commission. These publications include a *Compendium on Workmen's Compensation*, a comprehensive review of the issues and information concerning workmen's compensation, and a series of *Supplemental Studies* which examine selected issues in detail. As the *Compendium* and *Supplemental Studies* were prepared and edited by independent scholars, the Commission assumes no responsibility for the ideas expressed in these publications. With some of these ideas the Commission disagrees. Nonetheless, the material was valuable to the Commission and is being published in order to encourage further studies and appraisals of workmen's compensation.

We have carefully considered the views presented at our hearings and by our staff and contractors. The issues have been analyzed thoroughly in our formal sessions, correspondence, and conversations. Although we have given serious attention to previous recommendations for workmen's compensation programs, such as the widely approved standards published by the U.S. Department of Labor, and the Model Act published by the Council of State Governments, we assumed as our responsibility a complete reexamination of workmen's compensation in light of the historical changes noted by Congress. We have evaluated the effects of these changes on the "fairness and adequacy" of the program launched more than 50 years ago. We have concluded there is a substantial and vital role for workmen's compensation in contemporary America.

The main body of our Report contains three parts which lead to this broad conclusion. The general objectives of a modern workmen's compensation program are discussed in Part One. A detailed evaluation of the present workmen's compensation program and our recommendations follow in Part Two. In Part Three, we discuss the future of workmen's compensation.

These three parts are summarized below. Many supporting data and analyses are contained in the corresponding sections of the Report. References for factual information in the Report are included in the Compendium.

Part I. Objectives for a Modern Workmen's Compensation Program

There are five major objectives for a modern workmen's compensation program: four of them basic and an equally important one that supports the others.

The four basic objectives are:

Broad coverage of employees and of work-related injuries and diseases

Protection should be extended to as many workers as feasible, and all work-related injuries and diseases should be covered.

Substantial protection against interruption of income

A high proportion of a disabled worker's lost earnings should be replaced by workmen's compensation benefits.

Provision of sufficient medical care and rehabilitation services

The injured worker's physical condition and earning capacity should be promptly restored.

Encouragement of safety

Economic incentives in the program should reduce the number of work-related injuries and diseases.

The achievement of these four basic objectives is dependent on a fifth objective:

An effective system for delivery of the benefits and services

The basic objectives should be met comprehensively and efficiently.

Part II. Evaluation of State Workmen's Compensation Programs and Selected Recommendations

Congress in the Occupational Health and Safety Act of 1970 specified that our study and evaluation should include, "without being limited to," 16 subjects. We believe this evaluation will be most significant if those subjects are discussed in relation to the five objectives cited above. Accordingly the 16 subjects are listed below (Figure A) with reference to the objectives most pertinent and with a citation of the chapter in the Report which deals most extensively with the respective topics.

In addition to the five objectives, another basis for our evaluation is the Congressional directive to determine if State workmen's compensation laws provide an "adequate, prompt, and equitable" system. We use "adequate" to mean sufficient to meet the needs or objectives of the program; thus, we examine whether the resources being devoted to workmen's compensation income benefits are sufficient. We use "equitable" to mean fair or just; thus, we examine whether workers with similar disabilities resulting from work-related injuries or diseases are treated similarly by different States. (See Glossary for full definitions of these and other terms.)

A modern workmen's compensation program should provide broad coverage of employees and work-related injuries and diseases.

Coverage of employees [Section 27(d)(1)(C)].

Although the percentage of employees covered by workmen's compensation is increasing, State and Federal programs now reach only about 85 percent of all employees. This coverage is inadequate. Inequity results from the wide variations among the States in the proportion of their workers protected by workmen's compensation. Thirteen States cover more than 85 percent of their workers, contain more than half of the nation's labor force, but 15 States cover less than 70 percent. Inequity also results because the employees not covered usually are those most in need of protection: the low-wage workers, such as farm help, domestics, casual workers, and employees of small firms.

The lack of coverage is due primarily to the statutory exclusion of specific occupations or classes of employers. Another important factor is the persistence in some States of a tradition that coverage be elective.

Our recommendations on coverage are in essence that coverage be extended so as to provide protection to most employees now excluded and that coverage be mandatory.

Elective coverage [Section 27(d)(1)(I)]. Despite progress in recent decades, the laws of more than a third of the States retain the elective feature, installed originally in deference to constitutional interpretations that are largely irrelevant now.

We recommend that workmen's compensation be compulsory rather than elective. (See R2.1)

(In this Introduction and Summary, in the interest of brevity, we have abbreviated and reworded some of our recommendations contained in Chapters 2 through 6. Each recommendation in this summary contains a reference to the full text of the recommendations published in these five chapters. R2.1 is the first recommendation in Chapter 2.)

Numerical exemptions [Section 27(d)(1)(C)]. Barely half the States extend coverage to firms with one or more employees, and among these are States which exempt certain classes of employers, such as charitable organizations.

We recommend that employers not be exempted from workmen's compensation because of the number of their employees. (See R2.2)

Exclusions [Section 27(d)(1)(C)]. Exclusions include such categories as farmworkers, casual and domestic workers, and employees of State or local governments.

Farmworkers. Only about a third of the States cover farmworkers on essentially the same basis as other workers. Because of administrative considerations, we recommend a two-stage approach to coverage for agricultural workers.

As of July 1, 1973, coverage should be extended to agricultural employees whose employer's annual payroll exceeds $1,000. By July 1, 1975, coverage should be extended to farmworkers on the same basis as all other employees. (See R2.4)

Casual and domestic workers. Although several States cover some casual household employees, no State covers them on the same basis as all other workers. The transient or casual character of domestic jobs and the large number of households argue against efforts to provide coverage by conventional means.

We recommend that by July 1, 1975, household workers and all casual workers be covered under workmen's compensation at least to the extent they are covered by Social Security. (See R2.5)

Government employees. The laws of 44 States require coverage of some or all State employees; 36 States require coverage of employees of local governments; the other laws are elective.

We recommend that workmen's compensation coverage be mandatory for all government employees. (Sec. R2.6)

Conflicts among State Laws [Section 27(d)(1)(M)]. Employees who are subject to the laws of two or more jurisdictions are often uncertain as to where to file a claim: The claim may be compensable under one State law and invalid under another, or, in the extreme, compensable under neither.

We recommend that the employee be given the choice of filing a claim for workmen's compensation in any State where he was hired, or where his employment was principally localized, or where he was injured. (See R2.11)

Coverage of Injuries and Diseases, Section 27(d)(1)(D)

Substantial litigation results from efforts to determine which injuries or diseases are work-related and compensable. There are both legal and medical questions in each claim. The medical question is whether there was in fact an impairment or death caused by an injury or disease that was work-related. The legal question is whether the worker has suffered disability, i.e., a loss of actual earnings or earning capacity attributable at least in part to the work-related impairment.

The traditional test for determining whether an injury or disease is compensable, is that the cause must be an "accident,"—sudden, unexpected, and determinate as to time and place. This interpretation has served to bar compensation for most diseases and

for injuries which were considered routine and usual in the place of employment.

We recommend that the "accident" requirement be dropped as a test for compensability. (See R2.12)

The compensability of diseases has been hampered also by the uncertain etiology of many impairments. Efforts to overcome this uncertainty by listing specific compensable diseases results in lack of coverage for some diseases.

We recommend that all States provide full coverage of work-related diseases. (See R2.13)

A MODERN WORKMEN'S COMPENSATION PROGRAM SHOULD PROVIDE SUBSTANTIAL PROTECTION AGAINST INTERRUPTION OF INCOME

In general, workmen's compensation programs provide cash benefits which are inadequate. The majority of disabled beneficiaries receives less than two-thirds of the lost wages. In most States, the most a beneficiary may receive, "the maximum weekly benefit," is less than the poverty level of income for a family of four. Moreover, many States limit the duration or the total amount of cash payments.

Payments are inequitable as well as inadequate. Benefits differ widely from State to State. Within States, high-wage workers, if disabled, receive a smaller proportion of their lost earnings than do low-wage earners because they are limited by the ceiling of the maximum weekly benefits. Also, in some States, it appears that benefits paid for minor injuries are relatively more generous than payments for serious injuries.

Many programs appear to pay uncontested claims with reasonable promptness. When claims are contested, the record is less satisfactory.

Cash benefits are based primarily on the worker's actual loss of wages or loss of wage earning capacity. Also, whether or not they suffer a loss of wages or of earning power, workers in many States may receive cash payments because of work-related impairments.

Benefits usually are computed as a percentage of gross pay, rather than spendable earnings. Tax factors and the number of dependents contribute to inequities in this approach, and the inequities would be compounded if higher benefits were paid. The traditional payments are two-thirds of pretax wages. Benefits calculated as 80 percent of spendable earnings would better reflect the worker's preinjury economic circumstances and cost the system little more. The small increase in cost would in any event recognize the value of the supplements on fringe benefits which have been introduced since the two-thirds formula was established, and which are not included in gross pay.

Temporary total disability benefits [Section 27(d)(1)(A)]. A worker who is temporarily and totally disabled experiences a temporary and complete loss of wages. Benefits do not begin unless the disability persists for a specified waiting period. Usually, if the disability continues beyond a specified qualifying period, the worker receives benefits retroactively for the time lost in the waiting period. A worker's benefit is calculated as a prescribed proportion of his previous wages, subject to minimum and maximum weekly benefits.

Waiting period [Section 27(d)(1)(H)]. The Department of Labor recommends a 3 day waiting period and a 14 day retroactive period. In contrast, the Model Act of the Council of State Governments specifies a 7 day waiting, and 28 day. Most States meet the standard of the Model Act, but do not meet the Department of Labor recommendation. Although the Model Act would provide benefits for 83 percent of lost time, the U.S. Department of Labor standard would compensate for 93 percent. The purpose of the waiting and retroactive provisions are to reduce payments for truly minor incidents and to assure benefits for even moderately serious injuries.

We recommend that the waiting period be no more than 3 days and that the retroactive period be no more than 14 days. (See R3.5)

Maximum weekly benefits. Both the Department of Labor and the Model Act recommend the maximum weekly benefit should be at least two-thirds of the average weekly wage in the State. The majority of States do not meet this standard: most did in 1940, but since then have not kept pace with the rise in wages. In 32 States as of January 1, 1972, the maximum for a family of four was less than 60 percent of the State's average wage. Such levels of payments are clearly inadequate.

A maximum of two-thirds of the State's average wage, coupled with a provision that purports to provide disabled workers at least two-thirds of their individual wages, produces the anomaly that almost half of all disabled workers—those who had earned more than the State's average wage—would receive less than two-thirds of their lost pay.

We recommend progressive increases in the maximum weekly wage benefit, according to a time schedule stipulated in Chapter 3, so that 1981 the maximum in each State would be at least 200 percent of the State's average weekly wage. (See R3.8 and R3.9)

Proportion of lost wages to be replaced. The decision fixing the proportion of lost wages to be replaced must balance incentives to employers to improve safety with incentives to the disabled to take full advantage of rehabilitation services and to return to work.

We recommend that cash benefits for temporary total disability be at least two-thirds of the worker's gross weekly wage. The two-thirds formulation should be used only on a transitional basis until the State adopts a provision making payments at least 80 percent of the worker's spendable weekly earnings. (See R3.7 and R3.8)

Permanent total disability benefits [Section 27(d)(1)(A)]. A worker is eligible for permanent total benefits when he experiences a complete loss of wages for a prolonged period. In a few States, a worker may receive permanent total benefits merely because he is unable to return to his previous job.

We recommend that our permanent total benefit proposals be applicable only in those cases which meet the test of permanent total disability used in most States. (See R3.11)

Our position on maximum weekly benefits and the proportion of wages to be replaced is identical with our recommendations for temporary total disability. The main issues for permanent total disability benefits concern the total sum allowed and the duration of payments.

Although there is wide agreement that payments for permanent total disability should be paid for life, we found that 19 States in 1972 failed to comply with that recommended standard. In 15 States, duration of payments was limited to 15 years and in 11 States the gross sum payable was less than $25,000, which is less than the average full-time worker in the United States earns in four years.

We recommend that permanent total benefits be paid for the duration of the worker's disability without limitations as to dollar amount or time. (See R3.17)

Relationship to other programs [Section 27(d)(1)(O)]. The variability of benefits provided to disabled workers from sources other than workmen's compensation aggravates the inequities of the system.

If our recommendations for increases in the maximum weekly benefit for permanent total disability and the removal of limitations of time and duration are accepted, we believe that these permanent total benefits should be coordinated with other programs.

We recommend that the Social Security benefits for permanent and total disability be reduced in the presence of workmen's compensation benefits. (See R3.18)

Permanent partial disability benefits. The issues arising from benefits for permanent partial disability are so critical to the future of workmen's compensation that the subject warrants the highest priority. Unfortunately, the critical need for corrective action is matched by the elusiveness of the proper remedy, and there is a serious danger that premature or insufficiently detailed recommendations might only worsen the present problems. These problems include the wide variation from State to State in the ratio of permanent partial benefits to total benefits, and the apparent tendency in some States for the payment of disproportionately large benefits for minor permanent partial disabilities relative to the benefits for major permanent partial and permanent total disabilities. Also in some States, evaluations of the extent of permanent partial disability often seem to be without consistent guidelines. Although the recently issued American Medical Association *Guides to the Evaluation of Permanent Impairment* are a welcome contribution, they are designed only for the evaluation of impairment and do not purport to provide guidance for the evaluation of disability, as opposed to impairment.

These apparent inconsistencies and deficiencies warrant a separate study and report. We do not deny the importance of the permanent partial phase of workmen's compensation; we feel our responsibility at this time is to point to the need for the immediate commencement of a thorough examination of permanent partial benefits.

Death benefits. Death benefits consist of payments to the surviving spouse, minor children, or other dependents of a worker who dies as a result of a work-related injury or disease. Such benefits account for less than one percent of all workmen's compensation cases and less than ten percent of the total payments. The limits on the weekly benefits and on the total duration or amount, as found in many States, result in little overall cost saving for the program and are particularly ill founded.

We recommend that death benefits be at least 66⅔ percent of the worker's gross weekly wage. The two-thirds formulation should be used only on a transitional basis until the State adopts a provision making payments at least 80 percent of the spendable earnings of the worker. (See R3.20 and R3.21)

We recommend that the minimum weekly benefit for death cases be at least 50 percent of the average weekly wage in the State. (See R3.26)

In death cases, we recommend that the State's maximum weekly benefit be increased until, by 1981, the maximum represents 200 percent of the State's average weekly wage. (See R3.23 and R3.24)

We see no justification for arbitrary limitation of the amount or duration of benefits to survivors of a deceased worker.

We recommend that benefits in death cases be paid to a widow or widower for life or until remarriage, and in the event of remarriage we recommend that two years' benefits be paid in a lump sum to the widow or widower. We also recommend that benefits for a dependent child be continued until the child reaches 18, or beyond such age if actually dependent, or at least until age 25 if enrolled as a full-time student in any accredited educational institution. (See R3.25)

Relationship to other programs [Section 27(d)(1)(O)]. Adoption of our recommendations will assure that families of those who die from work-related causes will have greater and more continuous protection than they might receive from Social Security.

We recommend that workmen's compensation benefits be reduced by the amount of any payments received from Social Security by the deceased worker's family. (See R3.27)

Workmen's Compensation Should Provide Sufficient Medical Care and Rehabilitation Services.

Medical care and rehabilitation services contribute both a monetary and a human value to the workmen's compensation system. Medical benefits have a monetary value of one billion dollars a year, about a third of the charges to the system. Four out of five beneficiaries receive medical services only.

In addition to medical services from the time of injury or detection of the disease, the system provides physical restoration services, including surgery and physical therapy, guidance and instruction in restoring earning capabilities, and placement in productive employment.

The record of delivering such services varies. Performance of medical services is reasonably good but, with only a few exceptions, the performance of physical restoration is less successful. Vocational guidance and instruction services are spotty and placement services for rehabilitated workers are generally inadequate. These services need increased attention and coordination.

Choice of physician [Section 27(d)(1)(B).] Among the issues that relate to the quality of medical care is the method of selecting a physician for the injured employee. The recommended standard published by the U.S. Department of Labor would permit the employee to select the physician freely or in accord with rules of the workmen's compensation agency. Half the States use this system. It can be argued that such freedom for the employee is illusory or disadvantageous to one with a work-related disease which may be improperly diagnosed by a physician unfamiliar with a specialized working environment. Conversely it may be argued that any limitation on the freedom of choice is an infringement on access to independent medical services.

We recommend that the worker be permitted the initial selection of his physician, either from among all licensed physicians in the State or from a panel of physicians selected or approved by the State's workmen's compensation agency. (See R4.1)

Amount and Duration of Medical Benefit [Section 27(d)(1)(B)]. Limits on the amount or duration of medical care are more prevalent for work-related diseases than for injuries. The trend has been to remove such limits for injuries: 41 States comply with the U.S. Department of Labor standard of full medical benefits for those injured on the job. The trend has been similar with respect to diseases but only 35 States in 1972 provide full benefits. The limitations apply largely to diseases activated by dust.

Where the statutes specify payment of "all reasonable" charges, this language has been interpreted in some States to impose limitations on the types of services used. The wisdom of limiting services according to the merits of an individual situation is not open to challenge, but we oppose arbitrary rules that limit medical or rehabilitation services without regard to their merit. Such limits can be self-defeating if they deny benefits, such as prosthetic devices, which restore a patient to a productive career. For the same reasons we oppose compromise and release agreements which terminate an employee's right to medical benefits. Even when lump sum payments are offered in exchange for such waiver of rights, we believe the agreements should require approval of the administrative agency.

We recommend there be no statutory limits on the length of time or dollar amount for medical care or physical rehabilitation services for any work-related impairment. (See R4.2)

Supervision of quality care at reasonable cost. There are no short cuts to economical delivery of medical care of satisfactory quality. There is no substitute for conscientious supervision by competent professionals in order to insure that a job is done well. Nevertheless, fewer than half the States provide such supervision within the workmen's compensation agency. Supervision cannot be effective if limited to a clerical review of case histories. There must be skilled observation and authority to order provision of necessary services, to curb excessive charges, and to recommend or require workmen to seek appropriate consultation.

Fewer than half of the States have a medical-rehabilitation division and only 26 provide such supervision in a manner consistent with recommended standards.

We recommend that each workmen's compensation agency establish a medical rehabilitation division, with authority to effectively supervise medical care and rehabilitation services. (See R4.5)

Vocational Rehabilitation [Section 27(d)(1)(E)]. Medical care would be far more effective if well coordinated with vocational rehabilitation services. Such coordination would require employers to report promptly to the medical-rehabilitation division on the condition of claimants who are seriously disabled. Simultaneously, the claimant should be informed of his rights and opportunities to use restorative, guidance, and instruction services. Employees of the medical-rehabilitation division would be held responsible for following the course of such services and for assisting in their delivery.

Although some vocational services are provided by insurance carriers and employers, vocational aspects of rehabilitation are handled in most States mainly by agencies that rarely have more than a tangential relationship with workmen's compensation or physical rehabilitation services.

Many disabled workers fail to receive vocational services partly because they are not aware of their rights, partly because they lack motivation because of a fear they will lose compensation benefits if rehabilitated, and partly because they cannot afford the out-of-pocket costs of maintenance during instruction.

We recommend that the medical-rehabilitation division within each State's workmen's compensation agency be given the specific responsibility of assuring that every worker who could benefit from vocational rehabilitation services be offered those services. (See R4.7)

The cost of such services should be assessed against the employers, if only to assure that rehabilitation receives appropriate attention within the workmen's compensation program. Provision of special maintenance benefits during the period of instruction, with the sum and period to be determined by the medical-rehabilitation division, would help to assure cooperation of the worker in the instruction program. A worker who refuses vocational assistance might also be subject to denial of other benefits.

Placement of the disabled and use of second-injury funds [Section 27(d)(1)(F)]. "Hire the Handicapped" campaigns have a much broader base than workmen's compensation. They aim to employ not only those disabled on the job, a small portion of the total number of disabled, but others, notably veterans.

The employer concerned with operating costs, including premiums for workmen's compensation insurance, tends to be dubious about, if not averse to, hiring anyone with a preexisting impairment. If an employee with only one hand loses the other, or if an employee with sight in only one eye becomes totally blind, it is inequitable to burden the employer with the charges for the total disability. For this reason, all but four States have established a subsequent- or second-injury fund which assumes responsibility for paying for the compounding effects of a second injury. By this means, the worker receives in full the benefits which are high right, but the employer is charged only for the contributing effects of the last injury and not for the total. He is charged for one eye only: the fund pays the balance of the award for total blindness.

Unfortunately, many employers appear to have little knowledge of such funds. In many States, the funds themselves are insufficiently financed. Only 20 States have second-injury funds with broad coverage of preexisting impairments. Coverage that is so broad as to cover virtually every employee would defeat the purpose of the land. The Model Act specifies 26 permanent physical impairments eligible for coverage by a second injury fund and, in addition, covers any impairment which is equivalent to 50 percent total impairment.

We recommend that States establish a second injury fund with a broad coverage of preexisting impairments. We recommend that the second injury fund be financed by charges against all carriers, State funds, and self-insuring employers in proportion to the benefits paid each, or by general revenue, or by both sources. We urge State workmen's compensation agencies and carriers to interpret eligibility for second-injury funds liberally in order to encourage employment of the physically handicapped and to publicize the programs to employers and employees. (See R4.10, R4.11, and R4.12)

Workmen's Compensation Should Encourage Safety.

Consistent with its aims to protect maintenance of income and to deliver services of high quality with the maximum economy, workmen's compensation also offers incentives to improve the safety of working conditions.

Although the supporting evidence is limited, we believe that the experience rating of insurance premiums can offer employers an incentive to develop safe designs, practices, and working arrangements. It has been demonstrated in individual industries that preventive health and safety programs dramatically improve productivity and reduce labor costs. The spur to safety from experience-rating is restricted because 80 percent of all employers are too small to be eligible under present regulations.

We recommend that, subject to sound actuarial standards, the experience rating principle be extended to as many employers as practicable. (See R5.3)

In addition to the built-in stimulus to safety provided by experience rating, workmen's compensation also promotes safety by expending substantial resources on accident prevention services. However, in some States there are so many carriers writing workmen's compensation insurance, it is unlikely that all provide effective safety programs. Likewise, some State-operated insurance funds and some self-insuring employers devote insufficient resources to safety programs.

We recommend that insurance carriers be required to provide loss prevention services and that the workmen's compensation agency carefully audit these services. State operated workmen's compensation funds should provide similar accident prevention services, under independent audit procedures, where practicable. Self-insurers should likewise be subject to audit with respect to the adequacy of their safety programs. (See R5.2)

There should be an effective delivery system for workmen's compensation.

The effectiveness of workmen's compensation is to be judged by the program's ability to deliver the benefits and services which fulfill its basic objectives.

Six obligations of administration [Section 27(d)(1)(J)]. In this connection, the primary obligations of the workmen's compensation agency are: (1) to take initiatives in administering the act, (2) to provide for continuing review and seek periodic revision of both the workmen's compensation statute and supporting regulations and procedures,

based on research findings, changing needs, and the evidence of experience, (3) to advise employees of their rights and obligations and to assure workers of their benefits under the law, (4) to apprise employers, carriers, and others involved of their rights, obligations, and privileges, (5) to assist voluntary resolutions of disputes, consistent with the law, (6) and to adjudicate disputes which do not yield to voluntary negotiation. Adjudication should be the least burdensome of these six obligations if the others are well executed.

Legal Expenses [Section 27(d)(1)(K)]. Originally it was hoped that the program would be self-administering; that employees would protect their interests without need for legal counsel or other outside intervention. The no-fault concept and prescribed benefits, it was assumed, would reduce the need for litigation. The complexities of the law and doubts about the sources and nature of impairments have dashed these expectations, although, given sufficient assistance by administrative agencies, claimants might have relied less on privately retained counsel and the system as a whole might have been spared the concomitant legal expenses.

We recommend that attorneys' fees for all parties be reported for each case, and that the fees be regulated under the rule making authority of the workmen's compensation administrator. (See R6.)

Administrative organization. Disputes on claims in five States are assigned immediately to the general courts. Adjudicators who handle workmen's compensation cases exclusively have the primary duty to resolve disputes in 45 States. Only if they fail are the decisions appealed to the courts.

We recommend that each State utilize a workmen's compensation agency to fulfill the administrative obligations of a modern workmen's compensation program. (See R6.1)

In line with their traditional role of providing a laboratory for experimentation, with variations suited to their own experience, needs, or creativity, the States have devised a variety of structures to administer their workmen's compensation programs. It is difficult to evaluate these structures outside the entire political and economic context of each State. The State agencies vary remarkably in their assignment and exercise of responsibilities. Some agencies do little but adjudicate, with small regard for the effective delivery of workmen's compensation services or for their other administrative obligations, cited above. For this reason, we advocate a strong administrative leadership with authority commensurate to the responsibility, empowered to supervise all employees except the members of the appeals board. One person should be responsible for the administration of the State workmen's compensation program. This emphasis on personnel as a crucial factor in the excellence of the system extends to the entire staff of the agency.

We recommend that, insofar as practical, all employees of the agency be full-time with no outside employment, with salaries commensurate with this full-time status. (See R6.5)

Processing of claims. A number of positive recommendations on administrative procedure appear in Chapter 6. In this summary, we will mention only two, which are included in the list of subjects assigned to us for evaluation by Congress.

Time limits on filing claims [Section 27(d)(1)(G)]. The problem for an employee in meeting the time limit for filing his claim is particularly acute when his impairment results from a work-related disease. A substantial lag may occur between exposure to the disease-producing substance and the manifestation or diagnosis of the disease. The Department of Labor has recommended a flexible time limit, so that workers with long-developing disabilities can still receive benefits, and about one-half of the States meet this recommended standard.

We recommend that the time limit for initiating a claim be two years after the date the claimant knows, or by exercise of reasonable diligence should have known, of the existence of the impairment and its possible relationship to his employment, or within three years after the employee first experiences a loss of wages which the employee knows, or by exercise of reasonable diligence should have known, was because of the work-related impairment. If benefits have previously been provided, the claim period should begin on the date benefits were last furnished. (See R6.13)

A Uniform System of Reporting [Section 27(d)(1)(L)]. An active State agency, such as we have recommended, requires the receipt and analysis of substantial data. Most of these data may be useful only within the particular State, but there are advantages which would result from nationally uniform data on several aspects of workmen's compensation, such as promptness of payments, the number of workers receiving the maximum benefits, and the amount of legal fees. At the present time, most States cannot provide this information on any basis, and almost none of the data can be compared across States.

A salutary consequence of preparation and dissemination of comparable data would be the enhancement of one virtue of the Federal system, namely that States can be laboratories of experiment and learn from one another.

Insurance systems [Section 27(d)(1)(N)]. Most workmen's compensation laws provide that qualified employers self-insure their obligations. Other employers are required to buy insurance from a private carrier or a State fund. Although private carriers are excluded from some States, they provide 63 percent of all workmen's compensation benefits; State funds, 23 percent; and self-insured employers, 14 percent.

The studies available to us indicate that no type of insurance has a general advantage over another in delivering services.

We recommend that States be free to continue their present insurance arrangements or, if the States wish, to permit private insurance, self-insurance, and State funds where any of these types of insurance now are absent. (See R6.20)

Protection against Insolvency. Special means are needed to protect employees in the event the employer fails to comply with the insurance requirements of the workmen's compensation law or if a carrier or employer become insolvent. Insolvency is a risk of the free enterprise system, but the penalties should not be assessed upon disabled employees.

We recommend that procedures be established in each State to provide benefits to employees whose benefits are endangered because of an insolvent carrier or employer, or because an employer fails to comply with the law mandating the purchase of workmen's compensation insurance. (See R6.21)

Part III. The Future of Workmen's Compensation

Our intensive evaluation of the evidence compels us to conclude that State workmen's compensation laws are in general neither adequate nor equitable. While several States have good programs, and while medical care and some other aspects of workmen's compensation are commendable, strong points too often are matched by weak.

In recent years, State laws have improved. In 1971, more than 300 bills were enacted, about 100 more than customary in odd-year legislative sessions. This encouraging burst of activity nevertheless failed to satisfy many basic needs. Of 16 recommendations for workmen's compensation published by the Department of Labor, the average State meets only eight. The wide variation among the States also are disturbing. While 9 States meet at least 13 of the recommendations, 10 States meet 4 or fewer.

An appropriate response to the serious deficiencies of workmen's compensation has been the major concern of our Commission. Are we to conclude that workmen's compensation is permanently and totally disabled, or is there a rational basis for continuing the program?

That fundamental question has obliged us to consider the possible alternatives to workmen's compensation. We have discussed the implications of abolishing workmen's compensation and reverting to the negligence suits, a remedy abandoned some 50 years ago. This option is still inferior to workmen's compensation: its deficiencies include uncertainties for both employer and worker and the substantial costs arising from litigation over the degree and source of impairment. Such litigation also has serious adverse effects on efforts at rehabilitation.

An even more radical option is the proposal to disassemble the program and distribute the components elsewhere. We are convinced that the problems associated with partition are insoluble, and that the injured workingman would be adversely affected. Each of the programs to which the components would be assigned has at least one serious deficiency compared to workingmen's compensation. For example, the eligibility requirements of the Disability Insurance program under Social Security preclude benefits until the worker has several quarters of covered employment. In workmen's compensation, in contrast, the worker is eligible from the first day he is employed. Also, we do not believe there is likely to be in the near future a source of medical care as satisfactory as workmen's compensation. Under most proposals for national health insurance, there are deductibles and other limitations on benefits not found in most workmen's compensation statutes. The ultimate weakness of partition, however, is that there are no well established locations for the two most important components of workmen's compensation: cash benefits for short-term total disabilities and cash benefits for long-term partial disabilities.

Perhaps in another decade or two, an attractive alternative to workmen's compensation will emerge.

For the foreseeable future we are convinced that, if our recommendations for a modern workmen's compensation program are adopted, the program should be retained.

The issue then becomes the final subject assigned to us by Congress: what are the "methods of implementing the recommendations of the Commission?" As we have reviewed the efforts for improvement by the various States, it has become apparent that the answer to this question is the most elusive of all that have been raised. Our recommendations are not fundamentally different from those of earlier investigations; yet previous recommendations have won no strong support.

Several reasons for the indifferent response to previous reform proposals are evident. The lack of interest in or understanding of workmen's compensation by State legislators and the general public is attributable in part to the complexity of the program. Various interest groups, including employers, unions, attorneys, and insurance carriers, have often allowed their specialized concerns to stand in the way of general reform. And State legislators and officials, even when they have been genuinely interested in reform, have too often been dissuaded by the irrational fear that the resulting increase in costs would induce employers to transfer business to States with less generous benefits and lower costs.

In view of these experiences, we have contemplated various strategies for improving workmen's compensation. Among those suggested at our hearings were a complete Fed-

eral takeover; retention of present State programs with only voluntary responses to Federal guidance or recommendations; and various methods of combining the basic State-run system with a more active and influential role for the Federal government.

Despite disagreements among the Commissioners on some matters, such as the timing of certain methods for improving workmen's compensation, we all agree on some points.

We agree that the States have the economic capability of responding to our recommendations.

Although our recommendations will increase the costs of workmen's compensation for most States and many employers, we agree that employers and the States have the resources to meet such costs. The States have the distinct advantage of having personnel and procedures in place: a Federal takeover would substantially disrupt established administrative arrangements. Moreover, we have seen no evidence that Federal administrative procedures are superior to those of the States.

We reject the suggestion that Federal administration be substituted for State programs at this time.

Several Commissioners believe that a Federal takeover of workmen's compensation may be appropriate in a few years if the present deficiencies are not corrected promptly but they also believe these deficiencies can be overcome by the States.

All Commissioners believe the virtues of a decentralized, State-administered workmen's compensation program can be enhanced by creative Federal assistance.

One role for the Federal Government is to help the States learn from one another. Our hearings have impressed us that a superior method in one State is not adopted swiftly by other States, a lag explained partially by the complexity of workmen's compensation. This learning lag can be shortened substantially.

We urge the President to appoint a Federal commission to provide encouragement and technical assistance to the States.

This assistance could include consultation on statutory amendments and improved data and reporting systems. Another function of the Commission would be to develop additional recommendations to supplement ours. Some of their recommendations should be based on a continuing review of permanent partial disability benefits and the delivery system for workmen's compensation. These topics could not be examined thoroughly during the brief life of this Commission, and are critical to the overall design of a modern workmen's compensation program and to the elimination of the most likely sources of inefficiencies and excessive payments in the present program.

All Commissioners believe there is another potential role for the Federal Government in workmen's compensation. We have specified certain of our recommendations of the essential elements of a modern workmen's compensation program. We recommend that compliance of the States with these essential recommendations be evaluated on July 1, 1975, and, if necessary, Congress with no further delay in the effective date should then guarantee compliance with these recommendations.

The essential elements of workmen's compensation recommended by this Commission are:

Compulsory Coverage (R.2.1)

No Occupational or Numerical Exemptions to Coverage (R2.2, R2.4, R2.5, R2.6 and R2.7)

Full Coverage of Work-Related Diseases (R2.13)

Full Medical and Physical Rehabilitation Services without Arbitrary Limits (R4.2 and 4.4)

Employee's Choice of Jurisdiction for Filing Interstate Claims (R2.11)

Adequate Weekly Cash Benefits for Temporary Total, Permanent Total, and Death Cases (R3.7, R3.8, R3.11, R3.12, R3.15, R3.21, R3.23)

No Arbitrary Limits on Duration or Sum of Benefits (R3.17, R3.25)

If, after the 1975 review, Federal support is needed to guarantee compliance with these essential recommendations, they should be included as mandates in Federal legislation. Any employer not covered by a State workmen's compensation act would be required to elect coverage in an appropriate State. For all employers in States where the scope of protection of the State act does not include the essential recommendations, supplemental insurance or self-insurance to provide this broader protections would be required. The normal enforcement method would be the imposition of fines on noncomplying employers. Most claims would be handled by existing State workmen's compensation agencies using their regular procedures, except that the scope of protection afforded by the State must include the essential recommendations.

The Commission was unanimous in concluding that congressional intervention may be necessary to bring about the reforms essential to survival of the State workmen's compensation system. We believe that the threat of or, if necessary, the enactment of Federal mandates will remove from each State the main barrier to effective workmen's compensation reform: the fear that compensation costs may drive employers to move away to markets where protection for disabled workers is inadequate but less expensive. There was disagreement concerning the appropriate time for Congressional action, with a majority concluding that States should be given until 1975 to act before Federal mandates are enacted if States have not adopted our essential recommendations. One reason for the delay is the feeling that an immediate push for congressional legislation would precipitate a confrontation which would delay positive action at the State level pending the outcome. Another reason is that many necessary reforms in the State workmen's compensation programs are not susceptible to Federal mandates. If our mandates immediately were adopted by Congress and made applicable to the States, some States might fail to undertake the thorough review of our recommendations that are not appropriate as Federal mandates.

If the Federal government guarantees the adoption of our essential recommendations, if a new Commission is established to encourage and assist the States, and, most important, if those who control the fate of workmen's compensation at the State level accept responsibility for the program's reform, we believe that soon the protection provided by workmen's compensation to "the vast majority of American workers, and their families . . . in the event such workers suffer disabling injury or death in the course of their employment. . . . [will be] adequate, prompt, and equitable."

Mr. JAVITS. Mr. President, yesterday I announced plans to introduce legislation designed to implement recommendations for improvements in workmen's compensation laws made by the National Commission on State Workmen's Compensation Laws in its report. I am the author of the legislation which established the Commission. It is always gratifying to see an initiative taken here in the Congress and this report is particularly gratifying to me because it completely substantiates my own conclusions as to the inadequacy of many of the existing State workmen's compensation laws and the corresponding need for drastic improvement in the system as we know it. The Commission's report states:

Our intensive evaluation of the evidence compels us to conclude that State workmen's compensation laws are in general neither adequate nor equitable. While several States have good programs, and while medical care and some other aspects of workmen's compensation are commendable, strong points too often are matched by weak.

The report of the Commission makes it clear that there is no longer any room for doubt as to the need for drastic workmen's compensation reform in America and that the Federal Government has a role to play in insuring that State programs are upgraded to meet the legitimate needs of injured workers.

One of the aspects of the report which I think deserves particular attention is that the Commission found that State laws are inadequate judged even by what had previously been generally accepted standards, such as the recommendations promulgated by the Department of Labor, the International Association of Industrial Accident Boards and Commissions, and the Model Code developed under the auspices of the Council of State Governments, but it also went further and developed in its recommendations far more adequate criteria than have heretofore been utilized.

For example, the Commission did not accept what has previously been the generally agreed upon standard of 66⅔ percent of the average weekly wage within the State for determining the maximum benefits payable for temporary and permanent total disability. As noted when I first introduced the legislation which established the Commission, and in my testimony before the Commission, such a maximum limitation means that any employee earning over the average weekly wage in the State will not get reasonable income replacement if he suffers a disabling work-related injury. The Commission recommends that an increase in a State maximum limits to 100 percent of average weekly wages by 1975 and further staged increases up to 200 percent of average weekly wages by 1981. In my judgment, that is a far more reasonable standard than 66⅔ percent of average weekly wage. It will assure that most workers actually receive adequate income replacement.

Another area in which the Commission went further than prior efforts concerns the manner in which most State workmen's compensation agencies are administered and, particularly, their failure to assume a more active role in providing assistance to injured workers. That includes their failure to take the initiative in supervising and providing adequate medical care and rehabilitation, as well as technical and, where necessary, legal assistance. All too often workmen's compensation agencies are little more than referees in contested cases and do not conceive of themselves or function as the guardians of the welfare of injured workers. As the Commission notes, that is one reason why the system has become so oriented to litigation. Claimants have had no choice but to turn to private attorneys for help. The Commission report specifically addressed itself to this prob-

lem and recommends a much more activist approach by workmen's compensation agencies through the provision of technical assistance to claimants and direct supervision of medical care and rehabilitation efforts. This is one of the most important, but perhaps most frequently overlooked problems in workmen's compensation, and the Commission's recommendations in this area are among its most important.

I have mentioned just two areas in which the Commission has made recommendations. However, the Commission's report actually covers the whole gamut of workmen's compensation problems. The introduction to the report contains a summary of its main conclusions and recommendations, and I ask unanimous consent that part of the Commission's report be printed in the RECORD at the end of my remarks. The recommendations cover such areas as making coverage compulsory rather than elective, eliminating exemptions for such categories of workers as farmworkers and domestics, who need coverage as much or more than other categories of employees, full coverage for occupational disease, standards for temporary and permanent total disability benefits, the provision of medical care and rehabilitation services without limitations as to time or amount, time limits for filing claims, and other important areas which desperately need improvement.

I concur with virtually all of the substantive recommendations for changes in existing State laws and the manner in which State programs are now being administered.

There is, however, one aspect of the Commission's report which I believe is too timid. The Commission's recommendations for implementing its substantive recommendations are for no Federal legislation to be enacted until 1975. In the interim, the Commission suggests that a new Commission be appointed by the President to monitor the States' performance and to render the States assistance in complying with the Commission's recommendations for substantive changes. If the States do not update their programs sufficiently by 1975, then the Commission recommends that Federal legislation be enacted under which employers would be required to provide benefits in accordance with Federal standards. If employers refuse to comply, they would be subject to fines and suits in the Federal district courts by injured workers, with the assistance of local U.S. attorneys. These implementing recommendations of the Commission are obviously designed to mute the controversy that has historically accompanied any attempt to have the Federal Government become involved in workmen's compensation matters.

In my judgment, history and the Commission's own report demonstrate the futility of relying on the recommendations alone as sufficient incentive to produce required changes in State laws. Thus, despite the recommendations of the Department of Labor, despite the recommendations of the International Association of Industrial Accident Boards and Commissions, and despite the prestigious model code developed by the Council of State Governments, benefit levels today replace less income lost by injured workers than they did in 1940. It is true, as the Commission points out, that there have been a number of desirable changes in State laws in recent years, particularly since the Commission itself began to function. This should come as no surprise, and the Commission's report itself notes that many of these changes were probably attributable to the threat of Federal action implicit in the establishment of the Commission.

It seems to me that we should take advantage of the momentum created by the Commission's report to enact Federal legislation now which will give the States a reasonable time to comply with the Commission's substantive recommendations, but at the same time make it clear that if the States do not comply, the Federal Government must cure the default.

I support the Commission's conclusion that we ought not to scrap the existing State system in favor of a totally federally administered system. There is too much that is good in the present system to justify starting all over and I have no quarrel with the recommendation that the States should be given a reasonable period of time in which to act to bring their laws into compliance with the minimum standards recommended by the Commission. But these considerations hardly dictate against Federal action. On the contrary, we can and should act now to spur the State action that is required.

Furthermore, I also think it is clear that if a State does not comply with the minimal recommendations of the Commission, we ought not to relegate injured employees to court actions and bring criminal proceedings against the employer. There is a much more simple, direct approach available which we have already utilized in connection with the coal miners black lung compensation program. If the States do not comply with the minimal recommendations within a reasonable period of time, then a Federal workmen's compensation law should go into effect for the benefit of employees working in those States.

I intend to introduce legislation along these lines in the very near future, and I intend to do all I can to see to it that it is given the highest priority. It may even be possible to include appropriate legislation to implement the Commission's recommendations as an amendment to the Longshoremen's and Harbor Worker's Compensation Act now being considered by the Committee on Labor and Public Welfare.

Through the years, millions of injured workers have been forced to suffer the consequences of disabling injuries under State laws, of which over 50 percent, according to the Commission's own findings, provide maximum limitations on benefits which are less than the amount needed to escape poverty under officially accepted standards. In the face of the Commission's superb documentations of the inadequacies of the present system, I do not think that the American people or Congress should be willing any longer to let archaic notions of States' rights stand in the way of bringing elementary justice to workers who have become injured or diseased on the job.

Finally, while I differ with the Commission in that I favor immediate Federal legislation to implement the Commission's recommendations, I would like to emphasize my admiration for the Commission's report as a whole. The Commission has done a superb job of analyzing the deficiencies in the present system and in formulating its recommendations for substantive changes. I am certain that, whatever happens in the way of Federal legislation, this report will have a profound effect in causing needed improvements to the existing systems by which we compensate and treat injured workers. I have personal knowledge of the sincerity and dedication of all the members of the Commission and I now publicly reiterate what I have previously said when I appeared before the Commission: This report is not going to just gather dust on some shelf.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

The PRESIDING OFFICER (Mr. EAGLETON). Under the previous order, the hour of 10 a.m. having arrived, the Chair lays before the Senate the unfinished business, H.R. 15495, which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 15495, to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. Yes, there is an amendment pending. However, the Senator from South Dakota (Mr. McGOVERN) was expected to be here to call it up. There is an order to recognize the Senator from South Dakota.

AMENDMENT 1381

Mr. MANSFIELD. I believe that I can, in good faith, ask unanimous consent that that amendment now be laid before the Senate at this time.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the Act add a new title as follows:

TITLE VII—LIMITATION ON NEW OBLIGATIONAL AUTHORITY FOR THE DEPARTMENT OF DEFENSE, MILITARY, FOR FISCAL YEAR 1973

SEC. 701. Notwithstanding any other provision of law, the new obligational authority for the Department of Defense, Military, shall not exceed a total of $77,663,000,000 for the fiscal year beginning July 1, 1972.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, on the time of both sides, I am about to propound a unanimous-consent request.

Mr. President, at the conclusion of debate tomorrow, Wednesday, August 2, 1972, on the Brooke amendment, I ask unanimous consent that the distinguished Senator from Vermont (Mr. AIKEN) be recognized for the purpose of offering a perfecting amendment not to exceed 1 hour, the time to be equally divided between the Senator from Vermont (Mr. AIKEN) and the majority leader, in this instance, or whomever he may designate.

Mr. CRANSTON. Mr. President, reserving the right to object, and I shall not object, I just want clarification—is that perfecting amendment to my amendment, or to the Brooke amendment?

Mr. MANSFIELD. To the Brooke amendment.

Mr. ALLEN. Mr. President, if I may interject there, it would be to the Cranston amendment——

Mr. MANSFIELD. The Cranston amendment, yes. I thought it was the Brooke amendment.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not object, on the point of the majority leader's controlling the time, it is customary for the floor leader——

Mr. MANSFIELD. Yes, I was under the impression that the manager of the bill might be in favor of it and I was trying to relieve him of any——

Mr. STENNIS. If that arises, but the membership is in the habit of coming to the manager of the bill for time.

Mr. MANSFIELD. That is perfectly all right.

The PRESIDING OFFICER. Does the Senator from Montana amend his unanimous-consent request?

Mr. MANSFIELD. Yes, that the time be under the control, in opposition, of the manager of the bill or whomever he may designate.

The PRESIDING OFFICER (Mr. EAGLETON). Is there objection to the unanimous-consentrequest of the Senator from Montana? The Chair hears none and it is so ordered.

Mr. MANSFIELD. Mr. President, after the Cranston amendment is disposed of, I ask unanimous consent that there be 1 hour on the Tunney amendment, the time to be equally divided between the distinguished Senator from California (Mr. TUNNEY) and the distinguished chairman of the committee, the manager of the bill, the Senator from Mississippi (Mr. STENNIS).

Mr. TUNNEY. Mr. President, reserving the right to object, and I do not intend to object, one thing I wanted to ask the majority leader is, what the situation would be if I release the time so that I could bring up the Tunney amendment after the Cranston amendment, depending on what happened to the Cranston amendment?

Mr. MANSFIELD. That would be a judgment for the Senator to make at that time.

Mr. TUNNEY. The problem is, if I call up the amendment prior to the time of the Cranston amendment, that would require unanimous consent to withdraw it, and the Senator from California does not intend to have a vote on his amendment if the amendment of my distinguished senior colleague (Mr. CRANSTON) passes.

Mr. MANSFIELD. Then I would suggest to the Senator, if he would be willing to accommodate himself, that he give up his 1½ hours today and that he permit me to ask unanimous consent that he be recognized after the disposition of the Cranston amendment tomorrow for the purpose of offering his amendment and if he offers it, that there be a time limitation of 1 hour to be equally divided and controlled by the Senator from California (Mr. TUNNEY) and the manager of the bill.

Mr. TUNNEY. That is what I would like to do if the distinguished majority leader will modify his unanimous consent request accordingly.

Mr. MANSFIELD. Mr. President, I would add to that request, that the 1½ hours allocated to the distinguished Senator from California (Mr. TUNNEY) today be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, a parliamentary inquiry. I understand that a unanimous-consent agreement has been entered into that, on Wednesday, tomorrow, the Cranston amendment would be called up, with 4 hours being allotted for debate on that amendment. At the conclusion of that 4-hour period, the Brooke amendment would be called up and would be subjected to debate for 2 hours, and at the expiration of that time, without a vote on the Brooke amendment, the distinguished Senator from Vermont (Mr. AIKEN) would be recognized for the purpose of offering a perfecting amendment to the Cranston amendment, and that debate on that perfecting amendment of the distinguished Senator from Vermont (Mr. AIKEN) will last for 1 hour, at which time there will be a vote on such amendment. Is that correct?

The PRESIDING OFFICER. The Senator is absolutely correct in his understanding.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. EAGLETON). The pending business is the amendment of the Senator from South Dakota (Mr. McGOVERN), amendment No. 1381.

Mr. McGOVERN. Mr. President, I am delighted to speak to that amendment. I am especially pleased that the distinguished Senator from Missouri (Mr. EAGLETON) is now presiding. At the opening of the debate on the pending amendment, I am glad to know in advance of his own personal support of the amendment the Senate is about to consider.

Mr. President, the pending amendment is designed to prevent military spending authority from rising in the current fiscal year.

My amendment would authorize military appropriations of $77.6 billion, and no more, in fiscal 1973.

That amount is identical to the fiscal 1972 request for new obligational authority. And it is slightly more than actual spending in the fiscal year just completed. It rejects nothing that the administration says it wants to buy this year.

But it would cut almost exactly $4 billion from the $81.6 billion in new obligational authority for the Department of Defense—exclusive of military aid, Atomic Energy Commission programs, and defense-related activities of other agencies—that the administration has requested for fiscal 1973.

The net effect would be to hold arms appropriations steady at last year's level, or slightly more.

All I propose is that we pass by, at least for the time being, the dramatic increase in appropriations the President has requested this year. I suggest that we refuse to accept now the new obligations which could, according to the Brookings Institution study, "Setting National Priorities—The 1973 Budget," commit us to an arms budget of some $100 billion a year by 1975.

That load is simply too great for today's strained economy to bear. In the name of national security, it would undermine our safety, and debase the real sources of our strength, more than anything else we might do.

Last week, the President lectured the Congress on the threat of inflation. He told us expenditures must be rigidly controlled if we are to find stable prices again.

He suggested that the Congress is too concerned about such things as cleaning up the heavy, putrid air which has been sending thousands of people to hospitals—and some to graveyards—in our major cities in recent days. We will worsen inflation, he says, if we do something about that problem.

The President implied that the Congress gives too much attention to the plight of older Americans, many of whom have been subsisting on less than we spend to care for the pandas at the National Zoo. We find that a decent social security system is inflationary, too, in the eyes of this administration.

The President thinks we have asked too much for schools—to keep the Federal share of school support somewhere in line with rising school costs and to prevent the crushing property tax burden from getting any worse.

Mr. President, as I have traveled across the country, I have found in every State of the Union mounting concern about the problem of the school financing. It

puts a strain on homeowners and on property owners in all parts of this country to sustain even the present inadequate level of educational expenditures. And the only way that I can see to deal with this crisis in a practical way is for increased Federal support for education.

But under any fair interpretation, the President told the Congress last week that we invite inflation by anything we do to build up our own country, to care for our own people, and to improve the quality of life in our own society.

That view has nothing to do with reality.

We must consider the real sources of inflation. If, in fact, the President's concern about inflation is a real one—and I think it is—and if our concern about this problem is a real one—and I am sure it is—then we have to examine carefully what is the basis for the inflationary pressures that have been building in this country since 1965.

I think first of all that inflation derives from the reckless war in Indochina. It comes from the bombs, the bullets, the planes and the missiles which we have piled up beyond any rational need. And if we accept the $100 billion arms obligation represented here, we will be adopting a program of guaranteed ruinous inflation for years to come.

Surely, we should exercise some reasonable restraint on Federal spending at a time when inflation is on the minds of every citizen in this land.

But let us do it in ways that reflect decent moral and human concerns.

Instead of holding up hungry children; instead of holding up the old who suffer in silence; instead of holding up 5 million or more idle workers who cannot be heard; let us, for once, stand up to the generals and the admirals who are bleeding our economy dry.

This weekend the President dispatched his top economic adviser to forecast economic doom if we have a new administration next January.

But the President did that with his own economic record lying in a heap around his ankles. And the same is true of Mr. Stein.

I have no economic miracles to offer. But it seems to me that it would take a mind bent on wrecking our economic system to compile a record much worse than that of the Nixon administration. And I do not think any of us need lectures on economic management from the architects of these past 4 years.

Instead, let us open the way to a new direction, if that is what the American people choose this fall.

It is no secret that I regard much of what is in this year's military spending package as needless and damaging to our national security.

There are funds, for example, to continue the outrageous pounding of Indochina for the single purpose of propping up a dictator who cannot rally the genuine support of his own people.

There are funds in this budget to send still more American pilots into prisoner-of-war camps, to join the hundreds already there and the hundreds more missing in action—including five more shot out of the sky and lost just 2 days ago.

There are funds to keep young Americans slogging hopelessly through the swamps of Vietnam.

There is money in this bill to underwrite astounding bureaucratic incompetence of the same kind that has produced cost overruns of $28.7 billion on 77 weapons systems in recent years.

There are funds for a galloping new race in strategic arms, before the ink is even dry on the Moscow arms reduction agreement.

There are funds for still more nuclear overkill, at a time when we can reduce any adversary to ashes 20 times over.

That is a fact that we ought to contemplate, that we now have the capacity to destroy every strategic target in the Soviet Union or in China some 20 times over without adding any additional capacity of our Military Establishment.

There are funds to maintain a vast excess of military manpower, including officers who stumble over themselves looking for troops to command—5,000 more colonels, generals, commanders, captains, and admirals than we had in 1964, to command 190,000 fewer men.

And there are funds for goldplating weapons so they actually endanger the men who must use them; funds for clinging to outmoded strategies which would almost certainly fail in any test; funds for pushing pet military projects at the expense of carefully conceived weapons that can make a real contribution to our own defense and to the security of our allies around the world.

But the bulk of those funds—certainly all of them to be actually laid out in fiscal 1973—would not be touched by my amendment.

In a separate, earlier proposal, I have outlined substantial reductions in arms spending to be accomplished over a period of several years, that would bring the military budget down to some $55 billion by fiscal 1975.

But a first requirement is that those cutbacks must go hand in hand with sound economic conversion planning, to provide jobs and income for the people who will shift to peacetime production.

I understand the concern of many Members of the Senate about making arms reductions that might add to the unemployment in this country. But when one considers the enormous need in the United States for new educational facilities, for new programs to clean up and strengthen our cities, for new programs to save our environment, all of the things that our country needs, it seems to me to be inexcusable that we would say, in effect, that we lack the imagination to figure out ways to provide jobs for people who are now working on military systems that no longer add anything to the security of the Nation.

Hundreds of thousands of arms industry workers already have been thrown out of work by the Nixon administration. They are production line workers, apprentices, machinists, and some of our most highly skilled scientists and engineers. They are people who want desperately to work. And they are people whose unemployment benefits have long since run out, whose kids are dropping out of college, whose mortgages are past due, and whose lives are in disarray.

I have never understood why that is necessary. If we plan wisely, and if we marshall our resources with care, I believe we can guarantee a job for every one of those workers now unemployed, or any others who might become unemployed as a consequence of changes in our military requirements. We can assure that new priorities need not be a personal calamity for anyone; that they can mean refreshing and hopeful new opportunities for us all.

In that connection let me say that many times over the last few months I have visited with military-defense related workers who are actually disturbed about the fact that their jobs depend on the production of things they feel in their hearts are no longer necessary for the defense and security of this country. These highly trained men and women, highly skilled people, I am convinced, would much prefer to be working on products that would lift the quality of their lives rather than contribute to programs they feel are wasteful and unnecessary. So we need not harm the workers on the defense line. We need not throw them out of work, provided we will look ahead to some of the alternative sources for their labor and their investment.

We are wasting life and blood and treasure in Southeast Asia. We are wasting precious resources on military overruns and overkill.

But we need not replace that tragic waste with another; with the waste of human energy and dignity and skill here at home.

We ought to end our involvement in Indochina just as quickly as transportation can be arranged, and that issue will be considered in other amendments related to that war. We need not send young Americans to war in order to keep their parents at work here at home.

But beyond that, all I propose is that we avoid luring still more workers out on a precarious military limb from which so many have already fallen. Let us instead find these citizens jobs that are worthy, in the production of things the country desperately needs.

At the same time let us give the people a chance to express themselves on the issues that we are discussing here today. The issues are going to be very sharply drawn on the question of military spending versus domestic priorities in the coming campaign. There is no question that the lines are already forming on that issue.

They are drawn most sharply of all when it comes to determining what national security really means.

For a quarter century we have sought security in protection against threats from abroad. We have seen dangers from large nations and small; from nations with substantial power, and from primitive nations with almost no power at all.

To meet those threats we have stationed American forces around the globe. We have sacrificed thousands of our sons. We have spent more than $1¼ trillion, and we have built the mightiest arsenal the world has ever known in all its history.

Mr. President, it is a dangerous world. There are real dangers and risks from

hostile nations abroad. Those dangers must concern us all.

But after traveling to all parts of America in recent months, I sense a broader definition of national defense and security taking shape in the minds of the American people.

I think the people of this country are alert to threats from abroad. I do not think they need to be convinced that this country requires adequate military defense. But they are equally concerned with the deterioration of our society from within.

They see decayed cities, wasted air and water, rampant crime, crumbling housing, and failing transportation. They see a government which is more preoccupied with its image abroad than with its failures at home. And they are tired of seeing their needs starved to underwrite corrupt governments overseas, to pay more than our share of alliances with the rich nations of Europe, and to buy shiny new airplanes that do not fly, guns that do not fire, and missiles that only increase the nuclear terror.

I suggest that the most serious national security questions today involve such questions as the health of our people, the quality of our schools, the safety of our streets, the condition of our environment, the vitality of our economic system, and most of all the confidence of our society that this Nation cares about its own people.

So, Mr. President, to conclude, all I ask today is that Congress not prejudge this issue.

My amendment is a modest request that before we embark on the next spiral of foreign preoccupation and domestic neglect, we give the American people a chance to speak on that issue this fall.

Let them hear the arguments and render their judgment on questions that are now squarely before them, nationwide, for the first time in the memory of anyone here.

Our very worst foreign fears require no more. Our faith in democracy requires no less.

I plead with Members of the Senate to consider this amendment carefully, to consider it against the background of the President's own warning that Congress be careful about authorizing new spending at a time when inflation is already a very serious matter on the mind of every American.

Let us think very carefully about robbing the paychecks of the workers of the country, about robbing the consumers of the country, by authorizing new spending levels today that will go beyond any reasonable test of our national defense.

I strongly urge that the Senate favorably consider the amendment.

Mr. SYMINGTON. Mr. President, will the able Senator yield for a statement and then several questions?

Mr. McGOVERN. I am happy to yield to the distinguished senior Senator from Missouri, who is a member both of the Committee on Armed Services and the Committee on Foreign Relations, a former Secretary of the Air Force; and a man whom I consider to be one of the great experts in the Senate in the field of defense.

Mr. SYMINGTON. I thank the able Senator from South Dakota for his undeserved but deeply appreciated comments.

What the Senator is requesting the Senate to do this morning is exactly the policy a corporation would follow in times of bad business. We who remember 1932 know we arbitrarily reduced expenditures in private business by what were called "across-the-board" cuts. That is what, in very mild fashion compared to what was necessary in those days, the able Senator from South Dakota is proposing this morning. Actually, he is not even proposing a reduction, rather simply stating that, as a result of unfortunate developments in the economy and our present military posture, we do not need to increase arms expenditures; and if there is any extra money available, it should be devoted to deteriorating situations here at home.

I congratulate him on his amendment, which I look forward to supporting.

On July 7, in an article written from San Clemente on July 6, the New York Times stated that:

> The new congressional liaison for the Nixon administration, Mr. William E. Timmons—denounced the record of the Democratic controlled Congress today as "miserable," "irresponsible," "appalling," and "cynical."

It seems those observations of this new congressional assistant are not the best way to obtain full cooperation by Congress with the administration; but that would be for him to decide.

Later, I noticed in the Washington Post an article entitled: "Nixon Warns Congress on 'Miserable Record'."

Mr. Timmons there stated:

> We feel Congress owes the American people an up or down vote on the President's proposals.

And he then urges we limit authorizations, apppropriations, and expenditures.

My question to the able Senator from South Dakota is: Does he not agree that, in effect, what he is proposing this morning is an effort to cooperate with the administration, notwithstanding this incredible attack made on the Senate and House of Representatives by the head of congressional liaison?

Mr. McGOVERN. Yes, the Senator is absolutely right. Both the President and his top aides have made it clear that they are going to take this case to the country—that is, the case of Federal spending—and that any Member of Congress who is careless on the question of Federal expenditures is going to be attacked in the election this fall for adding needlessly to inflationary pressures.

The question is: How sincere is the administration in that warning? Does it apply to the biggest single part of the Federal budget, which is the military section, or is the military part considered sacred territory?

In other words, are we being asked to reduce funds for senior citizens? Are we being asked to hold down expenditures for education? Are we being asked to hold down expenditures for health care for the American people? Are we being asked to hold down expenditures for our cities and States, and to give up the idea of any real revenue sharing? There is certainly not going to be much revenue to share if we continue to operate with deficits of $30 billion to $35 billion a year.

I think the Senator's question is well taken. The amendment is an attempt to respond to the concern which the President himself expressed, namely, that we be very cautious about providing for additional Federal expenditures right now. I am saying, let us not add the $4 billion in arms expenditures that the administration has requested above what we appropriated in the last fiscal year.

Mr. SYMINGTON. I thank the able Senator for his response.

If Mr. Timmons believes the record of the Democratic-controlled Congress today is miserable, irresponsible, appalling, and cynical, any objective-minded person, regardless of party, would be glad to vote for this business-like amendment proposed by the Senator from South Dakota.

Now I will read into the RECORD excerpts from an article entitled "SCRAM, SCAD, ULMS and Other Aspects of the $85.9 Billion Defense Budget," written by Robert Sherrill, and published in the New York Times Magazine of July 30, 1972. The article has to do with the way in which we handle our military appropriations.

> The way Pentagon money primes the national economic pump is hardly a secret, but on the other hand it's seldom spoken of quite as openly as it was in one exchange between Senator Proxmire and then-Treasury Secretary John Connally.
>
> Proxmire argued that the proposed $250-million loan for Lockheed was not subsidy but downright welfare, in that there would result "no benefit, no quid for the quo."
>
> CONNALLY. "What do you mean no benefit?"
>
> PROXMIRE. "Well, they don't have to perform."
>
> CONNALLY. "What do we care whether they perform? We are guaranteeing them basically a $250-million loan."

These are reported as direct quotations of the Secretary of the Treasury, and I repeat:

> CONNALLY. "What do you mean no benefit?"
>
> PROXMIRE. "Well, they don't have to perform."
>
> CONNALLY. "What do we care whether they perform?"

That is quite a statement in itself. Secretary Connally continued:

> "We are guaranteeing them basically a $250-million loan. What for? Basically so they can hopefully minimize their losses, so they can provide employment for 31,000 people throughout the country at a time when we desperately need that type of employment. That is basically the rationale and justification."

In passing, I would say that the provision of that amount of employment for that good company took away thousands of jobs in my own State; therefore did not particularly appeal as a logical argument on the part of the then-Secretary of the Treasury.

The article continues—one more short paragraph:

> The same rationale and justification helps explain why talk of radically cutting the armed services falls on Congress's deaf ear. It might tempt them to violate a ground rule of that legislative body: Avoid hidden

problems whose solution would only create a more visible problem.

Now, in recent days we have heard about the reports of two subcommittees of the Senate Armed Services Committee, one of which was made to the full committee unanimously, but reversed by the full committee and later by a vote on the floor of the Senate. In other words, the position taken by those Senators who were requested to study the matter carefully was first reversed in the full committee and then by the Senate; so that whatever the decisions were, they were not based on the intelligent conclusions of the Senators on the subcommittees.

I believe, based on what I know, that these reversals were made because of pressures. I will not get into the nature or degree of those pressures, but stand by that statement.

There is another question I would ask the able Senator from South Dakota, who has the courage to bring this matter before the Senate and the country, and whose record as a highly decorated bomber pilot in World War II means no one can criticize him for any lack of patriotism.

Is it not true that one of the basic tenets of Karl Marx was that capitalism needed war, and the preparation for war, to preserve its system of free enterprise?

Mr. McGOVERN. The Senator is absolutely correct. Marxist literature is filled with references to the failure of capitalism to provide jobs and income for the workers without war. As a matter of fact, that is one of the principal Marxist indictments of capitalism, that it requires war and imperialism in order to sustain itself, that in the absence of what amounts to a war-oriented economy, capitalism does not work.

I do not believe that, and I know the Senator from Missouri does not believe that. As a matter of fact, the more I have studied the economic problems of this country, the more I am convinced that all of our serious economic difficulties are aggravated by too much spending in the military field. There is no question that it has contributed to the inflationary pressures now playing on the country. I think it has contributed to the unemployment, in that we have wasted resources overseas on military ventures that really add nothing to our security here at home, and add very few jobs, by the way. I think every study will show that excessive investments in the military field deprive us of resources that would create even more jobs if they were spent on civilian purposes.

But it is a fact that those who argue that we have to have expanding levels of military expenditures in order to provide jobs here at home are actually following the Marxist line. They may be doing it unwittingly, but nevertheless they are accepting a Marxist premise, that you have to have a war economy in order to make capitalism work.

Mr. SYMINGTON. Mr. President, I thank my able colleague for his comments. I have no criticism, in any way, of the patriotism of my good friend Secretary John Connally, but am worried about a dialog this article reports he had with Senator PROXMIRE:

PROXMIRE: "Well, they don't have to perform."

This with respect to the Lockheed loan; I am somewhat sensitive about this loan because it took thousands of jobs out of Missouri. The only other plane that competed in this commercial class with the Lockheed plane was built by a company in my State.

To the observation, "They don't have to perform," Mr. Connally responded:

What do we care whether they perform?

Mr. President, I have heard much on this floor about why capitalism is better than communism because of superior performance incident to efficiency and effectiveness of our system. With this I fully agree. But here we have one of the members of the President's Cabinet saying that performance is not important, that what is important is more jobs.

I congratulate the Senator for bringing this matter to the attention of the Senate, and would say that, if the Senate passes this amendment, it will be doing what the President of the United States recommended when he commented that Congress has a miserable record to date.

I thank the Senator for yielding.

Mr. McGOVERN. I thank the Senator from Missouri for his very helpful contribution to the consideration of this amendment.

I wonder if I could ask the Senator if he would remain here to comment on a question I would like to raise. I am sure that the question going through the minds of some Members of the Senate, perhaps all Members of the Senate, as they consider this amendment, is the question of whether we are in any way weakening the deterrent capacity of this Nation. Are we undermining our military credibility, either in the eyes of potential enemies or in the eyes of friends who depend on us? Is there anything about holding military spending to its present level that, in the judgment of the Senator from Missouri as a member of the Armed Services Committee, would jeopardize the military capability of the Nation?

Mr. SYMINGTON. No, let me say to my able colleague, I was quite surprised at the Trident vote, for example, which was against the unanimous opinion of the Senate subcommittee which considered the Trident matter in detail—the only place where, to the best of my knowledge, it was considered in detail.

If these new submarines under its program—and the Defense Department testified the figures were correct—were built, the cost of those 10 submarines would be $4 billion more plus than the cost of 10 additional nuclear carriers. It is for such financial reasons, plus the obvious, to me, effort on the part of the United States to influence world politics to a point well beyond the need of this Government, that I opposed it. Why should we pay out billions of dollars in order to have that right to tell other people how they should govern themselves, what religion they should have, and so forth?

People came over to this country to avoid being told how to govern themselves, yet now the United States of America is wielding its great power all over the world in a Pax Americana effort comparable to the Pax Britannica effort of the 19th century, with one great exception: This British Empire was built on and for profit. When they found that, as a result of needed coaling stations, before oil came into the picture, that they could make a profit by growing cotton in India, forbidding the cotton to be manufactured into shirts in India, first shipping the cotton to Manchester and then shipping the shirts back to India, that formed the basis of the entire colonial concept of Pax Britannica. In our case, however, exactly the opposite is true.

One need only go to far places such as Vietnam—and I believe I have been there as much as any other Member of Congress, including this year—and look at the amount of taxpayers money, aside from the moral and political aspects, being expended, billions and billions of dollars to realize how contrary it is to the Pax Britannica theory. None of it ever comes back in any form except financial loss. It is all gone, and we continue to pay because of the interest on our increased debt.

Therefore, it is hard for me to understand what the basic thinking is behind these requests for gigantic increases in our Military Establishment at this time. I would say again to my able friend from South Dakota, that one of the reasons the people of the United States have been increasingly listening to him is that they realize it does not make any difference whether we can destroy another country two thousand times and they us only one thousand times, or vice versa. The theory of overkill is solid, but the reverse of that theory is expressed by the request to heavily increase the amount of our military budget today. Most of what is being requested is needed. Some is not. To eliminate some of the latter is the purpose of the Senator's amendment.

Mr. McGOVERN. Again, I thank the Senator from Missouri for his very helpful contribution to this discussion.

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

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

Mr. CRANSTON. I was deeply interested in the Senator's original proposal, made sometime ago, for a staged cut in what we spend on military matters. We both favor returning to a sane budget that, in the Senator's opinion and in mine, would not decrease our security but would actually increase it. It would do so because our security relates to the strength of our economy as well as to the military weapons we possess. The proposal made by the Senator today is a modest beginning in this direction, and I think it is a very sound beginning.

The President of the United States, President Nixon, has journeyed to Peking and to Moscow in an effort to ease tensions in our world. The Senator and I, and many others on this side of the aisle, have praised those efforts. Mr. Kissinger has engaged in many missions for the same purpose. The strategic arms limitation talks have been, I think, a very fine—at least, hopeful—beginning in the search for a limitation on arms and a reduction of all the

dangers and the burdens of the arms race.

Yet it seems to me that there is a great inconsistency in the fact that, in spite of those efforts by the President, by Mr. Kissinger, and by many others in the administration, we find that we still fight in Vietnam. We find that the President thus far has been unable, in more than 3½ years, to fulfill his campaign promise to end the war.

We find a failure to negotiate successfully thus far with the other side. We find the President resisting the efforts of the Senator and many others in Congress to pass measures that would lead to an end to the war. Meanwhile, we find the President requesting in this budget new weapons, new expenditures, and new burdens relating to the arms race. This fact seems to me to be totally inconsistent with what the President has been seeking to do in these other efforts.

In Sunday's issue of the Washington Post, an article by Henry R. Myers, a consultant on arms control and science policy, stated:

> The strong support for the Moscow Agreements in Congress, combined with the administration's half-hearted justification of the Washington ABM site, indicates a general recognition that attempts to build missile defense systems for any purpose has served only to fuel the arms race. The meaning of SALT is that the United States and the Soviet Union have acknowledged that missile defense and mutual restraint cannot coexist.

Yet now we find the President, in the budget submitted by the administration, ignoring that truth. That budget suggests that there have been no peaceful consequences, no reduction in strains stemming from efforts to negotiate in Peking and Moscow, and no lessening of strains between nations.

The Senator is now coming to grips with a request for more money. We are moving toward a $100 billion military budget that is not too far off, if we do not manage to change the course of events. We have seen our Nation spend nearly $1 trillion on weapons and war since World War II. I believe that the Vietnam war will cost us $1 trillion by the time we have paid the final bill many years hence—or by the time our grandchildren have paid the bill.

I ask the Senator whether he can see any way that the American people can reconcile these two totally conflicting images—that of alleged efforts for peace, on the one hand, and, on the other hand, demands that we still need so much more money for military strength.

Mr. McGOVERN. I think the Senator has put his finger on a basic contradiction in administration policy in the last few months.

The President is in the posture of having conferred with the Chinese—with the approval, I think, of most Americans—in an effort to try to reduce the dangers between our two countries. He has returned from Moscow, the other great superpower in the world, other than the United States, with an arms reduction proposal that the Senate soon is going to be asked to ratify.

Yet, in a curious and contradictory way, the administration now tells us that, because of the arms reduction agreement with the Soviet Union, it is going to be necessary to increase military spending. In other words, we have foregone certain military systems; but in what seems like a clearly contradictory conclusion, we are asked to spend more money on the over-all size of our military establishment as a direct consequence of the arms reduction agreement with the Soviet Union. It would almost seem that we cannot afford these arms reduction agreements because they cost more money.

I think what has happened is that the President has made a political judgment, not a military judgment, not a national security judgment. He has made a political judgment that, because he has come back from Moscow with an agreement to reduce arms, he somehow has to pacify the element in our society that feels that they need some bolstering up by some kind of evidence that we are going to do even more on the military front. But I do not see how any reasonable person can reconcile an arms reduction agreement with our principal rival in the world on the one hand, with an immediate request for more money, that we now have to spend more on military purposes, rather than less.

Neither do I understand why, at a time when the administration claims to be winding down the war in Vietnam, we are asked for additional expenditures for the Indochina war. Why is it that estimates of $3 billion to $5 billion are being added to the cost of waging this war at a time when it is supposed to be winding down? These are questions that I think must puzzle the American people. I do not think these are spurious questions at all. I think they go right to the heart of what is clearly a contradictory course that the administration is pursuing. It seems to be an administration at war with itself, that offers the prospect of arms reduction and peace and accommodation with one hand, and with the other hand calls on Congress to provide billions of dollars in increases in military spending. Those two positions are incompatible, in my judgment.

Mr. CRANSTON. I thank the Senator. To use a military phrase, his analysis is "right on target."

I should like to make one comment about the Senator's proposal in the amendment he has offered. He has been charged with a radical approach to military spending. The position he has offered the Senate and the country today is not radical. It is sensible and sound. Actually, it is a middle-of-the-road position.

When we discuss military spending in the atmosphere of today's world, there are really three major alternatives. The first is that when we are in an arms race. we increase expenditures, which is what President Nixon wants to do. The second is disarmament, which means to decrease expenditures. What the Senator has proposed is a sound, middle position, to maintain our position where we are while seeking to decrease our military spending in a stable, secure, and studied way.

I applaud the Senator for his leadership in this direction.

Mr. McGOVERN. I thank the Senator from California.

Now, Mr. President, the junior Senator from Missouri has——

Mr. PASTORE. Mr. President, will the Senator from South Dakota yield before he recognizes the Senator from Missouri?

Mr. McGOVERN. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I merely want to say to my colleagues at this juncture that I too, am one of those who voted for the nuclear aircraft carrier, and if I were called upon to do it tomorrow, I would do it all over again. This is because I feel, contrary to what other people sincerely feel, that the carrier is an integral and indispensable part of our Navy, and if we are going to have two nuclear aircraft carriers in the Atlantic, then as a two-ocean Nation, we should have two in the Pacific.

I also voted for Trident, and if I were called upon to vote again tomorrow, I would cast the same vote for the Trident.

So essential defense is not my complaint. But I do have a complaint; which makes me agree with the Senator from South Dakota: I have found, from my experience, both as a member of the Joint Committee on Atomic Energy and as a member of the Appropriations Committee, that the trouble with the Defense Department is their reluctance to release the old every time they need something new—now I do not question the need for something new because we are living in a fast moving world where technology is improving every day. So we give them the new but they never give up anything old. They just pile the new on top of the old.

I do not know why this is, but the budget always seems to be kept at a certain level. There are a certain number of four-star generals, three-star generals, four-star admirals and three-star admirals, so many colonels and captains, and so forth. I do not know what the reason for it is but we find, as we look at some of the items as they come in, that consistently they remain at the same figure.

When there is change, it is addition not subtraction.

My support for the Trident supposed that it could negate the need for certain costly defenses.

That was my idea on the Trident if the Trident is built—and I think it can be built, it is a feasible ship, it is going to be a good ship, and it is going to be a fine innovation for undersea warfare—it will carry a missile that will go about 6,000 miles. That means we do not actually have to be in the Mediterranean, we do not have to be immediately off the coast of Spain, we do not have to be right off the coast of Morocco. We can shoot it from a point maybe 100 miles off the coast of New York City. That is the Trident potential.

So I ask the question: If that is true, do we need as many land-based missiles as we have now?

The answer we get from the Navy is, "Well, we do not know—we do not want to start fighting with the Air Force." So what we do is, we pile up our land-based

missiles and we will also develop a missile that can go some 6,000 miles from a submarine.

The point is that we are unnecessarily and extravagantly putting good dollars on top of old dollars. It keeps going on and on, like Tennyson's brook. There never seems to be an end to it.

Mr. President, while I am practical and realistic enough to know that the fate of the Senator's amendment could be very much in doubt, because of the tenor of other votes taken here in the past few weeks, I think he is pointing up something that needs to be discussed.

The President of the United States has cautioned the American people that we cannot afford to spend more than $250 billion. He went so far as to castigate the Senate and to castigate the House of Representatives for being wasteful and cynical, and irresponsible—I think that is the word he used. The Government can be cynical in saving—no less than spending. I seem to recall the other day, in a public housing project in my State, that a number of janitors had to be let go because no money was available for administrative purposes. I called them up and I said, "Congress appropriated the money. Why don't you have the money?" "Oh," they said, "the Office of Management and Budget is holding up that money."

I do not commend that technique of thrift at the expense of housing. Mind you, Mr. President, holding up money for the administration of public housing.

Now, if we need to save, I think the time has come when we should begin to scrutinize the budget. How well has the Defense Department budget been scrutinized? I tell you frankly, Mr. President, I am a little bit weary about it, because they come in and they say, "We do not have the facility, we do not have the staff, to go in and do the research to find out whether a situation is so or not." We have to take their word for it.

The point is that what the Senator is doing here is leaving the appropriation at what it was last year. If he cut much beyond that, I tell you frankly, Mr. President, I would have to give my position a second consideration.

But the point I want to make now is, we have requests, year in and year out, for atomic weaponry. I have been on that joint committee since 1953 and it has never been less than $850 million annually. It comes to almost the same amount every year.

I endorsed the President's phase I program on the ABM. I read the record before the House Armed Services Committee. There it said they would not give the President phase II until we prove out phase I. We never checked out phase I until we had a device tested at Amchitka with the nuclear warhead. If that had failed, we would not have had phase 1 or phase II. But we were talking about 12 sites. Then we compromised at four sites. And then we went to Helsinki and we compromised for two sites. But we got one site. They are going to have two and we are talking about building one around Washington.

I think we need that in Washington as much as—well, I shall not use the expression—not for the RECORD. [Laughter.]

But, there you are, Mr. President. When we buy a new automobile, what do we do? We trade in the old one. If we have a 1960 Ford and we buy a 1972 brand new Ford, we get rid of the old Ford. But the Defense Department does not work that way. They would keep them both, because they feel they have to occupy that empty garage space, otherwise we would cut that item down. They may not run the 1960 Ford, but if they cut down on their garage space, we might take 20 cents out of their budget. In other words, they never give in.

I do not know how this amendment will fare. I am happy that it comes up at this time. It is good to debate the Senate mood on spending. There has been a lot of talk about whether this will be a test. It cannot be a test, because we will not really know the test until after November 7, 1972. I do not know what frame of mind Congress is in, but I have been very much concerned about this. Maybe the amount the Senator is suggesting is a little too large, or maybe it is not large enough. I asked him informally why he picked out that figure and he said, "Well, the past I had to go by, so let us spend what we did last year. If it was good enough last year, it should be good enough now."

Mr. President, I want to say here that I hope we do not tie this down with the aircraft carrier because that is past history.

We voted on that. Let us not tie it down on the Trident. That is past history. After all, let us say to the Defense Department, "If we are going to limit the overall budget to $250 billion a year, you ought to take your fair share of the overall cut, begin to sharpen up your pencils, begin to look at what you have got rather than at what you are asking for. And if you don't need it, get rid of it."

That is something that has not been done. I hope that it will be done. Keep the old that still proves itself—and embrace the new that preserves the peace of tomorrow.

I repeat everything I had to say when I voted for the aircraft carrier and for the Trident. I would do it over again. I am not apologizing for that vote. I think the Defense Department ought to understand that the time has come when the taxpayers of the country are somewhat weary and wary of our sense of priorities.

Welfare has its needs no less than warfare. We can and must serve human dignity as well as our national defense.

We regret that a country that can spend $80 billion a year for defense cannot provide enough money to build homes for the elderly, will not provide enough money to take care of the poverty stricken, will not provide enough money to have a national health program, will not provide enough money to find enough public housing in which to house people who need and deserve to be housed.

These are the problems that are affecting America.

Mr. President, I am not saying that we ought to give up our security to promote the economy. I am not saying that for one single moment. I do not think we ought to do anything to cut out jobs. I do not believe that workers make the waste. What I am saying is that we ought to take the fat out of the budget, we ought to take the waste out of the budget and get down to plain commonsense. If we are going to save money and meet the budget limit of $250 billion a year, a good place in which to start assuredly is in the Defense Department.

That is what the amendment of the Senator from South Dakota intends to do.

Mr. President, I thank the Senator from South Dakota very much.

Mr. McGOVERN. Mr. President, I thank the Senator from Rhode Island for his great contribution to this discussion. His points are so well taken that I do not think any further comment is needed on them.

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

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from South Dakota has 23 minutes remaining.

Mr. McGOVERN. Mr. President, I yield 12 minutes of that time to the distinguished Senator from Missouri (Mr. EAGLETON), with whom I have discussed the pending amendment. In many respects it is a joint enterprise. I am very pleased and proud to yield at this time to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank the Senator from South Dakota.

I rise to support Senator McGOVERN's amendment to reduce the defense budget by $4 billion, to last year's level of spending.

This amendment has been offered in response to President Nixon's request for fiscal responsibility. There is no better place to cut this Nation's budget.

The security of Nation cannot be measured in arms alone.

America must be strong militarily. But a Nation weakened from within is just as endangered as one threatened from without.

The strength of our military force must be matched by the quality of our life. If this balance is not maintained our entire system will suffer.

This is a strange year for the American political system. Parenthetically, I can say that again. Not only does the candidate for the Presidency, GEORGE MCGOVERN, state his positions on our national defense clearly and succinctly, but the Secretary of Defense, who recently released a 64-page indictment of the McGovern defense posture, designs to immerse himself and his office in the political arena.

It is indeed a strange year—the traditional roles of contender and incumbent have been reversed. In 1972 it appears that the candidate, instead of the incumbent, is willing to offer proposals to correct the problems of America. I do not regret this reversal of roles, I simply feel it should be made permanent.

The Nixon administration has requested $83.4 billion for defense in fiscal 1973, an increase of $6.3 billion over last year's budget. In addition, the Secretary of Defense has recently indicated that he may seek a further increase of $5 billion to cover the enormous expense of

escalating the bombing of North Vietnam.

A budget already swelled by waste is being expanded by an administration that wishes to perpetuate a military establishment enfeebled by mismanagement and softened by excessive pampering.

I charge the Nixon administration with severely weakening the defense posture of this Nation and with endangering the security of America.

At the outset of his administration, President Nixon coined the word "sufficiency." He stated that our military force should include exactly what is necessary to maintain our security—nothing more and nothing less. But just as in the case of other Nixon programs, the rhetoric has not matched the performance.

The Nixon administration procurement practices are an abomination. According to a recent GAO study cost overruns totalled $28.7 billion this year.

The American people should know why manpower utilization practices require supporting forces many times the size of fighting forces. They should know why operational procedures call for three expensive aircraft carriers in order to keep one station. They should know why this administration believes in continuing the arms race after reaching an agreement to limit arms.

The American people are fed up with the defense policies of Richard Nixon. Senator McGOVERN has offered an alternative to the American people. He has offered an alternative to waste, an alternative to mismanagement, an alternative to a weak and inflexible military force. The McGovern defense posture will cut the fat from our Military Establishment and return the quality of lean toughness to the American fighting force.

The Nixon program, on the other hand calls for the procurement of weapons systems that would be developed and procured before the nature of any threat is known. The development of weapons that could be outmoded even before they are deployed is a colossal waste. If we expect reciprocity from the Russians we should not attempt to acquire weapons which neither side needs. We cannot afford to match waste with waste.

This administration calls for the modernization of weapons and the creation of new ones even before the threat to our Nation can be assessed. The entire Military Establishment must be modernized so that America can be defended effectively and with sufficiency.

When President Nixon returned from Moscow earlier this year, with what appeared to be the most signfiicant strategic arms limitation agreement ever reached, the American people felt relieved. Those who watched in horror as the arms race clock moved slowly toward the dreadful hour of holocaust, took great solace. That ominous minute hand seemed to have been moved back a few notches.

But the feeling of relief and satisfaction that pervaded our Nation was short-lived. President Nixon's Secretary of Defense soon divulged the master plan and the security of America became a bargaining chip. The escalation of strategic arms has since been continued with more enthusiasm than ever before.

Let us examine more closely Mr. Nixon's "bargaining chip" theory. This theory holds that the development of strategic weapons systems that are not covered by the SALT agreements should not only be continued, but accelerated and deployed.

But what is the real effect of deploying our bargaining chips?

At the outset of his administration President Nixon argued strongly that the Safeguard ABM system had to be deployed to persuade the Soviets to agree to limit ABM's and stop building large ICBM's. No facts were ever presented to support this thesis. This was the first time the American people were exposed to the Nixon bargaining chip theory.

It is now clear that the ABM deployment marketedly reduced the value of the agreement achieved in Moscow. Because we possessed an ineffective ABM defense of one Minuteman site, and because the Russians had a small, albeit useless, ABM defense of Moscow, the final SALT treaty provided that both countries could expand to two ABM sites, just to match the capability of the other side.

This unfortunate bargaining posture was caused by our reckless deployment of a system that had no security value.

Because we have tested and deployed the MIRV system as our latest bargaining chip, the Russians have refused to negotiate any controls on MIRV. And unless we refrain from further deployment they will no doubt continue this intransigent attitude until they have developed a MIRV system of their own.

This blind escalation of the arms race results in a net loss to the security of the United States.

I would like to discuss two of President Nixon's pet projects for fiscal 1973. These projects have heretofore been voted on by this body but they would be reduced by this amendment. I feel these two projects will provide an excellent view of his defense philosophy.

The President has requested $906.4 million to accelerate the development and deployment of the Trident submarine, a nuclear sub carrying a missile with a range of 6,000 miles.

Until late last year the production schedule of Trident called for a launch date of 1981. In an obvious effort to stall a severe economic recession until after the election, the administration ordered the Trident speedup. Now the first submarine is scheduled to be launched in December 1978.

But what are the military advantages to be gained?

The administration has made its standard appear to the fears of the American people by claiming a "massive" buildup in Soviet seapower. The Polaris submarine, they say, might, at some future date, become vulnerable to attack. No testimony or evidence has been given to back up this assertion. It is, of course, impossible to foresee the threat that will exist in 1978, or in 1981. It is entirely possible that when we launch our first Trident submarine, it will be outmoded and vulnerable to Soviet antisubmarine warfare. If so, it will be another colossal waste of the American taxpayer's money.

I do not question the necessity of maintaining a valid undersea deterrent—under present circumstances it appears to be the most secure of our deterrent forces. We must continue to responsibly develop weapons through careful research that will anticipate and meet any threat to our ability to deter nuclear attack. But we must not play our bargaining chips by deploying these weapons prematurely. This is the height of irresponsibility.

Another item high on the administration's shopping list is the B–1 bomber—the Air Force's dream machine of the future. The Pentagon calls the B–1 a "replacement" for the "aging B–52"—built in the early 1960's—but they studiously avoid talking about the antiquated Soviet bomber fleet, built in the 1950's and one-fifth the size of our own.

It is clear that the life of the B–52 could be extended for 10 to 15 years with inexpensive structural improvements. The B–1 is a luxury our Nation can ill-afford.

At present the Soviets possess a very sophisticated bomber defense which includes radar and surface-to-air missiles. If we build an improved strategic bomber the natural Soviet reaction will be to improve its bomber defenses. As we have experienced with our own SAM–D system, the conversion of a surface-to-air missile system to an anti-ballistic-missile system—ABM—is a logical and rather tempting extension of the state of the art.

For this reason, I feel that the development of the B–1 bomber would not only discourage efforts to reach a bomber agreement at SALT II but also undermine the SALT I ABM treaty.

These weapons systems are only the most noteworthy of the erroneous defense policies of Richard Nixon. There are many more but my time today is limited.

There are those, especially in the aerospace industries, who are deeply concerned that the cuts recommended by Senator McGOVERN will affect them personally. These concerns are understandable and, for a temporary period, may be well-founded.

But we cannot continue to have our biggest industries living off wasteful and unnecessary defense contracts. We cannot rob one pocket to pay another.

I state categorically that the goal of the Democratic Party is to get America back to work. We do not believe—as does the present administration—in reducing the number of jobs available to America's working men to reduce inflation. The "trickle down" policies of the Republican Party have historically failed to satisfy the basic needs of America. Seldom before have those policies been pursued with such enthusiasm than by this administration.

But what is the real story behind defense related employment?

The Bureau of Labor Statistics has reported that 1 billion defense dollars can generate 60,000 jobs. One billion dollars in the civilian economy can, on the other hand, produce 100,000 jobs. It

is clear then that gradual and well-programed cut in military spending will result in increased employment, not less. We cannot continue to place a bandaid over a gaping wound when only major surgery can save the American economy.

The resources of America should be invested in sound—not frivolous—defense. But more importantly, we must direct our priorities to the needs of people. We must invest in the quality of American life.

Senator McGOVERN's amendment is eminently responsible. I urge my colleagues to support it.

Mr. McGOVERN. Mr. President, I thank the Senator from Missouri for a very distinguished and brilliant address this morning on this important matter. I think he has touched the key issue when he said that the security of the Nation cannot be measured in arms alone; we need a broader perspective of what constitutes national defense. That is what this debate is all about. I thank the Senator.

Mr. STENNIS. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, as one who has been going through the budget, or some parts of it, since last fall, and particularly through all its major parts since January, I consider this amendment to be highly important, and, also, that it is a contradiction of positions that already have been taken on the floor of the Senate, some as recently as just a few days ago, late last week, since this bill came on the floor for debate.

With reference to amounts added from last year, we can get into all kinds of argument, but two of the main items that caused an increase in the budget are as follows. The Trident has jumped from a little over $100 million last year to $920 million this year. After very thorough debate just last week that increase was approved by the majority of the membership of this body after far more than average consideration. Secondly, I believe that there was $299 million in new money for the beginning of the carrier. After full and thorough debate and consideration that amendment was approved by an appreciable margin. That was not a real thin vote.

So as we go into these increases we find even though we are disappointed to have to approve them, we think they are necessary and essential. Otherwise I am sure they would not have been voted.

These are excellent speeches being made here, but there has not been much said about the real details of what this proposal would cut into and what caused these increases over last year's budget. There has not been much said about that; something has been said, but not a great deal, by the supporters of the amendment.

There are more of these items. I have mentioned two. Generally, the author of the amendment, the Senator from South Dakota, in his very fine speech, said that his purpose is to hold this year to last year's budget. I am taking that as a general guide.

We get to the figures for manpower. Manpower constitutes more than 50 percent of all the costs, including such related costs such as food for enlisted men. This consumes 56 percent of the entire budget.

We can argue as much as we want to but as long as we approve this size military force, and that is what we are doing, and as long as we run up those salaries and increase the pay, we are going to have these sums shows up in the budget.

I have asked for a computation on how much of the added increases is due to manpower and pay increases, and I find that $928 million of this increase is due to increased pay—increased manpower costs. I am not saying, "I told you so," but I vigorously opposed some of these increases last year. However, it was the wisdom of the Senate that the Senate thought them essential and the Senate voted for them. Now, payday has come. It is just natural that it had to come. We placed those items in the budget.

By the way, the budget figure for this year has items in it that I do not think are going to be used. I do not believe that the $400 million that is in the budget for additional salary increases will be approved by Congress. I do not know, but I have not heard anything about it.

I return to my list. The next item in this increase—we are getting down to dollars—is the increase in civilian costs, the blue-collar workers, civil service, and so forth since last year amounting to $1.9 billion. They are items we put in ourselves. We ran up those salaries. We ran up those benefits. We ran up the costs. That item is in here for $1.9 billion. Of course, that is almost $2 billion.

Parts of those increases are due to inflation and other costs of that kind, but that is the best estimate we could get. These figures come from the Department of Defense. I told them I wanted the facts. I wanted the figures just as close as they could possibly get them.

Here is another fixed item, an increase since last year, and we are going to debate it again here today. It is an item that was put in the budget for approximately $296 million in recomputation cost for retirees. I opposed that in the debate yesterday. I will again today. But if we vote it in, it will have to be paid.

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

Mr. STENNIS. I will yield briefly, if the Senator does not mind.

Mr. CANNON. Does the $635 million——

Mr. STENNIS. I am coming to that.

Mr. CANNON. I wanted to know where the recomputation figure was in here.

Mr. STENNIS. I understand it has been allowed for in there. I have been told so by those who are proponents. I will find that.

Mr. CANNON. Very well.

Mr. STENNIS. Leaving it as it is, I understood that item was in the budget. I understood that from those who made arguments here on the floor for it. Anyway, it has been put in, and we will have a chance to knock that out. I am going to help do that. I do not know whether I will succeed in doing it, but that will be a real test. If we really want to hold down the 1973 budget, we can knock down the recomputation figure.

Another item that is an added cost is the item of $636 million increase in military retirement pay. That is a matter that is fixed by law. We pass on that every year. So it is going up at that rate now. There is an increase of $636 million from the 1972 budget to the 1973 budget.

I am not using that statement here now as an argument against recomputation, but these are the hard facts of life. Does any Senator want to offer an amendment to take that out? I do not think so.

To return for just a moment to the $296 million, the information I have now is that the $296 million was put in the 1973 budget in anticipation of the Congress' passing the recomputation proposal, which, as I have said, I am opposed to, and we will have a chance to reduce the budget by that much. I will refer to that item again in the consideration of that point, with all deference to other Senators.

The added costs of goods from industry and services that the Department of Defense has to pay, as estimated, and the best that can be reported to me, is $1.3 billion above last year. That increase is due to increased prices, inflation, more expense everywhere one turns. Those items add up.

We forced the Department to use up—and our committees are responsible for this—some balances they had, rather than appropriate new money, so much so that the Department had $1.577 billion less in those balances carried over than it has been having on the average year. It had $1.55 billion less in balances as compared with what it had when it moved over from 1971 to 1972, because in 1972 we forced the Department to use up that balance, and the Department does not have it to pass on to 1973.

So, in the facts of life, that is an addition that deserves to be counted. I am very familiar with that, because our committee was partly responsible for forcing the department to use that balance up. So was the Appropriations Committee.

So the add-ons in the bill come to $6.5 billion. They are the increases over the 1972 levels that I have been able to identify. They are added by reason of inflation, added costs, prices going up, the decrease in the balance, retirement increases, increases for manpower within the military, and other manpower increases.

So I think, in round numbers, that is a very solid and reasonable ground for these increases. It does not balance up exactly. One can figure a budget over a year's time and count expenditures in many different ways, but this is a rock-bottom figure that, as far as it goes, is substantially correct.

Let me point out, too, that this amendment attempts to put a ceiling not only on what is in this bill. It would have been relevant and germane to the appropriation bill, and I could not have complained about it there. I am not fussing now about the amendment being offered at this time, but the amendment does undertake to put a ceiling, now, on all the military budget for 1973, before our

Appropriations Committee has had a chance to give one iota of meaning to this body as to what it proposes to do. Everybody knows that committee has been working assiduously on this matter since last fall. It began in January with very extensive hearings. The committee was headed by our friend, the Senator from Louisiana, the late Mr. Ellender, and the next ranking member of that subcommittee is the Senator from Arkansas.

We have rather loose rules in the Senate, but this is the most abrupt, total, and violent invasion of the rules of the Senate, as far as committee responsibilities are concerned, that I have ever seen take place here on the floor of the Senate. It is done before this huge appropriation bill even gets here, with no report filed, and nothing consummated. Yet there is an attempt to put a ceiling on it and invade the province of the committee which has the duty and the responsibility. It attempts to put a ceiling on what that committee can say. I am sure we do not want to go that far.

I am sure that, on second thought analysis, all of us here who are experienced—and everyone of us here is experienced to a degree—will not want to do that.

I will have to say that, as far as the wording and effectiveness are concerned, it will be a futile thing. If we pass this proposal and it becomes law, with a ceiling of $77 billion in it, and then we bring up an appropriation bill providing for $82 billion and pass it, everyone knows that the last law passed and signed controls.

No one is trying to say here that we are going to pass a law today that says, in effect, Congress shall not pass a law this year appropriating more than $77 billion for the Department of Defense, but that is what this amendment undertakes to do. It undertakes to say that Congress shall not pass a law this year for the 1973 defense budget that will be over $77 billion. We know we cannot do that. We just cannot do it under the Constitution of the United States. I do not know if it is spelled out, but everyone knows that the last law passed is the one recognized, and that has been recognized since the Year One of our Nation.

So this is not an amendment which gets right down to the nitty-gritty of controlling the situation, and it is apparent on its face that it does not. This amendment is just an expression as of now, and even if it should become the law and should be signed by the President, when we pass the appropriation bill that bill is going to supersede it.

I say with all deference, let us not take this too seriously. The language of this amendment speaks for itself, and everybody knows that we cannot control Congress in that way.

Just a word further here: I have discussed the arithmetic. I say to my colleagues, add it up, and whether or not these items are justified is for you to say.

I will mention this war. We are going to have the war under debate tomorrow, but let me mention it here. We have to battle with this issue on the Appropriations Committee and on the Armed Services Committee as well, the war in Asia. We passed on these matters carefully last year, and reduced the appropriation considerably. We took some chances there, and I joined in some of those reductions and argued for them here on this floor.

But when the new push came on March 31, and North Vietnam crossed the demilitarized zone and into South Vietnam with this broad offensive, everyone knew that was going to run up the cost of the war. Everybody knew it. I said then, "The bill will come in later. It will have to."

But that does not figure very much in the budget we are considering here today. There is a request pending, that we did not get a chance to fully analyze. But I mention this, with all the talk about the war, we could not have responded by saying, "No, we are not going to respond because we will overrun our budget, or we will have to ask for money next year." Our Nation does not act that way.

I wish we had been out of there long ago. Long ago. But we are there, and we cannot run away and say, "No, we do not have the money in the budget." So we are going to have some increase. We have already incurred it in this offensive. You do not mine a harbor on the other side of the world and maintain such an action without having to spend some money. So that is a part of the picture here, but not directly. Those items are not in the bill.

As I have already mentioned, the salary and supporting costs like food, clothing, and other matters that we furnish to our men in uniform take up 57 percent of the military dollar. And I mentioned here the training, the cost of training. I had said, "Well, we can certainly reduce the cost of training this year," and went into that in January.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield myself 5 additional minutes.

I found out that, no, they were going to have to train around 700,000 men again this year in the training process, that many in and that many out, and we would not be able to put mandatory restrictions on the cost of that training.

I wanted to do it, but when I found out what the facts were, I backed off of it and thought it was my duty to protect that and be sure that we did not cut the money short for that required training.

We have been into this manpower question. Senators might ask, "Why don't you do something about that?" We have been into that situation, and the bill we have before us now, though it has not yet been mentioned in this debate, does make a reduction in manpower and sets a lower ceiling for total manpower that will save something like $500 million per year less the cost, the first year, of putting it into effect, because you do not just kick them all out at once.

So we are doing something about it. My idea is to do it in an orderly way, with a forced reduction every year, until we cut down to the bone and muscle. We hope that things will be stabilized and make it more possible to have reduced costs.

I want to say a few more words. It has been said here that the SALT agreements will be on the floor for debate I think as early as Thursday. The treaty plus the 5-year agreement, and if they really provides arms limitation or have such prospects, they ought to be reducing this budget instead of our having to call for these additional items.

Well, I am disappointed myself. I wish it could have reduced the budget somewhat immediately. I said to someone at the White House, just before they left, "Bring us back something that will make it possible to decrease this military budget somewhat."

But what is the situation about that agreement? It will be debated fully, and I am for it. I am going to support the treaty and I am going to support the 5-year agreement. We have finished hearings, and I am satisfied that we are now able to protect ourselves and have all the deterrent force that is necessary. This does not have anything to do with Western Europe, now; I am thinking about the people of the United States. We do have that capacity, and will have it at the end of 5 years after going into this agreement, if it is not renewed, extended, or expanded, as we hope it will be. I am satisfied that we have the authority under that treaty, in the meantime, to increase our deterrent forces to the extent that 5 years from now we will still be able to have the necessary deterrent, further agreement or no agreement; that we are now in a position that we are going to come out able to protect ourselves. Otherwise, I would not support the 5-year plan.

We submitted that to the Senate last week, particularly with reference to the Trident. That was the issue, and that was the only issue in stepping up that Trident program: to be ready, 5 to 6 years from now, in case that agreement does not work or is not renewed.

Every Senator here understood that, and made a judgment, and a majority said, "We want to prepare."

That is what runs up the money. Those are the items that run up this budget, and I hope and I believe that, even though this treaty and agreement are scant in their operation now, there is a good chance that they will lay the predicate, open the door, for more meaningful agreements and understandings in the future whereby we can reduce these limits as to military weapons and manpower. We hope and pray that that will be the case.

But in the meantime we have to stay prepared. And I say to Senators, you will not find any dissent on that point among the people. Not a bit; no appreciable dissent from that position. So we have got to make up our minds that it is going to cost money.

I am willing to trust the Senate, including its Appropriations Committee, to come in here with as low a figure as they think essential, and what they think is necessary, and submit it to this body in due time, and we will debate it and vote on it then.

We could not set that figure now if we wanted to, and this amendment does not purport to set such a figure. It cannot. It would be shadowboxing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, will the Senator yield me 5 minutes?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, this is a very dangerous amendment, coming at a very critical point in our history. I rise to oppose it as vehemently as I can.

Mr. President, we hear a great deal of talk on this floor about budgets. I would like to remind my colleagues that every time a HEW item comes on this floor, it is usually increased by at least double. HEW has become the biggest budget that faces us today, year after year.

So far as the military costs are concerned, let me remind my colleagues that, based on the 1964 dollar, we are spending only 1 percent more for military materiel than we spent in that year.

Mr. President, two major problems face us in beefing up our military—and I stress the word "beef" because we need it. We are now behind the Soviets in substantially every field of our military efforts. One, we have a very serious problem in the field of procurement; and the Committee on Armed Services, under the leadership of Senator Stennis, is well aware of this. We are working with civilians from companies and we are working with the men in uniform to try to work out a better procurement method for obtaining the weapons we need.

Mr. President, we went through 10 long years in this country with a Secretary of Defense who was determined to unilaterally disarm this country, and for 10 years we had no meaningful research and development. Therefore, when President Nixon came into office—and I do not care who the President would have been, had he been a Democrat or a Republican, but it happened to have been President Nixon—there was nothing to buy.

I have often used this simile. It would be like complaining to my wife: "You don't look very well, honey. Why don't you buy a new dress?" She replies: "I've been looking all over town, and there are no new dresses."

That is the fix the President was in when he came into office. There was nothing to buy.

Now, for the first time in 4 years, we find aircraft beginning to come off the lines, we find armament beginning to come off the lines, and we find new weapons systems becoming available to the military. Thanks to President Nixon.

This budget is not too high, so far as obtaining military equipment is concerned. As the chairman has indicated, 57 percent of this budget goes to pay the troops, goes to feed and clothe the troops. If we cut it to that bare figure, then we have no arms establishment, no improved weapons systems, or anything else to give them. The problem, as I say, is not having had any meaningful research and development, no acquisition of new weapons systems in more than 10 years, and in having an outmoded and outdated system of procurement.

Mr. President, let me remind this body that we have not had a new fighter aircraft in the inventory in 15 years. The B–52 bomber is now beginning to wear out. It is going on 20 years of age. The average age of our ships in the fleet is over 20 years, and the average age of a Russian ship is just under 10 years.

We do not have a strong military in this country. We do not have a military strong enough to keep the commitments we have made, whether they are wise commitments or not. That is beside the point, so far as I am concerned. We have made them under Democratic Presidents and Republican Presidents alike.

The big problem that comes to my mind in the McGOVERN suggestion of a $4 billion cut is, where do we apply it? We have already voted the major weapons systems. The committee has turned down the ABM defense of Washington, and unless the House changes that, we are not going to construct that system in Washington. Where do we put this $4 billion?

I think it is wrong for any Senator to suggest an across-the-board cut without giving us some indication of where he would cut it. He wants to cut troop strength. I can tell the Senator—if he would ask about it—that troop strength is being cut. It is the determination of the Army to reduce the strength to under 900,000. The Air Force, Navy, and other components of the military are aiming at fewer personnel. Every 100,000 men we phase out of uniforms saves $1 billion.

Mr. President, to say that we are going to drop $4 billion puts a load back on the committee, a committee that I can honestly say does as good if not a better job of investigating what it is supposed to do than any other committee of this body, because of the very nature of it. We are assigned the job of reviewing an $83 billion budget. I serve on 2 subcommittees and spend most of my time working on those subcommittees, and we have cut billions of dollars out of requests. This is not a committee that just says, "Yes, sir" to everything for which the Pentagon asks. We go through this budget and cut it.

I would challenge the Senator from South Dakota to tell us where he will cut $4 billion. I would like somebody to have him explain where he is going to cut $33 billion. But that is going to come later down the path.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GOLDWATER. I thank the Senator very much for yielding.

Mr. STENNIS. Mr. President, I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment offered by the distinguished Senator from South Dakota (Mr. McGOVERN).

This amendment ignores changing defense requirements by calling for a return to fiscal year 1972 spending levels despite different military conditions.

Mr. President, there are specific reasons why this amendment is ill-founded and unwise.

First, by making an across-the-board cut, it ignores the rightful role of Congress to work its will on the defense budget. The amendment merely reduces military spending and leaves in the hands of the Defense Department how and where the reductions will be made.

Why should the Senate surrender its role in traditionally approving or disapproving specific defense requests? Why should we permit the executive branch a decisionmaking power which is clearly ours?

What has been the purpose of months and months of hearings, which we have held, if now in the closing hours we lop billions off this bill and let the Defense Department decide which programs get the ax?

Adoption of the amendment would be a clear abrogation of our legislative responsibility.

Second, Mr. President, our national security would be jeopardized by a cut of this size. A defense budget cut of this size would wipe out numerous vital defense programs.

Could we do without Trident, the B–1, the ABM, the new carrier? I think not. Where would billions be saved? There is no way a cut of this size could be made without seriously impairing our national security.

Third, reducing the defense budget to this degree is putting the cart before the horse. It would wreck our overseas alliances. If we want to reduce these commitments, treaties should be scrapped first rather than going back on our word to our allies.

The United States has defense agreements with more than 40 nations, and so long as these exist, we must make some kind of effort to defend ourselves and live up to our obligations or the free world alliance will crumble.

We are witnessing today a great deal of pressure and criticism of our military, even though all they are trying to do is to see that we are adequately armed and prepared to meet our national policy and fulfill our commitments. Rather than castigating the military so much, it seems we should be examining these treaties. All of them have been ratified by the same Senate which today is being asked to emasculate our ability to meet the very obligations which we have previously approved.

Mr. President, we have multilateral and bilateral treaty agreements with more than 40 countries on five continents. We cannot dump these commitments by lopping off billions from a carefully thought-out defense budget.

Fourth, the so-called defense spending increase in fiscal year 1973 of approximately $5.8 billion is significantly consumed with costs resulting from inflation and increased pay.

All of us know that because of inflation we can buy less with our money this year than last. The same is true for the Defense Department. Experts say a 2.8-percent inflation factor between fiscal year 1972 and fiscal year 1973 has resulted in defense equipment for the last billion.

As to pay and allowance approved by the Congress in recent months, we find

that this expenditure runs to roughly $1.9 billion.

Adding these two costs together, inflation hikes and pay increases, we come up with a figure of $3.2 billion in costs during fiscal year 1973 that provide us with no more equipment and services than received in fiscal year 1972.

Thus, it is clear that about 50 percent of the fiscal year 1973 budget increase allows no more than we received in the fiscal year 1972 budget.

Mr. President, before leaving the inflation issue, it would be appropriate to comment on charges by some that higher defense spending is the main cause of inflation in this country.

The facts do not support this contention at all. Inflation has been most severe since 1968 when massive defense cuts were initiated. It was in this period that the defense budget began falling. Defense outlays now represent 30 percent of the national debt, down 12.5 percent from the fiscal year 1968 peak of 42.5 percent. The gross national product going to defense has declined in the last 4 years to 6.4 percent, the lowest point in 22 years.

From 1968 to 1972, State and local spending has risen by $80 billion. Federal spending has risen $74 billion. Either sum is about equal with the entire defense budget. Mr. President, it is thus obvious that defense spending is not responsible for the current inflation.

During the 1940's, defense costs did spur inflation as military expenditures rose to 77 percent of all public spending. Defense also aided inflation in the 1950's when it amounted to 50 percent of all public spending, but today it represents only 20 percent of all public spending.

The Senate should bear in mind that a cut of this size called for in this amendment could have a serious effect on the readiness of our military forces.

Because of the 1-year service policy in Vietnam, short tours in Europe and sharp personnel cutbacks imposed by Congress, the Army has experienced severe manpower turbulence.

This tremendous personnel turnover is largely the cause of the poor state of readiness in our Army divisions. Men simply cannot become integral parts of fighting units when they have to be moved from place to place every 6 months or year. Training is also disrupted by excessive personnel changes.

The distinguished chairman of the Senate Armed Services Committee, (Mr. STENNIS) has directed an investigation of the Army's readiness posture. This investigation is presently underway. I predict it will show that the low state of readiness within the Army is largely due to various personnel policies and manpower reductions.

If this amendment is passed, the fund cut will almost assuredly impact further on the military's manpower problems. The result, of course, will be an even lower state of readiness than presently exists.

Mr. President, for these reasons I urge the Senate to decisively defeat this amendment so that the American public, the man in uniform and our allies will know the Senate stands firm in providing the necessary defense posture to assure our national security.

Mr. President, in closing, let me repeat that in 1972, this year, the defense budget is only 30 percent of the entire budget of this Nation. In 1968, 4 years ago, the defense budget was 42.5 percent of the budget of this Nation. So we can see that we have come down in the past 4 years from 42.5 percent to 30 percent as representing defense to the entire budget.

I would also remind the Senate that today the defense budget is only 6.4 percent of the gross national product. That is the lowest in 22 years.

So, Mr. President, it is not the Defense Department that is causing this trouble. It is not the Defense budget that is causing deficits. It is not the Defense budget that we should be cutting. We should be cutting nonessential programs, nondefense programs.

If there is any program we need in this country, it is the defense program. We need defense because it provides for our national security. Nothing is worthwhile—worth anything—unless we have security for this Nation so that it can survive. It cannot survive unless we maintain a strong national defense.

Mr. STENNIS. I thank the Senator from South Carolina.

Mr. President, I yield 3 minutes, more if he needs it, to the Senator from North Dakota (Mr. YOUNG).

The PRESIDING OFFICER (Mr. HART). The Senator from North Dakota is recognized for 3 minutes.

Mr. YOUNG. Mr. President, I rise in opposition to the amendment of the junior Senator from South Dakota (Mr. MCGOVERN).

As has been explained, this amendment would impose a ceiling of $77,663,000,000 on the new appropriations available to the Department of Defense for military functions during the current fiscal year.

The current fiscal year 1973 request for the various military functions activities, of the Department of Defense, totals $84,162.4 million, including amendments submitted and anticipated.

If the pending amendment is adopted, there will be a reduction of $6,499.4 million in these requests—a reduction of approximately 7.7 percent.

I want to point out that the amendment is in the nature of a limitation, and does not specify where this reduction of $6.5 billion shall be made. Is it to be made by the Committees on Appropriations, by the Congress in acting on the Department of Defense appropriation bill, or by the Secretary of Defense?

Mr. President, this is bad legislative procedure. The amendment should be rejected.

In the near future, the Senate Appropriations Committee will be considering the Department of Defense appropriation bill for the fiscal year 1973. That is an appropriate vehicle for amendments proposing reductions of appropriations for the Department of Defense.

Last year, the Senate Appropriations Committee cut the Defense budget by approximately $3.5 billion. It is entirely possible that we can find a way to cut appropriations by another $3.5 billion—perhaps even more; but this will be based on hearings, testimony, and facts, and not just a meat ax approach. Then Members of the Senate will know what we are going to cut. Are we going to cut out the F–15, or the nuclear carrier? Where will the cuts be made? What bases may be closed? The Senate has a right to know where cuts as large as this are going to be made.

There is no more important appropriation bill considered by the Senate than that involving our national security.

Mr. STENNIS. I thank the Senator very much for his remarks.

Mr. President, I now yield 5 minutes to the distinguished Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. MCCLELLAN. Mr. President, I want generally to associate myself with the remarks of the distinguished Senator from North Dakota (Mr. YOUNG), who is the ranking minority member on the Committee on Appropriations and the Department of Defense Subcommittee of the Committee on Appropriations.

As Members are aware, our late beloved colleague, Senator Allen J. Ellender, was chairman of the Department of Defense Subcommittee on Appropriations. His successor has not yet been designated. However, as a member of the Department of Defense Subcommittee for many years, I am convinced that large, across-the-board, or general, unspecified reductions in requests are not the proper way for Congress to legislate. It is not the proper way for Congress to meet its responsibilities and to exercise its constitutional duty in providing for the common defense.

As the distinguished Senator from North Dakota (Mr. YOUNG) stated, in the near future, this body will be considering the Department of Defense appropriation bill for fiscal year 1973.

That bill will contain funds for many, many specific items, activities, and programs for the Department of Defense. At that time it will be in order for any Member of the Senate to submit an amendment to reduce expenditures for specific programs and activities.

Mr. President, that is the traditional way. That is the proper way for Congress to meet its responsibilities. Therefore, I urge the rejection of the pending amendment.

I would point out, Mr. President, as have others who have addressed themselves to this issue, that this amendment does not tell where or does not indicate where any specific reduction should be made. I do not know to whom it leaves the responsibility. Congress has a responsibility. And Congress meets its responsibility in the appropriations bill.

If Congress cannot meet its responsibility item by item, then it had better meet its responsibility for our Government and for our country.

With a broadax cut such as this, who takes the responsibility? On whom are we placing the responsibility? Why do we not have the courage to do this when the items are before us and the country

wants and needs them? The Defense Department needs the money. It is in the interest of our country to make the appropriation and to provide the Defense Department with those specific amounts or it is not. We ought to have the capacity and the ability to meet the issue and to say where we should cut, what items should be reduced, and what items should be appropriated.

Suppose we pass this amendment and then Congress in its wisdom and in its authority appropriates amounts in excess of the limitations for this year. What is the consequence? Congress today says that we should adopt a limitation of $77.7 billion. And thereafter in appropriations bills, Congress actually appropriates more. It reverses its limitation and overrides or changes its position by granting the appropriation. Which action of Congress prevails?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. McCLELLAN. Mr. President, I say that the courageous way to do it and the right way to do it is to face the issue item by item. Then if we take the responsibility for doing it and if we sustain the budget or even increase it, that responsibility for doing that is a matter of judgment and reason. However, that is not so in this matter of escaping the responsibility and sticking our heads in the sand and saying, "Let someone else do it." It is our duty to do it and to do it when we face it and not to respond in this fashion.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. SCOTT. Mr. President, the distinguished Senator from Arkansas made an excellent case against the amendment. The distinguished Senator from South Dakota has made the point on his agreement with the President's judgment and expertise in working out a treaty with Russia and the interim agreement which he indicates has his approval.

He indicates, however, that while he approves the President's making this treaty, he does not approve the President's implementing the treaty in accordance with the clear intent and understanding between the President and the other government.

No President would want to be deprived of the right to follow up a commitment he makes on behalf of the United States.

I cannot imagine anyone wanting the office of the Presidency who would want to see a program cut out from under him by any such tactic as this.

Moreover, this meat ax approach has to be directed somewhere. The tactic here is to say that we should cut it and, if we should succeed, we should cut it again and again. However, we should never tell where the budget should be cut. We cannot support expenditures for food and salary for the troops or for retirement. However, let us make the public believe that we will cut $4 billion.

Obviously the public will not be a party to that.

The Senator from South Dakota said what he would do in his statement on national defense policy. On page 30 he indicates that one of these cuts would come in the amphibious forces.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield 2 additional minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 additional minutes.

Mr. SCOTT. Mr. President, I served in the amphibious forces in 1942. I have some idea of what happens with the amphibious forces.

The Senator from South Dakota indicates that we do not need two landing amphibious forces, one for the Atlantic and one for the Pacific. He said that he would go a long way to eliminate the need for keeping amphibious assault forces for both the Atlantic and Pacific theaters simultaneously.

In other words, if it is to be used, it will be used only for amphibious forces for the protection of the United States. Suppose that one is stationed at Guam and something occurs in the Middle East. Or suppose that one is safely stationed at Norfolk and something happens at Guam that requires an amphibious landing?

The Senator does not know what amphibious landings are evidently, because amphibious landings when last used were used in Lebanon and were not used to overrun enemy territory, but to protect the interests of the United States in the Mideast. And that is what the President would do.

The pending amendment would endanger us in the Middle East and in the Atlantic.

Mr. STENNIS. Mr. President, I yield 4 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 4 minutes.

Mr. CANNON. Mr. President, the Senator from South Dakota has stated that he wishes to hold the defense budget to last year's level. He does not wish to see us committed to a large increase in defense spending at this time. I must say, Mr. President, that I agree, provided that we are talking in terms of real buying power.

Let me illustrate what I mean. On November 14, 1971, the military pay and allowance increases in Public Law 92–129 took effect. These higher rates of pay were in effect for 7½ months in fiscal year 1972. They will be in effect for the full 12 months of fiscal year 1973. That item alone will add $928 million to our costs from fiscal year 1972 to fiscal year 1973.

On January 1, 1972, a general pay increase took effect for military personnel and for classified civilians. We paid these higher rates for just 6 months in fiscal year 1972, but we will have to pay them for all 12 months of fiscal year 1973. Another general pay increase is contemplated for January 1, 1973. We will have to cover 6 months of that, another increase from what we paid in fiscal year 1972. Finally, wage board increases have to be met. The cost of these pay raises, over and above what we paid in fiscal year 1972, is $1,985 million.

Military retired pay, an item fixed by statute, will rise by $66 million from fiscal year 1972 to fiscal year 1973. This results from increases in the retired population, as well as from cost-of-living increases which are automatic under the statute when we pass it. And we pass it in Congress.

The cost of the goods and services that the department buys from industry is subject to inflation, just as the groceries we purchase are. From fiscal year 1972 to fiscal year 1973, this is estimated at 2.8 percent and will add $1,366 million.

I must say that having had a part in connection with the F–14 airplane contract and having found what happened in that particular contract as a result of the underestimated inflation costs, I am highly doubtful that the 2.8 percent inflation figure used in arriving at this conclusion is adequate. I think the inflation cost is more likely to be 4 percent.

Finally, in fiscal year 1972, the Congress directed the use of certain old balances that had accumulated, in lieu of providing new budget authority. In effect, we were able to finance part of the defense program without providing new budget authority. But those old balances are gone now and—to support the same program we provided for fiscal year 1972—we would have to provide an additional $1,577 million in new money.

The items I have just mentioned amount, in total, to $6,492 million. That is how much we would have to add to the budget authority we provided for fiscal year 1972, just to stay even in terms of real buying power: $6.5 billion.

Turning it around, if we hold budget authority to the fiscal year 1972 level—if we add nothing—then we are, in effect, cutting the defense budget by $6.5 billion.

We enacted Public Law 92–129—the Draft Act Extension—which provided for large increases in military pay and allowances. We knew it would cost money.

Is it sound policy, now, to tell the Department that it must give up $928 million worth of weapons and personnel to pay for that? And another $2 billion worth of jobs and weapons to pay for the two January pay increases—also under laws we enacted? Plus $636 million more, to meet the growing costs of retired pay, fixed by law?

I do not believe the kind of ceiling proposed by the Senator from South Dakota (Mr. McGovern)—which ignores billions of added costs enacted by the Congress itself—is a very logical way to approach the defense budgets. When we enacted those pay increases, there was no discussion of meeting the costs by carving out billions worth of manpower and weapons. And yet this is precisely what Senator McGovern now proposes to do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. STENNIS. I yield 1 minute to the Senator.

Mr. CANNON. Mr. President, we enacted these pay increases. We knew that they would add billions to Defense costs. Now, when the bills are presented, is not the time to say that we never intended to finance these increases. Let us not impose a huge manpower and weapons cut by refusing to meet the added pay costs which we ourselves have enacted into law.

The Congress appropriated $74.8 billion for the Department of Defense last year. The pay and price increases I enumerated earlier amount to $6.5 billion. Just to stay even with the fiscal year 1972 program, then, we would have to provide $81.3 billion. Senator McGOVERN proposes, instead, a ceiling of $7.7 billion. That's a cut of $3.6 billion—in terms of real buying power—from the levels we approved for fiscal year 1972. The Senator's proposal then, does not provide for holding Defense at the fiscal year 1972 level. It provides for a very sharp cut, in terms of real buying power. It provides for trading in those pay raises for reductions in manpower and weapons.

I would like to ask the distinguished chairman if it is not a fact that we enacted some very substantial reductions in the procurement request of the Department of Defense to the extent of $1.78 billion, for procurement in R.D.T. & E.?

Mr. STENNIS. The Senator is correct.

Mr. CANNON. Is it not a fact that we reduced the size of the military force to result in 56,000 man-years, for a reduction of a half billion dollars in pay and allowances?

Mr. STENNIS. The Senator is correct.

Mr. CANNON. Is it not a fact that with the reductions we have made in the Committee on Armed Services and in this bill as reported we have come out with a bill that is $133 million less than the amount that would be required for the Department of Defense to stay exactly even with what they had last year?

Mr. STENNIS. The Senator is correct.

Mr. CANNON. I thank the Senator for his kind comments.

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

Mr. STENNIS. I yield 1 minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, aside from the fact that this $6.5 billion reduction seriously endangers our attempts to match the Soviet Union at their current momentum, and modernization and improvement of their military technology, and quantitative and qualitative improvements as well, the ancillary pullout by the adoption of this amendment would have a very serious impact on our economy. This amendment should be called the massive unemployment amendment.

Mr. President, if you cut $6.5 billion out of procurement it has the effect of cutting 650,000 jobs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TOWER. Mr President, will the Senator yield to me for 1 additional minute?

Mr. STENNIS. I yield.

Mr. TOWER. So what we are looking at here is an immediate and tremendous adverse impact on the economy because 650,000 people would be thrown out of work.

I hope those concerned about unemployment figures in this country will vote against this amendment.

Mr. STENNIS. I thank the Senator.

I yield 3 minutes to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have listened to the debate this morning, and particularly the remarks of the Senator from South Dakota and the Senator from Missouri. I would like to point out with respect to some of those remarks that the SALT agreements would not have been possible at all if it had not been for the ABM program. Mr. President, you cannot negotiate with the Soviets or anybody else from a position of weakness. It is the desire of all of us to cut defense appropriations, but the cuts and savings will come as we proceed with the 5-year agreements, and their success will be far, far in excess of the cost of keeping this Nation strong.

Mr. President, I wish to call attention to two or three matters. First, this amendment provides a cut of approximately $6.5 billion. What happened to the $30 billion cut that was being talked about?

There is upcoming, as of January 1, a pay raise for the military of $792 million. Is this going to be taken out of there, or is it going to be taken out somewhere else? How about statutory increases for retired pay—there is $200 million for that. How about the blue collar raises coming up for $155 million the first of the year? What about the money for an all-voluntary force which we all desire so much and to which we gave great impetus last year when we passed the military pay raise?

What about the recomputation for the pensions of retired military personnel? That is an inequity which is long, long overdue for adjustment by Congress.

Not as a member of the Committee on Armed Services but as a member of the Committee on Appropriations, and particularly the Subcommittee for Defense, I resent the fact that we are attempting here to put the power of that committee over the Department of Defense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. STENNIS. I yield to the Senator from Colorado 1 additional minute.

Mr. ALLOTT. I resent the fact that we are putting the power to cut this. One thing Congress has always objected to has been giving the President an item veto. What we are doing here if we deprive the Committee on Appropriations of action, is to deprive the Senate of the opportunity to act and we place an item veto over in the Department of Defense.

Are we going to cut off the F–15? What are we going to do if we apply this $6.5 billion cut? This meatax approach is not a sensible approach and it is not an intelligent approach. If cuts are desired they should be taken up in the appropriation bill that comes before the Senate.

Mr. STENNIS. I thank the Senator. I yield 3 minutes to the Senator from Maine.

Mrs. SMITH. Mr. President, this amendment to cut across the board is the "meat ax" and irresponsible approach to economy.

Whether one agreed with the other economy amendments offered to this bill, in each instance it must be recognized that such amendments were forthright and specific. They clearly expressed opposition to certain defense weapons systems. They accepted responsibility for such opposition.

This amendment is vague. It lacks the forthright specificness of the other amendments.

It would impose the responsibility of weakening our national security and national defense upon others. It lacks the honesty of saying just exactly where the cuts should be made.

From those who propose this way of cutting our defense funds, the American people are entitled to know specifically just where and how such cuts be made. They should not be forced to buy a "pig in a poke" not knowing really what they are, or are not, getting.

Mr. President, I hope very much that the Senate will think about this very seriously and remember that we cannot afford to weaken our national security, and vote against this amendment.

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

The PRESIDING OFFICER. The Senator from South Dakota has 12 minutes remaining.

Mr. McGOVERN. I yield 4 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise today to support the McGovern amendment.

Only last week the President of the United States castigated the Congress for proposed excessive spending. He called for a ceiling and a limit on congressional appropriations. His agents have called for a halt to wasteful spending by Congress.

It seems to me it is up to the Senate to answer that today.

When we talk about military spending, that is not spending, somehow. That does not amount to spending.

Mr. President, the McGovern proposal is a hold-the-line proposal which requires the military to take the increased cost of inflation—and there are such increases—and the increased costs of the pay increases—and there are such increases—out of the waste in its budget.

It is no secret that the Senate of the United States has voted repeatedly to get out of the war in Vietnam. We could save $5 billion to $6 billion by doing that alone.

Last year the President asked for $77.6 billion in new appropriations for the Department of Defense—military. Including supplemental appropriations, Congress passed $75 billion in new obligational authority or appropriations.

What the McGovern amendment does is to limit this year's appropriations. It puts a ceiling on this year's appropriations at exactly the $77.6 billion the President asked for last year. It cuts back, by $4 billion, the original request of the President for $81.6 billion in new appropriations for the Department of Defense—military in fiscal year 1973. It is a hold-the-line amendment.

MORTGAGING THE FUTURE

What the President's new request does is to mortgage the future. The new request for $81.6 billion plus the supplements already submitted will lead to a $100 billion defense budget within 2 or 3 years.

In the new budget, money for Trident went up from $140 million in fiscal year 1972 to $942 million in fiscal year 1973.

B–1 bomber funds went up from $370 to $450 million.

Funds for AWACS—the airborne warning and control system—rose from $142 to $474 million.

The F–15 fighter funds rose from $420 to $911 million.

In addition, $299 million in entirely new funds for the CVN–70 are in this budget.

These relatively small funds now represent mammoth spending in the future.

For 10 ships. Trident will cost over $1 billion a ship. If we move to a 30-ship Trident program, at least $30 billion is involved.

The B–1 bomber program will cost at least $12 billion, and more like $20 billion if it is finished.

A single carrier costs $1 billion. Its planes cost about another billion. Its supporting fleet costs $1 billion more. Thus the $200 million for CVN–70 obligates us for at least $3 billion in the future.

AWACS is a $20 billion program.

The request for new obligational authority submitted by the President of the United States should be termed a credit card budget. Small down payments now mean big spending later.

THE PENTAGON MUST MAKE CHOICES

In this day of inflation and huge budget deficits, the Pentagon must make tough choices like everyone else. If they want a new carrier—which virtually every military expert tells us is obsolete—let them take those funds from some other program. Let them make their priorities.

If they are going to go all out for manned bombers in an age of sophisticated missiles, for bomber defense when missiles are the danger, and for new submarines when the paint is not even dry on the present Poseidon conversions, let them take money from some other military source. Let them make the tough, hard choices. But Congress should not be required to fund in full both all the old programs and all the new programs.

They have now spent an extra $1.5 billion in Vietnam due to the stepped up bombing. They will shortly spend another $1.5 billion for that purpose. I oppose that, but if they are going ahead with it, let them find those funds from existing sources, rather than to come to us and demand that we fund with extra money all the new programs they desire. What they want is "All this and heaven too."

THE JOBS ISSUE

There is one very great advantage to the McGovern amendment over ceiling amendments in the past. This amendment does not threaten existing jobs.

It is a hold the line amendment rather than a cutback amendment. It gives ample time to prepare for any conversion which should be made in the future.

Last year the Pentagon spent about $75 billion. They will spend about the same amount this year. Last year they requested $77.6 billion in new appropriations. They got $75 billion. This amendment provides a ceiling equal to last year's request and $1.6 billion more than last year's appropriations.

Any charge that this amendment would affect jobs is therefore false. With a 2-percent increase in actual appropriations and with a general increase in productivity of 2–3 percent this year in the economy, this amendment does not cut existing programs or existing jobs. But it does make the Pentagon choose between and among what they want to do with the funds that are appropriated.

WASTE, WASTE, WASTE

Furthermore, if the Pentagon would turn its mind to it, there are hundreds of places where funds could be saved in the new budget.

Overruns are running at fantastic rates. One can look in vain for a single program which has been built on time, which meets the original specifications, and which costs anything near its original estimated cost.

The military is topheavy with generals and admirals. Last year the military committees reported that there were then more high-ranking officers of certain ranks than at the height of World War II.

We have about 400 major and some 3,000 minor bases scattered throughout the world, many of which could be trimmed and are entirely unneeded for our military security.

There is some $6 million a year now spent in military foreign aid. About $2.5 billion is in this budget. Why should we be spending our money in some 46 countries around the world for military aid? Do we really need to give military aid to Latin America, most of Africa, and much of the subcontinent of Asia, especially India and Pakistan, where it has created far more mischief than any good it has done?

Furthermore, only a few days ago the Senate killed the request for $1.7 billion in military foreign aid. If we stick to that action, additional savings can be made.

VIETNAM

The cost of the Vietnam war is a place where money could be saved. If we got out of Vietnam we could save $7 to $8 billion a year in existing incremental costs of that war.

That cost, combined with the stepped up bombing, could provide more than enough savings to cut back the President's request by the $4 billion in this amendment plus $5 or $6 billion more.

CONCLUSION

For all these reasons, the McGovern amendment is a responsible, hold-the-line amendment, which puts into effect what the President asked Congress to do; namely, to cut back on existing appropriations this year.

It will be interesting to see the results of this vote. It will be interesting to see whether the President and his followers believe that budget message, or whether big spending to them excludes military spending but includes only funds for miners' black lung disease, school lunches, and increases in social security.

This country cannot and should not try to afford everything at once. We must make choices. We must set priorities. This amendment does exactly that. I commend it to the Senate.

Let us hold the line against big spending. Let us stop the credit card, small down payment, budget.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. I thank the Senator.

Mr. President, I have been listening to this debate with considerable interest. It seems to me the proponents of this amendment have totally failed to recognize what has been done insofar as the Armed Services Committee is concerned. Having served on the committee for some 8 years now, I can recall when we stopped the program on the F–111B, when we stopped the Cheyenne program, when we cut down the R.D.T. & E. by a very substantial amount, when we took into consideration whether we ought to continue the Harrier, and decided not to do it.

Over and over and over again our committee has reduced every single one of these weapons systems after determining whether we should continue them or cut them out.

In this procurement bill we have reduced the requested budget by a considerable amount of money—11.8 percent, as will be seen on page 2 of the report.

It strikes me that, after this careful consideration, to go over it again and say we are going to make a meat ax approach and require a cut is not the way to do it. I would like to know where. Where are we not going to spend any more money? Is it going to be for pay? Are we going to decrease the amount for pay that we authorized in order to try to get military personnel off the welfare rolls, which so many of them were on? Are we going to try to take it out of a program which we approved on Thursday or Friday of last week? Are we going to say that what we did we ought to do all over again?

I simply cannot see how the Senator from South Dakota can have any real credibility on this type of amendment.

I thank the Senator from Mississippi for yielding.

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, my colleagues, I think, have already covered very well the issues that are really involved here.

First of all, the question is whether or not we are going to take away from the Appropriations Committee the authority to determine the ultimate amount of the budget. Our responsibility in relation to the Appropriations Committee is tied to procurement items. I think that is a fundamental point that is overlooked. As has been pointed out by other Senators, the Armed Services Committee has cut over $2 billion out of the procurement request, after careful deliberation and consideration of specific programs on their merits.

The other thing being lost sight of by the public generally is what is really happening to defense costs. About 5 years ago pay, allowances, and related matters represented 42 percent of the defense budget. It is hard to realize that 5 years ago it was 42 percent. What is it now? It is about 56 percent, just to cover the increased cost for pay and allowances and related matters. Then when we add onto that the inflation that has occurred, what we have really been doing is dipping into our strategic capital. That is what has been happening to the defense budget.

I think when we discuss an all-volunteer force, as we have been the last 2 or 3 years, there has been an inadequate amount of attention paid to its cost.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. May I have 1 minute?

Mr. STENNIS. I yield 2 additional minutes to the Senator from Washington.

Mr. JACKSON. It is all well and good to talk about ending the draft and having an all-volunteer force, as though all it involved was a legislative decree. But it would in reality add billions of dollars to defense costs.

In recent years, in trying to keep a lid on defense costs, we have been avoiding the investments that we should have been making, particularly in the strategic area, I would say.

Under the able leadership of the distinguished chairman of our committee, we have been cutting general purpose forces, and I think we are getting down near the bone.

It would be unwise, in my judgment, for us to make the kind of cut that is proposed in this sort of way at a time when we are trying to achieve an all-volunteer force. You cannot have it both ways. I hope the amendment will be rejected.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I now yield 4 minutes to the Senator from Arkansas, the distinguished chairman of the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, I am not sure that there is much new that can be said about this matter. We can only reiterate what has been said.

In my opinion, the security of this country has been endangered by overexpenditure of our available resources for strictly military affairs and the neglect of our own domestic economy and other nonmilitary economic international affairs.

We have the SALT agreement coming up on Thursday; it has been announced, and all Senators are aware of it. That has been one achievement which I think is in the right direction. The effect of the SALT agreement has been, in effect, for the Russians and the Americans to say to each other that we do not expect to develop a defense against intercontinental missiles. In effect, our respective populations are hostage to each other.

This, I think, guarantees an adequate deterrent on both sides for the foreseeable future, until some new and unexpected breakthrough in weapons systems should occur. I know of no evidence that there is anything very new.

The weapons systems proposed in these programs are not all that new. The Trident is simply a larger and more powerful submarine. There is a great question whether a larger and more powerful one is better than two or three smaller ones, but in any case that is a technical matter.

On balance, it is my opinion that we are continuing to endanger the security of this country by believing that only military affairs constitute security. I think this has been a great misconception for the last 20 years. We have spent well over $1,300 billion on military affairs, and we have not increased our security to that extent. I think we have endangered it by overemphasis on that matter.

So I very much support the Senator's amendment. It is timely because of SALT; and it is timely because of, for example, the withdrawal of the Russians from the Middle East. Only recently, their presence was cited as a persuasive reason why we should have much stronger weapons in the Mediterranean and in the Middle East. Now that the Russians are being withdrawn, we are told the reason they are withdrawing is because we had all these weapons. I do not see any connection between those matters. The actual reason is because the Egyptians asked them to withdraw and for other reasons than any increase in weaponry on our part in the Middle East.

I think all countries except ours have recognized that this armament race is a futile race; it does not increase their security, and all of them are coming to a realization that it is an unwise way to expend their resources in the accumulation of ever-growing stocks of armaments. I would hope that this country would come to that recognition also, that our resources are not unlimited, and that we ought to begin to exercise some discretion in the way we spend them.

I just came from a hearing on revenue sharing. We hear, on the one hand, from our cities and counties, to please give them more money, they are desperate for funds. We come over here, and we hear we should spend more money on armaments. All the Senator from South Dakota is saying is to keep the spending at the present year's level of funding. That seems to me to be a most reasonable provision. It simply says that the administration should use its judgment in keeping expenditures at this level, and that they need not proceed to the funding of such programs as the new aircraft carrier.

It is true that we voted for it, and we voted for Trident. Of course, they will take anything we will give them.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. But I do hope that the Senate in this case will abide by the President's request that this Congress not be noted as a spendthrift Congress, far exceeding his budget requests.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. Ten minutes remains to the Senator from Mississippi.

Mr. STENNIS. May I ask about the time of the author of the amendment as well?

The PRESIDING OFFICER. Four minutes remain to the Senator from South Dakota.

Mr. STENNIS. Mr. President, I have been holding some time for the Senator from Ohio. He did come into the Chamber, but I could not get to him in time. I hate for him not to have a chance to use it. Will someone remind him if he returns?

Mr. President, I know that this proposal is prompted by the very highest motives, and it draws the issue here and sheds light on this whole military budget; but I actually believe that the farther we go with this debate—when we get down into the details of where these cuts are coming from—it becomes clearer and clearer that we have already made very substantial reductions in this bill.

It is also clear that other items in this budget for the military are not going to be utilized this year. For instance, this $400 million proposed pay raise; it is not going to come into being. There are others that I can mention. But to me the outstanding point is that this reduction has been urged by more than one of the able speakers who say that it can be justified by not spending the money on the Trident, when the ink is not yet dry on the records of the debate and the vote of last week by which this same body approved the Trident figures in the bill by a very appreciable margin—10 votes or 11 votes or something like that. And in a small body like this, that is a considerable difference.

Other illustrations have also been cited. But the biggest thing that is outstanding in my mind—and we are going to debate this Thursday, or soon—is that this body has already decided on whether there can be any reductions this year because of the SALT agreement and treaty and the 5-year plan. That was decided in the debate on the Trident and the carrier, and there was a decided margin there, as I say. So these matters

have already been settled by this very body.

Here is another great point that has been made by witnesses, and it is outstanding to me: That 56 percent of all the money in the military budget this year goes for pay, allowances and related items for manpower—up, as the Senator from Washington pointed out, from 42 percent just 5 years ago—leaving only 44 percent for all the weaponry that is necessary; and it is very expensive weaponry, there is no doubt about that. We try to hold the cost down by doing this and doing that, but still it costs a lot of money. So when we get down to real details—I see that the Senator from Ohio has returned. I intend to yield to him in a moment.

How much time do I have left, please?

The PRESIDING OFFICER. Six minutes.

Mr. STENNIS. I shall yield a part of that to the Senator from Ohio. I just want to call the names of those who have come in here and taken part in this debate, and what they said about it.

The Senator from Arizona (Mr. GOLDWATER), versed in weaponry, talked about the new weapons.

The Senator from South Carolina (Mr. THURMOND), well versed in these matters, justified the items that go to make the budget up. The Senator from North Dakota, a member of the Committee on Appropriations, spoke about staying this amendment, as did the Senator from Arkansas (Mr. MCCLELLAN), who called it a meat-ax approach. The Senator from Pennsylvania (Mr. SCOTT) spoke, as did the Senator from Texas, the Senator from Colorado, the Senator from Maine, the Senator from Washington. That is the broadest cross section and the finest kind of knowledgeable interest in this entire problem, and this military budget is a problem. The military security of this Nation is a problem, too.

I welcome the thoughts of all, but I respectfully submit that, after all, the way this amendment is worded, it does not have any meaning in the real world, even if it should become law, because what is going to decide this matter eventually, this year, is the appropriation bill and the figures we put in it on these two floors.

Mr. President, whatever time I have remaining, I yield to the Senator from Ohio.

Mr. SAXBE. Mr. President, as a member of the Committee on Armed Services, I have not been reluctant to sponsor bills to cut the appropriations, and I have either been a sponsor or a cosponsor of every bill that has come up on this floor this week. The one pertaining to a carrier I handled myself. I cosponsored the one pertaining to the Trident. I was active yesterday in regard to the SAM–D missile. In the committee, I opposed the Cheyenne helicopter. I opposed the ABM, and I opposed the Washington ABM and the extension of the F–14. I fought the proposal as to the Harrier almost singlehandedly on the floor last year.

So I consider it a little dishonest when people come in and will not take a stand on these individual items and say, "We will just cut across the board." They do not say, "I am going to close a base in this State." We do not want to say that. It might hurt somebody.

When you raise some question about the B–1, my good friend the Senator from California says, "You can't cut the B–1. They make that out in California." When you cut anything out of the Navy, my good friend the Senator from Rhode Island says, "We can't do this because this is in my State." Some of my good friends on the Republican side are strong for cutting something until the shoe tightens.

Mr. PASTORE. Mr. President, will the Senator yield, because he used my name?

Mr. SAXBE. No. I do not have time.

Mr. PASTORE. The Senator has used my name.

Mr. SAXBE. The SAM–D missile, for example, was an item that everybody questioned in committee. Yet, certain people who are here in Congress on both sides came in and said, "This is a great big thing for our area in Massachusetts, and it's an important element, so don't cut the SAM–D missile. We'll get the kinks out of it."

With respect to the Harrier last year, I say to my good friend the Senator from Missouri (Mr. SYMINGTON), they were going to move the Harrier from England to Missouri, to the McDonnell Douglas plant—double the cost of it. I opposed that.

I opposed these things when they were hurting me. The advance money for the carrier was going to be spent at Babcock & Wilcox, in the State of Ohio, who make the reactors. The advance money for the Trident submarine was going to be spent in the State of Ohio, the same place, because the long-term advance goes into the reactors.

What I am saying is this: They refuse to take a stand on an individual item. They either do not show up to vote or to vote for it on an individual item. They do not say what base you are going to close. They do not say what element of the bill you are going to cut back. Then they come along with an across-the-board meat-ax proposal and say, "We'll leave it up to the armed services as to where they cut back." They are against military spending, and they do not have to make anybody mad.

I do not trust the military on this. We had a similar situation in Ohio, when the State ran out of money. Instead of laying off a thousand paper shufflers hanging around the water cooler, they closed the State parks. This is always what happens when you cut back on military services. You do not fire anybody; you do not fail to create new jobs. The first thing you do, you do not pick up the garbage. It is obvious. Or you let the bus service go to pieces.

This is the old political approach. You want to cut military spending, but on the individual items everybody bellies right up and says, "Not me. Don't cut this. We'll all vote for the individual items, so we'll make it back on the across-the-board proposal."

To me, this is the type of intellectual dishonesty that I think the people of this country question. That is why, even though I favor a cut in military spending, I am not going to vote for the meat-ax approach in this amendment.

The PRESIDING OFFICER. All time remaining to the Senator from Mississippi has expired.

Mr. MCGOVERN. Mr. President, the Senator from Ohio has closed on the note with which I would like to conclude my remarks today.

He reminded us of the importance of maintaining our intellectual honesty and intellectual integrity.

We are in a position in which the President of the United States has called on Congress to set a ceiling of $250 billion in expenditures on new obligational authority in fiscal 1973. He says that we have already exceeded that on a projected basis by some $7 billion, and Congress has taken a very severe rebuke from the President for our "carelessness" in failing to hold Federal spending below the $250 billion level.

All this amendment does is to respond in a broad sense to that concern, which I assume Congress shares with the President, in trying to hold expenditures to a reasonable level. It says that if we are going to make that effort, we ought to include the largest department of the Government, the biggest part of the Federal Government, in those restraints.

So the amendment suggests that we hold military spending to the same level at which it was last year.

This is not an amendment that guts any essential part of military spending.

The senior Senator from Pennsylvania talked about it being a threat to the Middle East in that it might require some changes in our forces in the Mediterranean. But what the amendment does is to leave to the discretion of the Secretary of Defense where these reductions can best be made. I do not believe that Secretary Laird and the President of the United States would be so foolish as to make reductions that would jeopardize our commitment to the State of Israel and to the security of the Middle East.

But there are numerous other areas where cuts can be made.

Yesterday, many of us attended the funeral of the late Senator from Louisiana, Senator Ellender. A number of other Senators heard him say a few weeks ago that if he were reelected this year, he was going to devote the next 6 years to trying to eliminate some of the fat and waste in our Military Establishment. This amendment could very well be known as the antifat amendment of the antiwaste amendment. It gives the Secretary of Defense an opportunity to make reductions that would eliminate some of the waste in our defense expenditures.

One could consider, for example, that since 1964 we have added 5,000 officers above the rank of colonel, to command 190,000 less men than we had in 1964. We could look at the possibility of slowing down progress on the Trident, on the new aircraft carrier, on the B–1, and on the ABM. All those are things that were decided by a very close vote in the Committee on Armed Services or on the floor of the Senate and are areas where possible cuts could be made.

To those who say that the Senate is giving up this authority, I would say that we are doing the opposite. We are reserving our authority to decide what the priorities of the Nation ought to be. We are saying that if cuts are to be made in the overall size of the Federal Government the Senate should exercise its authority as to where some of the cuts can best be made.

I urgently hope that the Senate will approve this amendment, holding military expenditures for fiscal 1973 at the level where they stood in fiscal 1972.

SENATOR RANDOLPH CONTINUES POSITION ON REDUCED EXPENDITURES

Mr. RANDOLPH. Mr. President, I support the amendment by the diligent Senator from South Dakota (Mr. McGOVERN) to place a limitation on new obligational authority for the Department of Defense during fiscal year 1973, thereby reducing the proposed obligational authority by approximately $4 billion. It is my belief that the pending amendment is a reasoned and needed reduction in the defense budget. I stress that if enacted into law this provision would impose a reduction in funding which amounts to slightly less than 5 percent of the administration's request for Department of Defense budget authority.

Over a period of many years I have endeavored to work for reductions in defense expenditures which have taken so much from our ability to come to grips with urgent social and economic problems at home. Facts have been developed on defense spending and informative and extensive debate has taken place in the Senate each year on defense budgets and military procurement. I am convinced that we can effect substantial lessening of defense spending without endangering the military posture of our Nation and at the same time without preventing the executive branch from moving forward with effective and advanced military weapons systems.

My position on this vote is consistent with my support in past years of amendments to provide a ceiling for defense expenditures or to enact a certain percentage reduction in budget requests for the Department of Defense. In this connection it is interesting to recall that in 1963 the Senator from South Dakota (Mr. McGOVERN) and the Senator from Wisconsin (Mr. NELSON) together with former Senator Wayne Morse and this Senator sponsored an amendment to cut procurement, research, development, test, and evaluation programs by $2.2 billion or 10 percent. This amendment was to the defense appropriations bill for fiscal year 1964. That amendment was defeated 74 to 2 with only the Senator from South Dakota and this Senator voting in the affirmative. I quote from my remarks during that debate:

> We can and we must save billions in these categories that drain off so much of our gross national product and require so much of our national income that we are unable to fulfill our obligations to our own people at home and to provide the economic foundation that makes all the rest possible.
>
> A higher priority and a higher percentage of the budgeted dollar must be assigned to the requirements of our domestic programs, especially in the fields of education, health, job opportunities and job training, and public improvements, including continuation of the program of accelerating public works on a Federal-local matching basis.

We have come a long way since 1963 in securing support in the effort to make reasonable reductions in the defense budget. Regrettably the Congress has not arrived at the consensus of thinking which will provide the opportunity for success in this 1972 effort.

Mr. HARTKE. Mr President, I would like to state my views on the amendment offered earlier today by Senator GEORGE MCGOVERN of South Dakota to the military procurement authorization bill which would limit military spending from rising in the current year beyond the rational needs of the country for such spending. The amendment would have authorized a cut of only $4 billion from the $81.6 billion requested by the administration for new obligational authority to a level of $77.6 billion in fiscal 1973. The decrease would not be substantial. The following figures give us a raw comparison of that figure, $77.6 billion, to other recommendations and possible levels of military spending.

For new obligational authorization:

	Billions
Fiscal 1972 defense authorization level	$78.1
Senate Armed Services Committee reduction of 12 percent procurement authorization for fiscal 1973 extrapolated to entire defense authorization level	71.8
Full House of Representatives reduction of 11 percent for military procurement authorization for fiscal 1973 extrapolated to entire defense authorization level	72.7
Urban coalition recommendation for 1973 Defense Budget	50.3
Brookings Institution recommendation for budget level for "elimination of less effective forces and selective slowdown in modernization"	72.0
McGovern amendment	77.6
Administration request for fiscal 1973	81.6

Comparatively, the proposed McGovern cut is not substantial when compared to these figures. I urge substantial decreases in future years.

Senator MCGOVERN has urged upon us a total authorization level for military spending of $55 billion in 1975. However, any substantial cutback or even a freeze on arms spending must be coupled with an economic conversion plan. But beyond economic conversion planning there is a need to examine the growth, goals, and priorities of this Nation in conjunction with any substantial cut in arms spending. I commend to you the need for national planning to assure those opportunities in the context of our goals for national security.

The PRESIDING OFFICER (Mr. HART). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from South Dakota (Mr. MCGOVERN), No. 1381.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the pending question?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1381 of the Senator from South Dakota (Mr. MCGOVERN).

Mr. STENNIS. I thank the Chair.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH) and the Senator from Georgia (Mr. GAMBRELL) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kansas (Mr. PEARSON) is detained on official business.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "nay."

The result was announced—yeas 33, nays 59, as follows:

[No. 323 Leg.]

YEAS—33

Anderson	Hollings	Muskie
Bayh	Hughes	Nelson
Burdick	Humphrey	Pastore
Cranston	Inouye	Pell
Eagleton	Kennedy	Proxmire
Fulbright	Mansfield	Randolph
Gravel	McGovern	Ribicoff
Harris	Metcalf	Stevenson
Hart	Mondale	Symington
Hartke	Montoya	Tunney
Hatfield	Moss	Williams

NAYS—59

Aiken	Cotton	McGee
Allen	Curtis	McIntyre
Allott	Dole	Packwood
Beall	Dominick	Percy
Bellmon	Eastland	Roth
Bennett	Ervin	Saxbe
Bentsen	Fannin	Schweiker
Bible	Fong	Scott
Boggs	Goldwater	Smith
Brock	Griffin	Sparkman
Brooke	Gurney	Spong
Buckley	Hansen	Stafford
Byrd, Harry F., Jr.	Hruska	Stennis
Byrd, Robert C.	Jackson	Stevens
Cannon	Javits	Taft
Case	Jordan, Idaho	Talmadge
Chiles	Long	Thurmond
Cook	Mathias	Tower
Cooper	McClellan	Weicker
		Young

NOT VOTING—7

Baker	Jordan, N.C.	Pearson
Church	Miller	
Gambrell	Mundt	

So Mr. MCGOVERN's amendment (No. 1381) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one

of his secretaries, and he announced that on July 28, 1972, the President had approved and signed the following acts:

S. 473, an act to amend the Automobile Information Disclosure Act to make its provisions applicable to the possessions of the United States; and

S. 1139, an act to amend the Federal Crop Insurance Act, as amended, so as to permit certain persons under 21 years of age to obtain insurance coverage under such act.

REPORT ON URBAN TRANSPORTATION POLICIES AND ACTIVITIES—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. McINTYRE) 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:

The difficulties of moving people and goods in our increasingly urbanized society are matters of deep concern to this Administration.

It is clear that the problems of our cities cannot be solved unless we devise better means to coordinate the efforts of transportation planners with those of urban officials so that we can clear the way for fast, efficient and economical transportation throughout our Nation.

The report which I am pleased to submit to the Congress today summarizes the many ways in which the executive branch of the Federal Government is now trying to make significant improvements in urban transportation.

The report was prepared jointly by the Departments of Transportation and Housing and Urban Development as required by Section 4(g) of the Department of Transportation Act of 1966. In particular, it documents the cooperative efforts on legislative proposals, policies and activities that have been taken by this Administration to assure that urban transportation systems most effectively serve both our national transportation needs and the planned development of urban areas.

I commend this report to the attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *August 1, 1972.*

REPORT ON FEDERAL STATUTORY PAY SYSTEMS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. McINTYRE) 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 Post Office and Civil Service:

To the Congress of the United States:

I am forwarding herewith the annual comparison of Federal salaries in the statutory pay systems to the salaries paid in private enterprise, as required by section 5305 of title 5, United States Code.

The report, prepared by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, compares the General Schedule pay rates to the rates paid in private enterprise for the same levels of work, as published in the Bureau of Labor Statistics Bulletin No. 1742, *National Survey of Professional, Administrative, Technical and Clerical Pay,* June 1971.

No adjustment based upon the comparison was made in Federal pay rates because of the substitute measure enacted as a part of the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, approved December 22, 1971).

In addition, the Advisory Committee on Federal Pay reviewed the report and its comments are enclosed.

RICHARD NIXON.

THE WHITE HOUSE, *August 1, 1972.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7338) to establish a Commission on Revision of the Judicial Circuits of the United States; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CELLER, Mr. BROOKS, Mr. HUNGATE, Mr. MIKVA, Mr. McCULLOCH, Mr. HUTCHINSON, and Mr. McCLORY, were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15586) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. EVINS of Tennessee, Mr. BOLAND, Mr. WHITTEN, Mr. SLACK, Mr. PASSMAN, Mr. MAHON, Mr. RHODES, Mr. DAVIS of Wisconsin, Mr. ROBISON of New York, and Mr. BOW were appointed managers on the part of the House at the conference.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5741. An act to authorize the Secretary of Commerce to transfer surplus Liberty ships to States for use in marine life conversation programs; and

H.R. 13804. An act to amend chapter 13 of title 44, United States Code, to provide that certain proceedings of the Italian American War Veterans of the United States, Incorporated, shall be printed as a House document, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution:

H.R. 13435. An act to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; and

S.J. Res. 208. Joint resolution authorizing the President to proclaim the third Sunday in October 1972 as "National Shut-In Day".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 5741. An act to authorize the Secretary of Commerce to transfer surplus Liberty ships to States for use in marine life conservation programs; to the Committee on Commerce.

H.R. 13804. An act to amend chapter 13 of title 44, United States Code, to provide that certain proceedings of the Italian American War Veterans of the United States, Inc., shall be printed as a House document, and for other purposes; to the Committee on Rules and Administration.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to proscribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

AMENDMENT NO. 1370

The PRESIDING OFFICER (Mr. McINTYRE). Under the previous agreement, the Senator from Oregon (Mr. HATFIELD) is recognized to call up his amendment on which there will be 3 hours of debate.

The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

SEC. 605. Section 17(c) of the Military Selective Service Act is amended by striking out "July 1, 1973" and inserting in lieu thereof "December 31, 1972".

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, will the Senator from Oregon yield me 3 minutes for the purpose of having a colloquy with the distinguished majority leader?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader if he would tell us the order of business, what if anything is on the second track, and whether we can expedite the rollcalls.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. MANSFIELD. Yes, indeed. I will be delighted to. First, I make my apologies to the distinguished Republican leader because I assured him that when it was time for a vote on the amendment which has just been defeated, I would put in a quorum call. I came to the Chamber too late, and I did not leave any instructions. I hope that the Senator from Pennsylvania will understand.

Mr. SCOTT. That is perfectly all right.

Mr. MANSFIELD. Mr. President, the Hatfield amendment will take up 3 hours. If all time is used, a vote will occur at approximately 4:25.

Following that we will consider the Kennedy amendment, which has a 1-hour limitation of time. The vote will occur at approximately 5:30.

Following that, the Senate will consider the Hartke amendment on which there is a time limitation of 1½ hours. The vote will occur at approximately 7:15.

The Senate will then go to the second track and will resume the consideration of the export control bill, S. 2736.

There is only one amendment, the Curtis amendment, on which there will be a yea-and-nay vote, and on which there is a 1-hour limitation. There may be one or more amendments offered. We have agreed to vote on this bill—which has to be finished by midnight tonight—at no later than 9 p.m.

I would express the hope that, if possible, those Senators who are offering amendments and those Senators who are opposing them would consider the possibility, if it is possible, to perhaps reduce the time limitations so that the Senate could get on to its business that much more quickly. However, that is something that Senators who are concerned will have to make a judgment on, and if they use the full time that is perfectly agreeable with the leadership.

However, in view of the fact that we will have a number of votes, I ask unanimous consent that votes from now on be limited to 10 minutes rather than 15 minutes and that the warning bells be rung at 2½ minutes after the rollcall has begun.

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

Mr. MANSFIELD. Mr. President, I do this with the concurrence of the distinguished Republican leader.

Mr. SCOTT. I thank the distinguished majority leader and the Senator from Oregon.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I suggest to the Democratic cloakroom that this notice be sent out to all Senators.

Mr. SCOTT. I will be glad to do the same.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes

Mr. HATFIELD. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, the amendment which I have just called up would change the expiration date of the Selective Service Act from June 30, 1973, to December 31, 1972. The amendment would terminate the President's authority to induct men into the Armed Forces at the end of this year, rather than at the end of fiscal year 1973.

The issue of the draft is critical to our Nation's moral fiber and our national strength. Both are interdependent; you cannot have one without the other. A peacetime draft, which is what we have faced since the close of the Second World War, is not only iniquitous to the very nature of a democracy and the individual freedoms to which we so often rhetorically refer but is detrimental to our defense posture and inimical to our foreign policy. A volunteer military is inherently more equitable, just, and efficient than one that is considered.

Each time that legislation to halt the draft has come before this body we have heard of the dire consequences that we would face if it were not continued to be implemented.

Drastic manpower shortages would result we have been told in each debate in the face of contradicting data from the Defense Department.

Last year, for instance, the Selective Service Act expired, and the Congress debated its extension for 5 months, finally deciding to extend the President's authority to induct men into the Armed Forces for 2 more years. In spite of all of the calls of undermining our national defense which we heard in the Chamber and from the Pentagon, once the induction authority had been regained, only 10,800 men were drafted during the last 3 months of calendar 1972. During the first 3 months of calendar 1973 there were not any draft calls, and Secretary Laird has announced draft calls for 50,000 men for the remainder of the year. In other words, in 18 months a maximum of 60,800 men will have been drafted, and the actual figure may be well below that number. Be that as it may, there is substantial question as to whether these inductions are actually needed in light of evidence accumulated during the last 6 months. This evidence indicates that, due to mismanagement and indecisiveness, the Defense Department is falling short of the mandate of the President to move to an All-Volunteer Armed Force.

Before examining the management problems of the Pentagon, I would like to focus on the general manpower questions we face. The administration has requested 2.358 million men for the end strength of fiscal year 1973. The Defense Department is projecting a shortfall of between 40,000–100,000 men by June 30, 1973, if the draft is halted December 31, 1972. With the civilianization programs now considered by the Department, and the greater emphasis on utilization of women in the services, this shortfall could be easily overcome. Furthermore, if the recommended troop cutbacks of the Senate Armed Services Committee are implemented, this projected shortfall would be immediately overcome. The Armed Services Committee has recommended a 56,000-man cut in the average troops strength for this fiscal year. If these cuts were implemented on an even and consistent basis throughout the year, this would mean an end strength reduction of approximately 112,000 men, thereby having an end strength for fiscal year 1973 of 2.246 million men. If, as the Senate Armed Services Committee has noted in its report, the Gates commission recommendations regarding civilianization were effected, roughly 106,000 positions could be filled by civilians that are presently occupied by military personnel. Thus, the end strength for fiscal 1973 would be reduced to 2.140 million men. Add to this the added utilization of women within the services, and the overall end strength for men in the armed services, this fiscal year would be reduced to perhaps below 2 million. Put another way, if none of these reductions or programs occur, recruiters would only have to increase their present recruiting capability by one additional enlistment per recruiter every 2 months to meet the shortfall. Not only does either set of data eliminate the shortfall projected by the Department, but provides an overabundance of men, thus allowing the services an opportunity to become more selective in their personnel than they are now. Consequently, the qualitative as well as the quantitative requirements of our Armed Forces will be adequately met.

Last year this issue of quality was raised on the floor. I think it of particular interest to note that the quality in the overall Armed Forces has increased during the past year, and the influence has been negligible, if any. In testimony in March of this year before the Armed Services Subcommittee on the Volunteer Armed Force and Selective Service, Lt. Gen. George Forsythe, former director of Project Volunteer, said:

> The quality of new recruits is improving. In late September, the Army focused on bringing in higher quality recruits—high school graduates, and personnel in the upper mental categories. During October, enlistments dropped several thousand, but quality was up by 25 percent. In November, quality continued to rise and numbers began to climb. By December, quality was up almost 8 percent and total enlistments were almost 80 percent and total enlistments were

over 20 percent higher than the previous December. In August and September, slightly over 50 percent of Army volunteers were high school graduates. With emphasis placed on quality starting in September, the percentage of high school graduates rose to 80 percent in October, 84 percent in November, and 88 percent in December.

Mr. President, I would like to point out that these figures represent voluntary accessions during a period when only 10,800 men were drafted prior to which time we had had no draft for 5 months. More recent data continues to indicate that quality has increased in the Armed Forces, so the argument that a volunteer military without the threat of the draft is spurious and without foundation.

Another point of concern in previous debates has been enlistments into combat arms. In testimony before the Senate Armed Services Committee, February 8, 1972, Assistant Secretary of Defense for Manpower and Reserve Affairs Roger Kelley testified that enlistments into the combat arms had increased by 1,200 percent between the last half of 1970 and the last half of 1971. This represented an average monthly increase from 250 in 1970 to 3,000 in 1971. Recent data indicates that this increase has continued so that during June 1972, last month, over 5,300 men enlisted into the combat arms—an increase of over 130 percent over last year and a jump of over 2,000 percent from 1970. With this trend established and with the combat enlistment bonus voted last year by this body, there is not any foreseeable problem in attracting the necessary men into the combat arms that was feared by some in this Chamber last year. As a matter of fact, if shortfalls do occur in this area in the future, as the Defense Department has indicated from time to time, it will be a result of poor management on their part, not a shortage of men. The Senate Armed Services Committee has pointed to this problem this year. In its report it questioned the fact that manpower cutbacks mandated by the Congress have taken place, particularly in the area of combat arms. On page 125 of its report (92–962), the committee states:

> The Services have often tended to protect their support establishments when reductions have been made in the past by making those reductions in combat forces. The committee is strongly opposed to this tendency.

The committee then goes on to indicate the areas in which these future reductions should take place.

Some Senators have raised the question in the past about maintaining adequate Reserve and National Guard strength in the absence of conscription. I would like at this point to quote from a memorandum I sent to the Members of this body over the weekend:

> The paid drill reserves are currently understrength.
>
> This problem could have been avoided if the Army had co-ordinated its massive early-release program with a reserve recruiting effort. Instead, the program was confined to just two posts during most of 1971, when the greatest reductions in active duty forces were being generated.
>
> More importantly, Defense waited until April, 1972 to request its reserve bonus package. Had it been able to use these incentives when thousands of young men were leaving active duty, the Army would have had waiting lists for the reserves. My amendment will compel the Army to correct these management errors now, not when it is time to consider the Selective Service Act again.

Furthermore, Mr. President, the draft is no longer relevant to the Reserves and National Guard. It is true, as has often been pointed out on the floor, that up to 75 percent of the enlistments into the Reserves and National Guard were in order to avoid the draft. Draft calls during previous years have been significantly higher than the presently projected 50,000 for this calendar year. In 1968, 300,000 men were drafted. In 1970, 163,000 men were inducted. In 1971, 98,000 were conscripted. When you consider that there are 498,055 in the draft pool—roughly 440,000 more men than will be drafted—there is virtually no pressure whatsoever on young men to enlist in the Reserves or National Guard because of the draft. I agree that there are problems facing us with respect to meeting our strength requirements for our Reserves and National Guard, but the draft is no longer related to that issue. I anticipate legislation to come before this body which will remedy this situation during this session, and I will strongly support it, but trying to relate the draft to the Reserves and National Guard at this point in time is like comparing apples and oranges.

Another issue has usually been raised in opposition to a volunteer military during previous debates. It is that a volunteer military would attract a disproportionate number of blacks and poor into the military and that they would consequently be carrying the brunt of our actions in Southeast Asia. We have heard it said that poor men would be fighting rich men's wars. Those asserting this position have alleged that the draft prevents poor men from fighting rich men's wars—in this case, Vietnam. Recent data verifies what previous projections concluded, namely that the racial and income balance within the military is continuing to be roughly proportional to the overall population in the country. As a matter of fact, it could be forcefully argued that, in spite of the draft, poor men were fighting our war in Southeast Asia because those with poorer skills and opportunities, particularly among blacks, were participating in combat roles in much higher ratios than that of their representation in the overall population. The fact remains that the question is moot. The President has announced that we are no longer, nor will we resume, sending draftees to Vietnam. The issue is not relevant.

The simple fact remains that, if the management practices of the Defense Department were more efficient, we would have a volunteer military today and not have the need for military inductions this year or during the previous year. For fiscal year 1973, volunteer force initiatives have been reduced from $320 million the previous year to $272 million. It is puzzling that while the Defense Department has been unwilling to commit the Department to a specific date for ending the draft, they have requested less money for key programs this year than the year before. Either Defense feels that most of the problems have been solved, or someone is interested in having the Department fall short of the President's goal. By terminating the draft on December 31, 1972, we will force the Defense Department to take this low-priority label off the President's program.

Implementation of volunteer force programs has lagged badly in some areas. Over 400,000 first-term enlisted men live in inadequate barracks, many of them World War II vintage open bays. Yet, Defense Department officials testified in the spring of 1972, that the fiscal year 1971 barracks improvement program was only 78 percent completed, and that only 10 percent of the fiscal year 1972 program had been implemented. Military officials stated that the funds had to be diverted to Southeast Asia. Regardless of one's views on the war in Indochina, all Senators will agree, I am sure, that the funds to support that conflict should come from direct appropriations, and not taken from moneys that have been designated to improve the lot of the individual GI.

Housing opportunities, most travel allowances—for household goods and dependents—and separation allowances—all of which are available to careerists—are still denied junior enlisted men. This discriminatory treatment of lower ranking GI's means that 200,000 soldiers and their families are forced to either separate from their families or see their new pay hikes eaten up by costly long-distance moving expenses. The problem is particularly severe overseas—as noted in a recent Army Times article entitled, "Poverty in Europe"—because last year's reevaluation negated much of the value of the congressionally mandated comparability increases.

The shoddy personnel accounting practices bred by years of reliance on the draft have become painfully obvious from the Army's conduct of its congressionally mandated reduction-in-force last year. These deficiencies were noted by a Lt. Gen. William E. DePuy in testimony before the Senate Armed Services Committee, February 9, 1972. In his testimony, Lieutenant General DePuy stated:

> Our loss estimating is difficult. That is particularly true this year, when we have a whole variety of early release programs in effect at the same time, some of which are optional. So we could not possibly be correct in our estimates. We have been as much as 10 percent off both ways in any particular month.
>
> In the hearings and in deliberation here in the Congress, another 27,000 man-year reduction occurred. Then we did two things. We did not react right away. Perhaps, foolishly, we hoped maybe that would be restored; it was not. So, we waited. That cost us some man years. Then our management was not perfect for several months, we ran over strength. So the combination of all of that gave us problems.

Commenting on this mismanagement, the Senate Armed Services Committee noted on page 135 of its report No. 92–962:

> The Conference on the Selective Service Bill, in which the manpower authorization was included, announced its agreement on

manpower authorization levels and all other matters save one—the Mansfield Amendment relating to a termination of hostilities in Indo-China—on July 1, 1971. Thus the Army had notice at the beginning of the fiscal year that the committee's recommended cut would be approved by the Congress unless the Conference Report were rejected by the House or Senate and, in a new Conference, the question of manpower levels was re-opened. The Army admitted in response to a prepared question from the committee that the Congressional reduction would not materialize. This hope proved barren when the Conference Report was approved by the House and then by the Senate on September 21, shortly after the summer recess.

A second delay then compounded in the initial delay. In the Army's words there were "several months in early FY 1972 in which the Army overestimated its losses and underestimated its gains, thus aggravating the man-year problem." The reason for this is not clear. The Army has an inherently harder job of estimating manpower gains and losses than the other Services because of its combined reliance on draftees, draft-motivated volunteers, and true volunteers. Also, there is reason to believe that there is some room for improvement in the Army's personnel data system.

As a result of this poor planning in releasing too many men too soon, the Army will have a fiscal year 1972 end strength of 40,000 below authorized levels. This, of course, will make accession requirements for fiscal year 1973 higher than normal, since the Army will not only have to meet normal goals, but also make up for fiscal year 1972's over-reduction. This mismanagement was hardly designed to comport with the President's goal of ending the draft and raises grave questions about the enthusiasm of certain personnel planners for the Volunteer Force.

In addition, the Army has been unwilling to divulge its plans for ending the draft. Consider the following examples from the Senate Armed Services Committee hearings of February 8 and 9, 1972:

"You might be surprised to know, for example, that in our program that we run out into fiscal year 1974, we have (deleted) we do in 1973—208,000 in 1973 and about (deleted) in 1974 because of that phenomenon.

"We are taking losses in 1972 that we would have taken in 1973, so a strange phenomenon occurs in 1973. Our losses are low, lower than our gains by about (deleted) a month. The gains are higher because they are being put in to take care of the later losses. So that difference of about (deleted) is multiplied by 6 is about (deleted); that is the build-up here."

Since Department of Defense officials were quite willing to discuss accession requirements in a steady state, it is surprising that they should want to delete fiscal year 1973 losses and fiscal 1974 requirements from the hearings. Certainly it is not a question of withholding information on the grounds of national security—it is an attempt by the Army to either hide its plans for ending the draft, or hide the fact that its personnel management is so slipshod that it cannot make an accurte prediction of requirements 1 year hence. My amendment will require the military to make their plans for an end to the draft, rather than a justification for a renewal.

According to the Navy Secretary, John Warner, their recruiting service of the Navy rested on their laurels too long and began improving their enlistment practices 9 to 12 months later than they should have. The result has been a Navy performance inferior to that of the other services. Given the Navy's traditional recruiting advantage over that of the Army, it has been surprising to see the Army's superior performance to date. It is even more astonishing to see both services some 3 years behind the Air Force in use of advanced recruiting techniques. Secretary Warner has implemented the necessary corrective measures for a rapid movement toward an end to the draft. As a former Navy officer—who knows that the sea-service is a "can-do" organization—I am confident that my amendment will speed the Navy's ability to meet its requirements in an all-volunteer environment.

Aside from these mismanagement problems, Mr. President, last year, rather than trying to increase reenlistments, the Defense Department succeeded in reducing them from their usual 11 to 12 percent to roughly 2 percent. This action reduced their accessions and thereby increased accession requirements and possible needs for inductions. Clearly the draft is not needed to meet our manpower requirements. My amendment provides more than enough time for a transition from the draft into an all-volunteer environment. Aside from the manpower question it is not needed to maintain some sense of equity or justice, as some would have us believe. Not only do the facts belie any assertion along these lines but also contradict any historical or commonly accepted use of either word "equity" or "justice." Involuntary servitude, which is what military conscription is today, is the most iniquitous institution in our society. It contravenes every value which our country has stood for since our founding, and represents potential inroads of authoritarianism into our republic.

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

The PRESIDING OFFICER. On whose time?

Mr. HATFIELD. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HATFIELD. I yield myself 5 minutes.

Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of amendment 1370: Senators HART, MCGOVERN, GRAVEL, HUGHES, CRANSTON, PROXMIRE, and SCHWEIKER.

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

Mr. HATFIELD. Mr. President, the constitutional aspects of military peacetime conscription are often overlooked in the mass of manpower figures and foreign policy statements in which the general issue is generally presented. I think that it might be of value to other Members of this body to review an opinion written in an unpublished manuscript by former Chief Justice Roger B. Taney on May 7, 1886.

Of particular interest is the Chief Justice's nonreliance on the issue of individual rights but on State's rights and, most importantly, his argument that the Founding Fathers had not contemplated conscription on a national basis because it did not come into practice until 1788 with Napoleon.

As I mentioned during the debate last year, the Federal Appeals Court had ruled that Congress' passage of the Selective Service Act and the appropriation of funds for Southeast Asia was an implicit declaration of war. That decision was appealed, and on October 26, 1971, the Court of Appeals filed a certified copy of an order of the Supreme Court denying petition. Consequently, any Senator or Congressman voting for the Selective Service Act or appropriations legislation for Southeast Asia favors our military involvement in that part of the world.

Mr. President, I ask for unanimous consent that the unpublished portion of the opinion of the former Chief Justice of the United States be printed in the RECORD.

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

THOUGHTS ON THE CONSCRIPTION LAW OF THE UNITED STATES

(By Roger B. Taney)

By the Act of Congress entitled an Act for enrolling and calling out the national forces and for other purposes (generally called the conscription law) all able bodied male citizens of the United States between the ages of twenty and forty-five years except as thereinafter excepted are declared to constitute the national forces and liable to perform military duty in the service of the United States when called out by the President for that purpose.

The 2nd Section excepts and exempts from operation of the Law, the Vice President of the United States, the Judges of the various Courts of the United States, the head of the various executive departments of the government, and the governors of the several States, sundry other descriptions of persons are also exempted from family considerations, or want of health, whose exemption is not material to the matter now before the Court.

The 18th Section provides that the persons called out shall be liable to serve for a period not exceeding three years.

The question to be decided is,—Does Congress under the Constitution of the United States possess the power it has in this instance exercised?

In determining this question it is necessary that we should fix clearly in our minds the relative powers of the general and State governments, and the attitude in which they stand to each other when exercising their respective powers.

The confederation which existed prior to the adoption of the present constitution was a mere league of independent States. Each State retained the entire sovereignty within its own territorial limits, and the confederate power could not exercise forcibly any authority civil or military by its own officers within the territories of a State without its consent nor did it possess any power within these limits in any case paramount and superior to that of a State.

It was under these circumstances and in

this state of things that the present Constitution was formed.

By adopting this Constitution, the people of the several States created the government of the United States and delegated to it certain specified powers of sovereignty within their respective territories;[2] but in express terms retained all the powers not thereby conferred on the U. States, in their own hands. Two separate governments are thus to exercise powers of sovereignty over the same territory and the same people at the same time. The line of division between them is marked out. Each of them is altogether independent of the other in the sphere of action assigned to it. The power of the Federal government is paramount to that of the State within the limits of its delegated powers. The authority of the several States is equally paramount within the limits retained by the States—neither owes allegiance to, or is inferior to the other,[3] being both sovereignties they stand on equal ground—and the Citizen owes allegiance to the General government to the extent of the powers conferred on it and no further—and he owes equal allegiance to the State to the extent of the sovereign powers[4] they reserved,—The rule as to allegiance and the reason of the rule are clearly stated in I Blackstone's Commentaries, 366, in the following words: ."Allegiance is the tie or ligament which binds the subject to the King in return for that protection which the King affords to the subject."—And as neither the Federal government, nor that of a State, could lawfully afford protection to the Citizen beyond the limit of their respective powers, no allegiance can be claimed or is due from the Citizen to either government beyond those limits. It is a divided allegiance but not inconsistent—the boundaries of each sovereignty being defined and established, and not interfering with one another, and each independent of the other in its own sphere of action.

These principles were decided by this Court unanimously and upon much consideration in the case af Ablemore vs. Booth,[5] 21 How. 366. But the great importance of the case now before the Court makes it proper that I should again refer to the clauses in the Constitution which bear upon the subject. Clause 16, S. 8, Article I. authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States, or in any Department or officer thereof. And again the second clause of the 6 article declares that this constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

And Article 11 of the amendments to the Constitution declares "that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

These clauses show that the sovereignty of the general government is not a general & pervading one—but is confined to the powers delegated by the Constitution. And all the rights and powers of sovereignty not delegated are reserved to the States. The sovereignty of the State therefore to the extent of this reservation is wholly independent of the general government.[6]

The last mentioned clause it will be observed was an amendment to the original Constitution after it had been fully discussed before the people and in the conventions of the different States, and was manifestly adopted to show more clearly than the original instrument was supposed to do, that no general supremacy over the States was intended to be conferred on the Federal government, and to show by the plainest and most positive words that the States were still sovereignties in their character.

Indeed the sovereignty of the States is expressly recognized in the 2d clause of the 2d Sect. of the 4th Article which provides that "a person charged in any State with treason, felony or other crime who shall flee from justice and be found in another State shall on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime." The State must be sovereign,[7] and the party accused must owe it allegiance in return for the protection it affords him, or the crime of high treason could not be committed against it, nor its Courts have jurisdiction of the offence.

It follows from what is above stated, that the Federal government has no inherent, and original powers of sovereignty. It has only what the States delegated—and any exercise of sovereign power beyond these limits would be a usurpation[8] of State sovereignty—and consequently illegal.[9]

This brings me to inquire whether the power exercised in passing the Conscription Act above mentioned has been delegated to the Federal government.

In pursuing this inquiry we must not confine our attention to a single clause and construe it as if it stood by itself apart from all other provisions. The whole instrument must be taken together—general words in one clause may be restrained in the meaning by other provisions in the instrument and no construction can by any just rule of construction, be given to any one clause, that would make it repugnant to the plain words of another and make the Constitution so carefully and deliberately prepared inconsistent with itself.

Guided by this well established and familiar rule of construction—I proceed to examine the clauses in the Constitution which bear directly on the question.

The Constitution establishes and recognizes two kinds of military force entirely different from each other in their character, obligations and duties.—The 12th clause of the 8th Section of the 1st Article gives to Congress the power to raise and support armies. The power is general,—the number is not limited and it embraces times of peace as well as times of war, when raised it is exclusively subject to the control of the United States authorities.—It is a body of men separated from the general mass of citizen—subject to a different code of laws liable to be tried by Military Courts instead of the Civil Tribunals.—and may be employed at all times in or out of the United States, at the pleasure of Congress—and willing or not willing forced to obey the orders of their superior officers. And in the 3rd clause of the 10th Section of the 1st Article it is provided that "no State shall without the consent of Congress keep troops, or ships of war in time of peace."—The powers given to the general government to raise and support armies, necessarily carries with it the power to appoint their officers, and the power to make rules and regulations for its government is given by the 14th clause of the Section and Article last above referred to. These rules and regulations so far as they concern the individuals who compose the army are altogether independent of State authority,—and the control of the whole body is exclusively and absolutely in the general government.—They compose the national forces,—or what is called in the Constitution the land forces of the United States.

The other description of military force is the militia over which by the express provisions of the Constitution the general government can exercise no power in time of peace, and but a limited and specified power in time of war.—It will be observed that as relates to the Army the power is given to raise and support it, a power which Congress in its discretion may or may not exercise. But the militia is spoken of, as a known military force, always existing and needing no law to bring it into existence and merely requiring organization, discipline and training to make it efficient.

Thus the clause 16—in the Section and Article aforesaid declares that Congress shall have power "to provide for organizing, arming and disciplining the militia and governing such part of them as may be employed in the service of the United States reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress."

The clause immediately preceding (15) gives Congress the power to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion. But what description of persons composes the militia who are thus to be officered and trained by the State,—and may be called to aid the general government in the emergencies above mentioned? The answer will be found in the 2d amendment to the Constitution which declares that "A well regulated militia being necessary to the security of a free State, this right of the people to keep and bear arms shall not be infringed". The militia is therefore to be composed of Citizens of the States, who retain all their rights and privileges as citizens who when called into service by the United States are not to be fused[10] into one body—nor confounded with the Army of the United States, but are to be called out as the militia of the several States to which they belong and consequently commanded by the officers appointed by the State. It is only in that form or organization that they are recognized in the Constitution as a military force.[11]

The United States can exercise no authority over them except only in the contingencies specified in the Constitution.

This . . . . . is plainly and distinctly expressed in the 1st clause of the 2nd Section of the Second Article which declares that—

"The President shall be commander in chief of the Army and Navy of the United States and of *the militia of the several States* when called into the actual service of the United States."

The distinction between the Army of the United States and the Militia of the several States and the power which the President may exercise over them respectively is here clearly stated. He has no power over the Militia unless when called into the actual service of the United States. They are then called out in the language of the Constitution, as the militia of the several States. The General government has no militia, it has only the Army and Navy—The militia force duly organized and ready to be called out belongs to the several States and may be called on in the emergencies mentioned to aid the land and naval forces of the United States.

But if the act of Congress of which I am speaking can be maintained all of the clauses in the Constitution above referred to are abrogated. There is no longer any militia—it is absorbed in the Army.—Every able bodied Citizen, not exempted by that law, belongs to the national forces—that is to the Army of the United States. They are not to be called out as the Militia of a State—but as a part of its land forces—and subject as soon as called on to all the obligations of a private soldier, in the ranks of the regular army.

The Generals, Colonels and other Officers appointed by the State according to the provisions of the Constitution are reduced to the ranks, and compelled to march as private soldiers and obey the orders of such persons as the President may select to command them,

Footnotes at end of article.

and they and every other able bodied citizen except those whom it has been the pleasure of Congress to exempt, are compelled against their will to subject themselves to military law, to be tried by military Courts instead of the civil tribunals—and to be treated as deserters if they refuse to surrender their civil rights.

It appears to me impossible to believe that a Constitution and form of government framed by such men can contain provisions so repugnant to each other. For if the conscription law be authorized by the Constitution, then all of the clauses so elaborately prepared in relation to the militia, coupled as they are with the declaration "that a well regulated militia is necessary for the security of a free State", are of no practical value and may be set aside and annulled whenever Congress may deem it expedient.

The power to do this is, I understand, claimed under the clause which gives Congress the power to raise and support armies.

It is true that the power is delegated without specifying the manner in which the armies are to be raised.[12] But no inference can be drawn from these general words that would render null and inoperative the plain and specific provisions in regard to the militia, to which I have above referred. No just rule of construction can give any weight to inferences drawn from general words, when these inferences are opposed to special and express provisions, in the same instrument.

But apart from this consideration the words themselves, even if they stood alone, will not, according to their known and established use and meaning in the English language, justify this construction.

During the period when the United States were English Colonies, the Army of England,—the standing army,—was always raised by voluntary enlistments,[13]—and the right to coerce all the able bodied subjects of the Crown into the ranks of the Army and subject them to military law, was not claimed or exercised by the English government—and when the power to raise and support armies was delegated to Congress, the words of the grant necessarily implied that they were to be raised in the usual manner.[14]—And the general government has always heretofore so understood them and has uniformly by its own officers recruited the ranks of its "land forces" by voluntary enlistments for a specified period.

The general words "to provide and maintain a navy" could with much more apparent plausibility be construed to authorize coercion when a sufficient number of volunteer seamen could not be obtained. For at the time the Constitution was adopted and long before it had been the practice of the British government to compel by force seamen to serve on board its ships of war whenever there was a deficiency of volunteers—and it might be said with some appearance of reason, that the power to provide and maintain a navy, implied that it was to be provided and maintained in the same manner that it had been provided and maintained by the the government under which we had before lived.—I do not think the Whalers and Fishermen, and Seamen of the Northern States would assent to such a construction or admit it to be correct.—It certainly would not be correct—for such a power over landsmen or seamen would have been repugnant to the principles of the government which was then framed and adopted.

It is true also that the act recites in the preamble that an insurrection and rebellion exists against the authority of the United States, and that it is its duty to suppress it.—But this is the very crisis which the framers of the Constitution foresaw might happen and has given to the general government the powers they deemed adequate to meet it, or safe to grant.

Footnotes at end of article.

It is the state of things in which Congress is authorized to provide for calling out the militia of the several States and if that course was pursued; the forces called out would be commanded by officers appointed by the State,—and it can hardly be maintained that where a specific power is given to Congress in a certain contingency, Congress may when the contingency happens repudiate the means prescribed in the Constitution and adopt others which it may deem more effectual,—such a construction would make the Constitution of no higher authority than an act of Congress,—and every provision in it liable to be repealed and altered or disregarded whenever in the judgment of a majority of the Legislature the public interest would be promoted by the exercise of powers not conferred.[15]

Much has been said in Courts of Justice as well as elsewhere of the war powers of the general government, and it seems to be assumed that the Constitution was made for a time of peace only and that there is no provision for a time of war. I can see no ground whatever for this argument. The war power of the Federal government is as clearly defined in the Constitution as its powers in time of peace—Congress may raise and support armies—it may provide and establish a Navy—it may lay an embargo—it may provide for calling out the militia of the several States—it may grant letters of marque and reprisal—it may suspend the habeas corpus—it may quarter soldiers in a house without the consent of the owner, in a manner to be regulated by law, which it cannot do in time of peace. These are all war powers—powers to be exercised in time or war—or in preparation for war—And when we find these powers and none others enumerated and conferred for war purposes, it is conclusive proof that they are all that were deemed necessary, and that it was not deemed safe or prudent to trust more in the hands of the new government. This conclusion seems inevitable when we find that all powers not delegated to the general government or forbidden to the States were reserved to the States and the people. The same considerations apply with equal force to the case of an insurrection or rebellion against the authority of the United States. The Habeas Corpus may be suspended and the militia called out to suppress it—The Constitution has armed the general government with these powers to meet the emergency mentioned in the preamble to this law. But it seems to be supposed that these measures are not adequate to meet the crisis—and that the Federal government may for the time disregard the limitations of power contained in the Constitution and adopt any measures it may deem necessary to put down the rebellion. This view of the subject, in its effect, puts aside the government created by the Constitution and establishes a temporary or provisional government in its place—But the Judiciary who derive all the power they possess from the Constitutional government—and have all sworn to support it, would hardly be justified in violating any of its provisions—or in sanctioning their violation by any other Department of the government—They can never be called on to execute or enforce unconstitutional laws or recognize as justifiable assumptions of power which the Constitution has not conferred.

But there is a more serious objection to this act of Congress—than those above stated—It enables the general government to disorganize at its pleasure the government of the States—by taking forcibly from them the public officers necessary to the execution of its laws.

I have already spoken of the sovereignty reserved to the States, as altogether independent of the sovereignty of the United States and in no respect subordinate to it. It had high duties to perform in the protection of the persons and property of the citizen in preserving the peace and promoting the prosperity of the Citizens of the State. And as the militia when called into the service of the United States were to be taken from the people of the State it is essential to the existence of State Sovereignty that its governors, judges and civil officers necessary for the purpose of carrying on the government should not be taken away, and the government thereby disorganized and rendered incapable of fulfilling the duties for which it was created, what officers are required for that purpose, the State sovereignty alone can judge, accordingly we find in the clause of the Constitution herein before referred to, that no power is granted to the Federal government to determine what description of persons shall compose the military force called the militia; the power to provide for organizing, arming and disciplining the militia, was necessarily delegated to Congress to make that arm of the military force efficient by conforming that organization and discipline to that of the army, so that when called into the service of the United States they might conveniently act together.

But the power prescribed who shall be liable to be called on and who exempted, is not given, not any power from which it can be inferred, on the contrary the right to appoint the officers and train the men is reserved to the State—The State must therefore determine who are to be trained, and they are to be selected from the people or the State—It would necessarily happen that many from age or infirmity were unfit for military duty—and many would hold official stations essential to the existence and exercise of the State government; of this the people of the State have the sole right to judge. And such persons would not be enrolled and trained by the State because their duties required them to be elsewhere. And if the services of the militia were called for by the United States those only who were enrolled and trained under the State officers would be required by the State to respond to the call, and the State government would go fulfilling its functions without interruption or inconvenience.

But the Act of Congress assumes the right of the General government to enroll in the national forces of the United States, and is in the army or "land forces" as they are called in the Constitution, every able bodied male citizen of the State without regarding the position he may hold in the State government—neither the judges nor executive officers, except the governor, are exempted and are made liable to trial by military court, and to punishment as deserters, if they refuse to march when ordered by the President. What is to become of the people of a State if their executive officers and judges are taken away, and their Courts of Justice shut up? It will hardly be said in defence of the law that the Governor may appoint others to fill their places; for I believe it will be found that the people of no one of the States anticipated the possibility of such a state of things and have not therefore made provisions in their respective Constitutions to meet it. And indeed if every able bodied citizen is liable to the Conscription unless exempted by Congress, the Governors of the States, if they had not been specially exempted, might be forced into the army, and find themselves standing by the side of their generals and Judges as privates in the ranks and commanded and disciplined by officers appointed by a different sovereignty.

Neither does the privilege of hiring substitutes or paying $300, lessen the constitutional objections to the law. For the State Officers could not be required to furnish substitutes or pay $300, unless the power exists to compel them to serve in person.

There can be no actual government with-

out proper officers to exercise its powers and execute its laws. The act in question shows that Congress was fully sensible of this—and has exempted all of the executives and judicial officers of the United States, whose services are required to carry on the government. That government is preserved in the full, free and uninterrupted exercise of all its powers. But it exempts none of the Officers of the State governments, but the Governor—and it leaves him without any other officer, executive or judicial. How is the peace of the State to be preserved, and the laws efficiently executed, if the whole or even a part of the officers of the State to whom these duties have been assigned are taken away and forced into the Army of the United States? No one I think can believe that the men who framed the Constitution could have intended to give to the new sovereignty they then created the power to paralyze or cripple the old ones, so as to disable them from executing the power expressly reserved to them[16] powers essential to the safety of the people of the State and which the State government alone could exercise under the provisions of the Constitution.

I speak of the Constitutional and lawful power, not of the physical power which the Constitution has placed in the hands of the Federal government.[17]

For in a contest of mere force, a State would meet the United States upon very unequal terms—prepared as the latter always is with a disciplined army and navy at its command. But so far from intending to give the general government the power to disorganize the government of a State they have carefully and jealously excluded it from any right to interfere in the domestic controversies and difficulties of a State, even where its aid might be supposed to be useful. For in the case of rebellion or insurrection against the State government, the United States is not allowed to interfere in it, to support the State authority, unless its assistance is applied for by the Legislature of the State or by the Executive where the Legislature cannot be convened (Art.—4, S. 4.) scarcely any provision could more strongly show how anxiously and jealously the sovereignty of the States was guarded from any interposition by the United States. It is not permitted even to defend it, unless their assistance is asked for by the State authorities.

The circumstances that the Federal government pervades the whole union, and that its power within the sphere of action assigned to it, is supreme over that of the States, is perhaps calculated to create an impression upon the minds of those whose pursuits have not led them to examine particularly the provisions of the Constitution—that its supremacy over the State extends to all cases where the general government may choose to exercise it. The character of the powers assigned to it, and in which its power is supreme, is also calculated to attract the public attention far more than the quiet exercise of State powers, in any single State. But it must be remembered that State Sovereignty also pervades every part of the Union and in that respect is coextensive with that of the United States. In every part of the Union (except the territories) there is a State government, exercising independently of the general government, all the powers not delegated to the United States. These powers although not so striking as those exercised by the general Government are not less important to the happiness of the people. For while the powers conferred on the general government contain mainly our foreign relations and the intercourse between the different States, it is the State Sovereignty which preserves tranquility in the State, and guards the life, liberty and property of the individual Citizen, and protects him in his home and in his ordinary business pursuits.

It cannot be that the men who framed the Constitution, or the people who adopted it could have regarded these interests as of less value than those committed to the care of the Federal Government,—and could have intended on that account to give the latter the power, whenever it deemed it expedient to paralyze the action of the State governments,—and leave the people to choose between anarchy on the one side, or a purely unlimited military despotism on the other, to be coerced by the United States.

For the reasons above stated, I am of opinion that this Act of Congress is unconstitutional and void,—and confers no lawful authority on the persons appointed to execute it.

FOOTNOTES

[1] Omitted.

[2] Judge Taney at this point claims that the people delegated powers to the federal government. In Ableman vs. Booth he says "it was necessary that many of the rights of sovereignty which the states then possessed should be ceded to the general government." (21 Howard 517). In neither case does he say a new nation was created. In the Booth case he also pointed out that the courts were a substitute for an appeal to arms. Perhaps we might draw the conclusion that even a bad decision might be more desirable than a bad war.

[3] It would seem to follow that to refuse to obey an unconstitutional act or order of either government would be no treason. Thus the ancient Calvinistic doctrine and the spirit of Magna Charta seem to put on new life from this reading of the Constitution. There seems to be suggested a constitutional right of resistance to ungranted powers.

[4] The word sovereignty, as Daniel Webster so ably pointed out in the case of the Bank of Augusta vs. Earle, does not occur in the Constitution. Persons who remember Webster only for his nationalistic arguments in his Reply to Hayne might be both interested and surprised at his demarcation of state and federal sovereignty so well stated in this later case. It would seem that Taney's essay suggests more points in harmony with those views than either George Ticknor Curtis or Alexander H. Stephens reveals in his debate on the subject after the War Between the States (See Alexander H. Stephens, Reviewers Reviewed, New York, 1872, pp. 61–123). When Webster chose to argue for the reserved sovereignty of the states he could state it with all his accustomed ability.

[5] It has seemed to me that this paper of Judge Taney is even clearer on the rights and extent of state sovereignty than the able exposition of the subject given in the Booth case. But even at that time when Taney was upholding the powers of the federal government against the defiance of a state Taney was careful to call attention to the "voluntary" entrance of the states into the compact of the federal union. The meaning of the word contract has been virtually converted into the word organic by writers of the federalist and nationalist schools of thought.

[6] This relationship still exists. Should the New Deal and even the federal government perish in some frightful political cataclysm the states would, legally at least, remain with their rights of sovereignty and allegiance unimpaired.

[7] This enunciation is a great victory for states' rights and state sovereignty, for it locates a residual sovereignty powerful to defend itself within the language of the constitution itself. It is an argument which could be used either by the Calhoun followers or by those of Taney. Taney was no worshipper or follower of Calhoun. Indeed he seems to have either distrusted or disliked him. See Carl Brent Swisher's Roger B. Taney, New York, 1935, p. 451.

[8] See note 3.

[9] This paragraph reminds us of a part of President Buchanan's Message of December 1860. One of the instances of this doctrine of limitation will be found in Taney's opinion in Commonwealth of Kentucky vs. Dennison, Governor of Ohio, (241 Howard 107). In this case, it will be remembered, Taney overruled the fugitive slave law in favor of non-coercion of the Governor. President Buchanan's message in 1860 in favor of the non-coercion of a state found some critics but some of his friends and certain of his foes held that the Supreme Court had in this case sustained his argument, e.g. Charles Warren, The Supreme Court, Boston, 1932, Vol. II, p. 367.

[10] A second oath is still used to federalize the militia.

[11] Marshall, before he went on the bench, seemed to hold that the states had the right to resist federal usurpations by force of arms if necessary. Madison once spoke in the same strain. See P. C. Centz. (alias for Sage), The Republic of Republics, Boston, 1881, pp. 389, 392; Elliot's Debates, vol. III, 414, 420. Governor John Floyd of Virginia defined Andrew Jackson's intention to coerce South Carolina as treason. He was not only prepared to resist it but if necessary to die in the struggle. Charles H. Amber. Ed., The Life and Diary of John Floyd, Richmond, 1918, pp. 204, 206. As a result of Floyd's defiant attitude federal troops were sent by sea instead of through the Old Dominion. No actual engagement was fought at the time and the question rested until 1861.

[12] Lincoln saw this difficulty but nevertheless claimed the power for the federal government. Professor Andrew C. MacLaughlin in his able but very federalistic volume, *Constitutional History of the United States*, (New York, 1935, pp. 628, 629, quoting Lincoln's works, vol. II, p. 381), extols Lincoln's policy.

[13] Chief Justice White, himself a Confederate Veteran, took a different view of the subject in the draft cases in 1918 (245 U.S. 366). Although he stressed the changes wrought by the 14th Amendment in that case, he seemed unwilling to admit that Elliot's Debates would have denied him a similar conclusion. Taney had knowledge of these debates and came to a different conclusion. According to Doctor Steiner, Taney thought what had sufficed for Washington ought to be sufficient for Lincoln. We managed to survive the Revolution without a draft by the central authority and ought to have been able to do as well under the stronger union of 1789. He held that the same method was ample in either event. After all it is a sad commentary on democracy when the so-called sovereign people have to be forced by their alleged agents to continue a slaughter. Both governments in the War of '61 had to resort to conscription and both found much opposition in their paths. Taney hoped that both sides would call a convention and settle their differences. See Smith's *Roger B. Taney*, p. 190, Durham, N.C., 1935.

[14] For the unpopularity of the draft during the War of 1812 (See McMaster, *A History of the People of the United States*, Vol. IV, pp. 241, 242). This action was against a foreign enemy.

[15] Evidently Taney would not have held that the governors, who refused to call out the militia in answer to Lincoln's orders, were guilty of misconduct. Such governors who refused were either silent or questioned the constitutionality of the call.

[16] This same type of reasoning appears in Kentucky vs. Dennison. When the conscription act of the Confederacy was challenged the opponents of the act used this same line of attack. Their reasoning is as clear as Taney's statement. Moreover, the Confederate Constitution like the Articles of Confederation left no doubt as to its position in the matter of state sovereignty. Yet the Virginia Court before which the case was tried, rejected this point of view and sustained the Confederate draft. (John Randolph Tucker, The Constitution of the United States, Chicago, 1897, vol. 11, pp. 579, 580). It was the same line of reasoning which Chief Justice White

accepted in the draft cases in 1918. Thus a broad construction view of a Confederate Court became part of the law of the land during the World War. Had Taney decided the matter in the 60's his opinion in Kentucky vs. Dennison seems to indicate that he would not have sustained a Federal Conscription Act. His essay leaves no doubt concerning his personal views on the subject.

[17] These excellent distinctions between right and might deserve a wider circulation.

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

The PRESIDING OFFICER. On whose time?

Mr. HATFIELD. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. 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. STENNIS. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Oregon, No. 1370.

Mr. STENNIS. Mr. President, for the information of Senators, there is a time limitation of 3 hours on this amendment, and it is possible that we will be able to yield back some time, as indicated to me by the Senator from Oregon. I state that for the information and guidance of the Senate. Two Senators have asked me to yield them some time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. ROBERT C. BYRD. I am glad to hear the distinguished manager of the bill indicate that there is a good possibility that time will be yielded back. With all the amendments and the passage of another bill in sight before the day ends, it is going to run us quite late if full time is taken on each amendment. Would there be any possibility at this time that the distinguished manager of the bill would indicate that the time could be cut back on this amendment from 3 to 2 hours?

Mr. STENNIS. I think it could be better than that.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator from Oregon if he would react to that question?

Mr. HATFIELD. I am willing to yield back the remainder of my time at this point.

Mr. STENNIS. I hope to be able to communicate within the next few minutes with the two Senators who want to speak.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STENNIS. Mr. President, we all recall that last year we spent a great number of weeks in debate after full hearings about the extension of the draft. Some thought the draft should be extended for 2 years, as was the custom. Some wanted it extended for 2 years, others 1 year, and others did not want it renewed at all. After the utmost consideration, we finally agreed in substance—the majority did—that assuming that the volunteer Army was going to be the future program, 2 more years of the draft was necessary, nevertheless, and we passed the bill on that basis.

One year has passed, and my remarks will relate primarily to what has happened since then and will lead to a conclusion of the need for the draft certainly for another year.

Mr. President, I yield myself 10 minutes, and I will conclude as rapidly as I can.

For more than 30 years, this Nation has relied on the draft as a major source of military manpower. The transition to an all-volunteer armed force must be careful and deliberate or it may not succeed. I think it is clear that many want to end the draft as quickly as possible, but it is important that we not sacrifice the strength and effectiveness of the Armed Forces in the process. Last year the Congress approved a legislative program to raise military pay, improve conditions of military service and extend the draft for 2 years until July 1, 1973. In my opinion, this 2-year period is a reasonable timetable for giving the all-volunteer force a fair chance. Any shortening of this time—any disruption of this planning—would mean that we would risk losing the chance of attaining an all-volunteer force.

Let us examine the record of accomplishment during the last 3 years:

The draft system was reformed by eliminating inequitable deferments and by reducing a young man's period of draft vulnerability from 7 to 1 year.

Draft calls were reduced from 299,000 in 1968 to 50,000 in 1972. This reduction in draft calls was made possible by substantially reducing the size of the Active Forces and by troop withdrawals from Vietnam. The Active Forces were reduced by 1.2 million men and U.S. troop levels in Vietnam are being reduced from a peak of 549,500 to 39,000 by September 1.

The Department of Defense recently announced that draftees will not be sent to Vietnam.

Military pay has been raised to competitive levels, the service recruiting organizations have been expanded and vigorous efforts are being made by the armed services to improve the attractiveness of military service. As a result of these actions, there has been a slow but steady increase of volunteers who joined, because they perceive the advantages of a military career and not because of the pressure of the draft.

Although we may be within sight of the goal of ending the draft, much remains to be done in the 11 months before July 1, 1973. I hope the services can succeed in these 11 months, but they need all this time.

Mr. President, I was doubtful about the so-called volunteer army, but I agreed to give it a try. I thought 2 years was the minimum, and the experience of the first year has proved not only that it is essential to have the draft for 2 years, but it proves that there is a good chance it might be successful. So it is entirely possible that, a year from now, instead of talking about repealing the draft law, we will be saying that everyone is happy and we are not going to have a draft law. I am not committing myself to that position now, but I am not so hardheaded as some think. When we get some proof, I will be happy that we can end the draft.

The number of true volunteers entering military service is still inadequate to sustain the Active Forces. In fiscal year 1972, 93,000, or 25 percent of the 371,000 who enlisted, volunteered only because of the pressure of the draft. This is an improvement over last year, but we still have a long way to go before we can do without this draft pressure on enlistments. These draft induced enlistments are running about double the actual number of draftees who are inducted.

Strength shortages in the National Guard and Reserves are serious—49,000 below statutory strength—because draft inducement is more important in the Reserves than even in the Regulars.

Health professionals and other critical specialists are badly needed, and a quick termination of the draft could create a health manpower crisis in the Armed Forces.

The amendment to end the draft on December 31, 1972, will not solve any of these difficult manpower problems. I strongly urge the Senate to vote against this amendment and to give the Department of Defense time to try to make the volunteer Armed Force concept work.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter to me, dated yesterday, from the General Counsel of the Department of Defense, which urges and gives reasons for the retention of the draft until July 1, 1973.

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

JULY 31, 1972.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to Amendment No. 1370 to H.R. 15495, 92d Congress.

The Amendment would amend section 17 (c) of the Military Selective Service Act to terminate induction authority thereunder on December 31, 1972 instead of July 1, 1973.

Military manpower requirements essential to the national security are not yet being fully met even with limited induction; hence, termination of such authority on December 31, 1972 could jeopardize national security.

Before the draft can be safely terminated, there are significant problems which must be solved:

Twenty-five percent of those who enlisted in the past fiscal year volunteered only because of the pressure of the draft. Additional time will be required to increase the number of true volunteers entering the Active Forces.

Additional incentives are needed to avoid projected shortages of doctors and other health professionals after the draft ends, and to meet requirements for other critical specialists whose skills command a premium wage in the civilian economy.

The National Guard and Reserves have fallen 49,000 below their statutory strengths as draft pressure has eased. Guard and Reserve strengths will continue to decline unless a way is found to stimulate enlistments and reenlistments.

The Department of Defense believes that these problems can be solved if it is given the time to improve the attractiveness of military service.

The most significant effect on officer pro-

curement would be in the ability to obtain health professionals, particularly physicians and dentists. For more than twenty years most of these officers have been obtained as a result of the existence of the so-called "doctor draft". If this mechanism is removed before alternative procurement methods are developed, it is anticipated that the Department of Defense would be unable to obtain the minimum number of health professionals necessary to meet military requirements. The most immediate deficit would be among dental officers because the procurement of dentists during FY 1973 is dependent upon the continued existence of the "doctor draft."

Accordingly, the Department of Defense strongly recommends against the adoption of Amendment No. 1370.

Sincerely,

J. FRED BUZHARDT.

Mr. STENNIS. Mr. President, we have some staff members out now from the Armed Services Committee making a survey about readiness of the Army, as to manpower, weaponry, morale, and so forth. They made a preliminary run last week. I awaited their report on that before firming up the idea that we would make this complete study. Now it is my opinion that we should make the survey complete. Although I am not convinced yet, it may be that we will have hearings on this entire matter of readiness which includes the points I have already listed, but certainly this indicates that an honest try is being given to make the volunteer Army work.

If we repeal the Selective Service Act now, virtually everything we have gained will have been lost. Pandemonium, almost, will result. Whereas, if we let this run until the expiration date, we can prepare for that date in advance, or we can prepare for a plan to try to get it renewed.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. STAFFORD). Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from South Carolina (Mr. THURMOND), and then I will yield to the distinguished Senator from New York (Mr. BUCKLEY) next.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr President, I rise in opposition to the pending amendment offered by the distinguished Senator from Oregon (Mr. HATFIELD).

This amendment would terminate the Selective Service Act December 31, 1972, rather than July 1, 1973, as earlier provided for by the Congress.

Mr. President, the orderly termination of the draft is a major and costly undertaking. It is not possible to say at this time as to whether or not it can be safely accomplished.

While draft calls have been low in recent months, it is still necessary to bring into military service small numbers of personnel to meet the national security needs of the Nation. Without the Selective Service authority to summon these men and without the act's inducement upon volunteers the Nation's uniformed forces could be forced into a serious condition.

The Senate should bear in mind that the Congress has sharply cut back the Army in recent years and the resulting personnel turbulence has brought readiness levels down to very low points. Further personnel turbulence, such as could result from this amendment almost certainly would cause serious problems, especially in the Army.

President Nixon's program to reach a volunteer force and to end reliance on the draft as early as possible while meeting our national security requirements have been assigned the highest priority within the Department of Defense.

Significant progress has been made in moving to a volunteer force but there are, nevertheless, major problems remaining. Draft calls were reduced to 98,000 in calendar year 1971 compared to 163,500 in calendar year 1970. During the last 6 months of calendar year 1971, it is estimated that 70 percent of all enlistees were true volunteers compared to 60 percent of enlistments a year ago and 50 percent 2 years ago.

Further, on June 28, 1971, the President announced the nonassignment of draftees to Vietnam unless they volunteer. At the time of the President's announcement, 170 draftees were on orders for assignment to Vietnam during the period July–October 1972. There appears to be no severe impact from their reassignment.

The initial assessment on the basis of July enlistments to date is that the President's announcement has had no adverse effect on enlistments in part due to the virtual cessation of U.S. Army forces in land combat operations.

Present shortfalls in recruiting for the National Guard and Reserve Forces would increase in fiscal year 1973 if the induction authority was terminated on July 1, 1972. Abut three-fourths of all Guard and Reserve enlishments were draft-motivated in fiscal year 1971. In spite of the pay raise and intensified recruiting efforts, and because of the very low draft calls, actual strengths of the Guard and Reserve have dropped 52,000 below statutory minimums. It not only appears that congressional authorization will be required for additional incentives to improve voluntary enlistments in the Guard and Reserve, but that during fiscal year 1973 continuation of the draft authority will be necessary as a motivator of enlistments until the other programs are more productive.

Mr. President, for these reasons I oppose the amendment and hope that it will be rejected.

Mr. STENNIS. Mr. President, I now yield 5 minutes to the distinguished Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from New York is recognized for 5 minutes.

Mr. BUCKLEY. Mr. President, I want to thank the Senator from Mississippi for yielding me this time.

I stand, also, to speak in opposition to the pending amendment. I do so not because I do not have total sympathy with the objectives of the distinguished Senator from Oregon (Mr. HATFIELD). As a matter of fact, a year ago I argued as strongly as I could in favor of the Dominick amendment which would have terminated the extension of the draft on December 31, 1972. When that failed, I also introduced an amendment of my own, seeking a compromise which would have terminated the draft in March of next year, in order precisely to keep strong pressure on the military to do its best, toward achieving the objective of a volunteer military.

I feel, however, that this Congress made its decision a year ago when it provided the Department of Defense with a 2-year period within which to achieve the objective of an all volunteer military. I think that Congress made it totally clear, in coming forward with the 2-year extension instead of the customary longer extension, that Congress was serious about achieving that objective.

I would agree with the distinguished Senator from Oregon that, in many details, the Pentagon has probably not been so effective as it might have been in inducing young men to volunteer for military service or to choose military careers.

For example, we saw the phenomenon of allowing thousands upon thousands of young men to terminate their service 4 months earlier, ahead of schedule, when the offer of such a termination could have been used as an inducement for the men to join the Reserves, where we are falling so critically short.

But, nevertheless, I again get back to my main point and that is that to attempt, now, this late in this period, to cut the draft back by over 50 percent in the remaining time, would create pressures that would be unfair to the military and, by the same token, pressures which could jeopardize the concept of the volunteer military.

I believe that the last thing we want is to see this concept fail. It is a concept that is totally in the tradition of America's history, a concept that is totally consistent with our ideas of freedom and of voluntarism.

I, for one, do not want to see our chances of establishing that it can work aborted by an attempt to assert discretion far too late in the game to be effective. Finally, I would like to say that one of the best times in which to achieve the enlistment of large numbers of recruits comes right after the close of the school year when young men and graduating from high school or from colleges and are thinking about their lifetime careers, when the larger pay scales now available for those in the military service are far more attractive, and when they can weigh the advantages and the integrity of service and military life outside the context of a hot war.

I believe it would be very foolish to remove the opportunity for the military to make an effort to get recruits in the crucial month of June of next year by terminating the draft on December 31 of this year.

Mr. President, as I say. I totally sympathize with the objectives of the Senator from Oregon. But I believe his effort to totally achieve an all-volunteer army at an earlier date is contrary to the result that we all want.

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. CRANSTON. Mr. President, I first want to applaud the Senator from Oregon for the distinguished leadership he has provided in committee and in the Senate over a substantial period of time in the fight against the draft. His consistency and deep understanding of this complex issue has been a great source of our committee's effort.

Mr. President, the Senator's basic presentation covered many of the key issues involved in a consideration of whether we should abolish the draft and move at once to an all-volunteer army.

One major point, it seems to me, is that a dictatorship gives orders even when unnecessary, and a democracy should always give choices and only gives orders when it is absolutely necessary.

Mr. President, I worked as a young newspaper correspondent in Hitler's Germany. And a member of that program defined that regime as meaning that "everything that was not prohibited was compulsory." We should be as far from that as we can be.

Judging from the studies I and others have made, and from the criteria applied by the Senator from Oregon, I am convinced that we can meet our manpower needs without a draft.

At the present time, therefore, I believe that a draft is totally inconsistent with a democracy.

The President of the United States has stated that he wants to end the draft by June 30, 1973. I believe that he is sincere in working toward that goal. However, recent hearings before the Armed Services Committee and the Subcommittee on the Volunteer Armed Force and Selective Service have convinced me that the miiltary is not moving fast enough toward the President's goal.

Rather than increasing their requests for volunteer-force initiatives in the fiscal year 1972 budget, the Department of Defense has actually lowered its request in this area, from $320 million in fiscal year 1972 to $272 million for fiscal year 1973. This reduction is significant because this budget will take us through the President's target date, and because the hearings held this year demonstrate that the services have a long way to go before achieving an all-volunteer-force capability. Apparently, either the Department feels that all the problems have been solved, or someone in the Department is not interested in meeting the President's date.

One example of an Army program which is far behind schedule is the barracks rehabilitation program. Lt. Gen. George I. Forsythe, Special Assistant for the Modern All Volunter Army, testified that the fiscal year 1971 portion of the program is only 78 percent complete and the fiscal year 1972 part of the program is only 10 percent complete. Even more surprising however, was the revelation that this program is behind schedule because the Army has been transferring funds from this program for the war effort in Vietnam. I think we all can agree that the money for the Vietnam war should come from direct appropriations, not from the money the Congress expected to be spent on improving the lot of the individual GI.

Beyond this example, housing opportunities, most travel allowances—for household goods and dependents—and separation allowances—all of which are available to careerists—are still denied to junior enlisted men. The results are discussed in the article, "Poverty in Europe," published in a recent issue of the Army Times. The situation is particularly severe overseas, but it is no less a problem here in the United States, where some men are still forced to make use of food stamps and other welfare programs.

Neither has the military even begun to make full use of women. The Department claims that more studies are needed before they can determine where women can be best utilized. It has been 3 years since the President announced his June 30 deadline for ending reliance on the draft. Why were not these studies made long ago if the Pentagon really believed the President? And, furthermore, why is the Department insisting that only 18,000 women will be utilized by 1978?

By far the worst example of bad management by the military, however, was the Army's handling of the reduction in force ordered by the Congress last year. As a result of very poor planning, too many men were released early, leaving the Army with a shortfall of 40,000 men which will have to be made up in 1973. I wonder why we should make young men suffer the consequences of the Army's bad personnel planning and policies. Assuming, however, that we must make up the shortfall, the Hatfield amendment does not go into effect until December 1972. That should allow plenty of time to utilize the draft.

The Navy must also come in for some criticism because they waited too long before upgrading their recruiting procedures. This has resulted in a shortfall for the Navy as well. It is interesting to note that, in spite of the traditional recruiting advantage the Navy has held over the Army, the Army's performance has been far superior in the low-draft environment. On the other hand, both the Army and the Navy are 3 years behind the Air Force in utilizing modern recruiting techniques.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I yield 3 additional minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 additional minutes.

Mr. CRANSTON. Finally, Mr. President, the Reserves and the National Guard are also facing a shortfall of 50,000 men as a result of waiting too long before developing a recruiting system. These two branches have traditionally been able to depend on draft-induced volunteers, but in a low draft situation, their numbers have fallen off sharply. Again the question arises: Why did they wait until they were confronted by low draft pressure to to begin implementing an adequate recruiting system?

Mr. President, I am convinced that the military did not believe that the President really intended to let the draft expire in June of 1973. For that reason, they have dragged their feet in implementing the programs which would make achievement of this goal possible. However, it is not too late. If the Senate acts now and ends the draft on December 31 of this year, the services will still have time to implement the programs already funded, and the Congress can respond by acting on the incentive package which I introduced along with the Senator from Colorado (Mr. ALLOTT). I believe that this is the only way we can in fact achieve an end to the draft, because the military shows no inclination to end their reliance on this abhorrent system.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. GOLDWATER. Mr. President, it is with deep reluctance that I rise to speak in opposition of the proposal of my friend, the Senator from Oregon. He and I traveled in the same direction in days past on this measure to bring the men home earlier.

I feel particularly keen about this. I believe I was the first man in public life to openly advocate the end of the draft, and I did so in my opening speech during my campaign of 1964.

The reason I oppose this, Mr. President, is mostly a matter of timing. I would have to agree with the Senator from California that the military generally have not taken after the all volunteer military with the insight and the zeal that I think they should have. I really believe they felt that we would never end the draft in Congress. But I think they are convinced now that Congress means that on June 30 of next year the draft will end.

My opposition to the draft is a moral one and a constitutional one. I do not believe, with the exception of a dire emergency when this country must raise a military force of millions of men, that we have the constitutional or the moral right to tell any young person how he or she is going to spend 2, 3, or 4 years of his or her life.

If we try to do this at this time, and end the draft at the end of December, I do not think that it is fair to the Pentagon. They realize we mean business when we talk about a volunteer military. We should keep prodding them and I feel, as I have all along, as the war in Vietnam ends and the division ends in this country, particularly among young people about serving their country in time of need, the military is going to become an attractive career.

Certainly, we have raised the pay scales and we have raised fringe benefits. We have made service in the military, while not comparable fully in pay, comparable to other professions and businesses. Certainly, comparability has been raised and it should become, as it has been in years past, very desirable for any young man or woman in the future.

I hope this amendment is defeated. Knowing the military as I do, I know

their change of heart. I know while some people in the military do not believe we can have a volunteer force, I firmly believe we can, and I think those people in the personnel departments of the different branches of our military are beginning to realize they are going to be dependent upon volunteers and they are going to improve their methods of attracting these people. After all, there is not much difference between December 31 and June 30. Our call for draftees has dropped almost to zero. The pitiful thing of this whole operation to me is the fact that we are seeing applications for Reserve service and National Guard service fall off because men no longer feel they have to duck the draft by getting into these two groups. If we are going to maintain a Reserve Force at the adequacy Secretary Laird has said it must be held in both the Reserve and the Guard, we will have more young men and women asking to join these organizations, and both will be better organizations if they are not filled up with people using them to get out of being drafted.

While I dislike disagreeing with my friend from Oregon, I feel in this case that, in all fairness, it would not be fair to the military or to the country at this time to order an end to the draft. It is going to be difficult enough to bring it to an end in June.

Mr. President, I hope the vote will be against the amendment.

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. HATFIELD. Mr. President, briefly, to summarize the posture of the amendment and the purpose as to why I presented it at this time, I think it is very interesting to know that even for those who have agreed with the basic philosophy of a volunteer system, many are caught in the dilemma as to whether the military has taken it seriously.

Frankly, this is a cause of great concern to me that we have to say on the floor of the Senate in effect that the military perhaps has been dragging its feet in fulfilling the mandate of Congress, not only the mandate on forced reductions but even on the mandate which has been clearly stated by the President of the United States that the draft is going to end in June 1973. I think that is something of great concern to all of us because no admiral or general should be higher in decisionmaking or policymaking in this democracy of ours than the civilians who are represented on the floor of the Senate and on the floor of the House.

Frankly, too often we had abdicated our responsibility by saying that the generals and admirals know best. That is not what the Constitution says. The Constitution states that Congress sets the military levels and raises the Army and the Navy.

It is a sad admission we have to make on too many occasions that we in Congress, as civilians, do not have the expertise, or that we have to wait for the admirals and the generals to make decisions or tell us how to make decisions. I have great respect for our military leadership. Some of my closest friends represent the leadership in the Army, Navy, and Air Fore, but as one Senator I have a constitutional duty to be informed fully, to know what the facts are, to make judgments with the input of the military counsel but not in the domination of the military, either because of its failure to fulfill the mandate of Congresss or because it is dragging its feet on the objectives stated by the President.

It is clear that even with the reduction in the draft calls in the last 3 years, we have had a distinctive increase, a very noticeable and impressive increase in enlistments in the Army and for combat duty within the Army. We have already cited statistics of how much increase we have had but also not only have we had an increase in the number who volunteered at a time when there was less pressure from the draft and threat for them to be drafted, but an increase in the quality of our military personnel.

I have cited statistics where we had up to an 84- to 88-percent increase in high school graduates just in the first 6-month period of this year. We also concede there has been mismanagement on the part of the Pentagon which created the shortfall. and with better personnel management we could have achieved the all-volunteer army even before this moment at which we speak, let alone the time set forth in this amendment of December 31.

Mr. President, yesterday Secretary of Defense Laird addressed an ROTC summer training program in Indiantown Gap Military Reservation, Pa. I ask unanimous consent to have printed in the RECORD the remarks he made at that time.

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

ADDRESS OF SECRETARY OF DEFENSE MELVIN R. LAIRD

Secretary LAIRD: Thank you very much. I appreciate this opportunity to visit with the ROTC Cadets that are here at Indiantown Gap. I've had the opportunity to be here before as Member of Congress some six years ago when there was some talk about changing over this particular training spot and making some changes. After that trip it was agreed that we would keep this facility open for a period of time and the Executive Branch yielded to Congressional pressure at that particular time. I was part of that Congressional pressure.

I'm here today to try to dramatize, as best as I can, the importance of the ROTC program as we begin another school year. We have a waiting list of universities and colleges that are interested in taking this program on and we are doing, I believe, very well in maintaining our enrollment. Next year, I hope that there's some women here at this training program as far as your Army is concerned, because we have equal and fair treatment for all individuals as far as the Services are concerned. We're moving in the direction of moving up the Army, as the Air Force has already done, to ROTC training for women as well as men.

I'm from a political background, as all of you know. I was for nine terms in the Congress of the United States, the House of Representatives, and then have served as Secretary of Defense these past 3½ years. There's one thing that's a great asset. Don't let anybody mislead you about that. Military service is one of the first things a Democrat or a Republican lists as one of their qualifications to go forward in public life. When people are looking for a job or a job opportunity after they get out of college or after they finish their other training pursuit, whether it be in vocational education or high school technical programs, one of the first things that you'll see on any job application, one of the things looked at by employers and personnel managers all over this country, is the fact that a young person has had some of the military training some of the discipline that goes along with military training, and so I think that's one of the things we should be talking about.

We're changing in the Department of Defense for the first time since 1939. Since 1939, as all of you know, the manpower requirement as far as the Department of Defense is concerned has been made up of conscript labor, where young people did not have a choice. Each time there was a manpower problem in the Department of Defense, be it in the Army, Navy, the Air Force, the Marine Corps, all the personnel officers had to do was just look to Selective Service and say, well, we can fill those requirements by putting a little more pressure on as far as Selective Service is concerned.

The military was not adequately paid or adequately compensated as compared with other segments of our society. Since 1939 that manpower problem has been taken care of that way. We are making the change and we are going to make the transition so that on June 30 of next year we will be in a volunteer situation, and we're moving in that direction as you know. When I became Secretary of Defense, 300,000 young people were taken into military service through the Selective Service and many more were draft-motivated. We reduced that to 200,000 the first year; then 100,000; and 50,000 this year; and we will go to zero by June 30. We've done that by making some of the incentives available to young men and to young women, and we've put almost the entire peace dividend as we've changed from war and wound down the war in Southeast Asia; as we've removed over 500,000 men, we've taken this savings that has come about there and put them almost entirely into manpower. So that all you have to do is look at the manpower costs in 1965, when we were spending $21 billion in this manpower area but we've done it because we believe that one out of ten, under a volunteer service, which we will reach this next year, one out of ten young men and women, that are needed for military service should be compensated just as other people in our society are compensated for the kind of jobs that they're doing.

Their job is just as important as other professional jobs are in our society, because the national security requirements which are the requirements that we have to maintain the foreign policy objectives of our country, to meet the obligations of our four multilateral and four bilateral treaty arrangements which have been confirmed and approved under our Constitutional process by the United States Senate, those obligations have to be met, they are to be met by young men and women who are willing to serve in our military services. But everyone isn't going to be required to serve, but those that do serve should be adequately compensated on a fair and equitable basis and the labor costs should up in the Defense budget and we should stop using conscript labor to use and meet the national security requirements of our country.

So as you go back, and some of you will be going back to your college campuses, I hope that you will discuss with your fellow students the importance of adequately financing in the Defense budget the manpower costs; adequately compensating those young men

and women who've given us this foreign policy tool that is so important. It's absolutely essential, I think, that we not take any back seat from anyone in stressing the importance of truly reflecting our labor costs for manpower in the DoD budget, and not using other means of taxing our young people to perform this important labor which is so necessary to the safety and security of our people.

I've talked too long. I just wanted to express to you my appreciation as Secretary of Defense for the contribution all of you are making, and to hope that you will never take a back seat in looking upon your mission, your training with pride, because I know I'm proud to be associated with you, and the important work which we have in restoring peace and maintaining peace for the years to come.

Thank you.

Mr. HATFIELD. Mr. President, I wish to quote from one part of the statement where Secretary Laird said:

We should stop using conscript labor to use and meet the national security requirements of our country.

That is about as clear a statement that I can imagine, using the King's English, or I guess it is using the Queen's English, from the Secretary of Defense as to his position. It is very clearly stated.

The President has made a very clear statement giving dates as to his commitment and I think with the record I have cited and the statistics from the Pentagon and the Senate Armed Services Committee, it is well within our responsibility and well within our authority and well within our good sound judgment to bring about an end to the draft and signify that to the Armed Forces effective December 31 of this year.

Mr. STENNIS. Mr. President, there are no other speakers that I know of who wish to speak in opposition to the amendment. I have only this concluding thought.

Senators will recall that we passed the 2-year Selective Service Act and that 1 year of that period has expired. All of these efforts have been going on in trying to get a volunteer army concept that is workable but naturally more than 1 year is required. Plans were based on a 2-year concept. To cut it off now would be to reverse what has been done and throw away what progress has been made.

I hope the amendment is rejected. I hope next year we will not have to enact a continuation of the draft, but as of now I think the probabilities are that we will have to reenact it. That is all I can say, and I am ready, if the Senator from Oregon is ready, to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Oregon yield back the remainder of his time?

Mr. HATFIELD. Mr. President. I am ready to yield back, but first I would like to say that I always enjoy debate and colloquy on the floor of the Senate with my good friend from Mississippi because, as he recalls, we had this debate in 1967, 1968, 1969, 1970, 1971, and again in 1972, and we are always just in the preparation of an all-volunteer army. So I say, with all respect, I hope to be back here in 1973, and by that time to celebrate, if we do not adopt this amendment, the passing of a very odious form of conscription, which is contrary, in my opinion, to the ideals of a democracy and the ideas expressed therein.

Mr. STENNIS. Mr. President, may I take half a minute to reply?

In the debates the Senator is referring to, he certainly had me traveling uphill and going in low gear. Today we are just floating along in neutral, and it is a lot easier this way.

Mr. STAFFORD. Mr. President, since I have the highest personal regard for the outstanding Senator from Oregon and because I have been proposing an all-volunteer force since 1967, it is with regret that I oppose his amendment to end the draft as of December 31 of this year. The draft expires next June 30, and as I do not expect the Senate to extend the authority at that time, I see no valid reason for cutting the period by 6 months, thus jeopardizing the administration's efforts to end the draft once and for all.

It is simply not fair to the administration to cut short its final months when just last year we gave them a clear extension of induction authority until June 30, 1973. As a Member of the House of Representatives, I voted last year for a 1-year extension. But that vote lost in the House just as it did in the Senate.

Congress by its actions gave the administration until June 30, 1973, to complete its transition to an all-volunteer force. The planning and programing depend on that time period, and to suddenly cut that short by a full 6 months could create havoc with any sensible planning process.

But what is more more important, Mr. President, is the fact that because the draft almost surely will not be extended next year, the services need those final 6 months to improve their manpower management to a point where they will be able to sustain sufficient forces to meet our national security needs on a completely volunteer basis.

That we are now in the final 11 months of the draft is quite clear. Just yesterday, Secretary Laird told a group of ROTC cadets that, and I quote, "The United States will have an all-volunteer Army by next June 30." I want to emphasize the significance of this statement, for it is the first time that the administration has set a firm date. Up to now, the administration, as well as all of us, have been simply hoping that we would be able to make it. The Secretary has now committed the Department of Defense and the military services to reaching that goal.

I am, I admit, sympathetic with the argument that ending the draft now will put such pressure on the services that to protect their own force levels, they will then, and only then, make the effort needed to attract and retain sufficient volunteers. Some of the manpower policy problems that have developed over the last year would indicate that there is a viable basis for such an argument.

But I think it premature—essentially because the services are finally accepting the fact that the draft is not one of their planning options—that it would not exist after next June. Because of this, I think we can assume that they will do all that is necessary over the next 11 months to insure that we will meet the needs of national security with volunteers, and be able to do so on a continuing basis.

I am reminded of the Army's attitude just last year. In June, the conference committee on the Military Selective Service Act and pay bill issued a statement of agreement on 27 of the 28 differences between the House and the Senate—reserving the end-the-war language for further discussion. At that time, it became fully clear that the Army would be required to implement a reduction in force of some 50,000 average man-years during fiscal year 1972. But planning and actions did not go into effect until after the President signed the act in September and a full third of the year had been lost. Had action been taken earlier, the reduction in force would not have forced the Army to drop its reenlistment rate precipitously and lose valuable, trained men who were volunteering for continued duty. Their actions are reflected in much higher than necessary draft calls this year and a general postponement of the day when zero calls would have been reached.

At a meeting in my office with Assistant Secretary of the Army for Manpower and Reserve Affairs Hadlai Hull and General Kerwin, Deputy Chief of Staff for Personnel, both men assured me that they understood the draft would not be extended next year. Speculation was irrelevant, they added, for their planning was based on that assumption. In other words, leaders in the Army were finally understanding that an end-of-the-draft is a foregone conclusion. Now is not the time, therefore, to snap the rug out from under these manpower planners who are counting on the final 11 months to implement the remaining changes necessary to establish a no-draft situation without endangering national security.

I am impressed with many of the actions recently taken by Navy to bolster its recruiting establishment, including an attempt to up-grade the quality of Navy recruiters. Their delay of 9 months to a year was costly, to be sure; but having now undertaken reform, those reforms need a chance to become effective.

A recruiter new in a territory is just not going to recruit as many men as he will after some months on the job gaining experience in the community and developing personal contacts. No salesman strikes 100 percent his first day in a new territory, and neither should we expect that from our recruiters. We should begin to see the effects of the Navy's reforms in this area by late fall and get the benefit of their actions fully next spring, just as the draft is coming to an end. But again, that first 6 months of next year is needed to finish the transition process.

Mr. President, I have arranged for continuing information on the Army's and Navy's progress toward an all-volunteer force. In an attempt to understand the nature of some of the problems that have developed over the last year, I will be looking closely at a broad range of manpower management. I am hopeful that I can report to the Senate at a

later time that progress is smooth, fast and successful. It is my ultimate hope that next spring, as the Congress places the Selective Service System on a stand-by basis, I can congratulate the services on a job well done. Keeping to the timetable we set last fall will, I am sure, give the services the opportunity to do what is necessary so that my report to the Senate next year will be all that I hope.

Mr. PERCY. Mr. President, I am pleased to join the Senator from Oregon (Mr. HATFIELD) in his amendment to end the draft by December 31, 1972. Last year, I supported the efforts of Senator SCHWEIKER to limit the draft extension to 1 year.

The Gates commission estimated that a 1-year transition would be necessary between enactment of substantial pay increases for the military and an end to the draft. Although Senator SCHWEIKER's amendment was narrowly defeated last year, Senator ALLOTT's proposal to establish military pay comparability for first-term enlisted men—which I cosponsored—prevailed. The new pay scales and the cost-of-living increase became effective on January 1, 1972—thus creating the 1-year transition period if we terminate the draft at the end of this year.

Four years ago, few commentators seriously regarded the idea that the draft could be ended when Richard M. Nixon embraced the concept during his 1968 campaign. But upon taking office, President Nixon set out to achieve that goal. One of his first acts as President was to appoint a commission to develop a plan for ending the draft. The commission reported that an end to the draft was both feasible and desirable—and that by establishing an equitable wage scale for our men in uniform, an effective volunteer force could be created to meet our peacetime military requirements.

Since that time a wide variety of proposals to carry out the commission's recommendations have been developed. In addition to pay raises, other programs have sought to remove many of the irritants traditionally associated with service life, enhance the dignity of the individual GI, and provide adequate living conditions for the serviceman and his family. Recruiting forces have been greatly expanded, and a variety of proposals have been developed to attract high-caliber personnel into the Armed Forces. The success of this effort can be seen in the fact that the administration has been able to reduce draft calls from 150,000 in fiscal year 1971 to 25,000 in fiscal year 1972.

Of course, as the Senator from Oregon (Mr. HATFIELD) has noted, these programs must be perfected and refined—and his amendment provides the Defense Department with the time to make the transition to an all-volunteer force.

While the President has provided the leadership in this field, I should also like to note the role that this body has played in the debate over the draft. Support for an all-volunteer army has come from members of both parties. The debate was initiated largely through the efforts of the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD). In addition, the Senator from Colorado (Mr. ALLOTT) and the Senator from California (Mr. CRANSTON) worked together in the successful effort to achieve comparability in military pay. The proposal last year to limit the draft extension to 1 year, which I supported was introduced by the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Iowa (Mr. HUGHES). It has been this type of bipartisan cooperation which has led to the success achieved so far in designing programs which will enable us to end the draft.

In conclusion I should like to note that in ending the draft, we are taking a responsible, sensible step, consistent with the need to meet our national security requirements. As Assistant Secretary of Defense Roger T. Kelley told the Senate Armed Services Committee this spring:

> I told you when I appeared about a year ago before your committee why we favored an All-Volunteer Force over one that relied upon the draft, and I think our experience in the past year tends to bear out the accuracy of those reasons. We believed then and we believe now that the Armed Forces, like other organizations in a free society, seem to function best when they compete with other organizations for people. We believe that an organization of volunteers, having survived the test of free competition, is more efficient than one that relies on forced entry. Finally, we believe that the so-called pitfalls of the voluntary force, that it would be dominated by mercenaries who might take over the nation or might be dominated by blacks or by some other racial or ethnic strain, proved to be false claims as well as gratuitous ones, and they are totally without support in the makeup of that portion of our military organization that is volunteer.
>
> If you isolate out of the total force those people who have chosen to reenlist, given the option of getting out of the service, you find that the racial minority portion of the total force is within about 1 percent of the racial minority percent of the total national population in that age group.
>
> Finally, we believed then and now, Mr. Chairman, that once the transition to an All-Volunteer Force has been accomplished, the military force will be more effective and will consist of many fewer people than would its conscripted counterpart.

I concur with Assistant Secretary Kelley. As we wind down the war in Vietnam—and we now can see the light at the end of the tunnel at long last—it is an appropriate time to set an early date to end the draft. At the same time, Mr. President, by ending the draft we will be returning our Nation to its traditional heritage of respecting the freedom and dignity of the individual to choose his own calling, and decide for himself the manner in which he will serve his country.

Mr. ALLOTT. Mr. President, it is time to survey the progress we have made toward ending the draft and to examine the final steps that should be taken to insure that we achieve complete freedom from conscription by the time the current induction authority expires next June.

The progress that has been made toward an all-volunteer armed force is among the most significant and personally gratifying achievements of the Nixon administration. I am proud to have been directly involved in devising various measures that have brought us to a point where we can realistically and responsibly look forward to ending the draft by next June at the latest.

We have not yet achieved the conditions that will enable us to completely dispense with the draft. But we are almost there, and we know what needs to be done now in order to complete the task.

On September 28 of last year, the President signed into law a bill extending the military induction authority until June 30, 1973. I voted for that measure at that time, and against an attempt to end the draft 1 year earlier. I believed then, and I do now, that the President needed a full 2 years to implement all of the necessary reforms in personnel management, service life, and recruiting to achieve an all-volunteer force. I do not want to compromise a permanent end to the draft by hasty action.

Without the underlying reforms which are needed to support a continuing volunteer system, an immediate end to the draft would have soon been followed by a reimplementation of it. That is a risk that still exists today, but it will not exist by next June if we act prudently now.

On more than one occasion I have indicated my belief that everyone benefits from a military dependent on voluntary enlistment rather than conscription. The armed services is clearly benefiting from increased professionalism. Professionalism is enhanced by a reduction in make-work and an increase in time spent on training and mission responsibilities. More attention to the needs of the individual soldier and improved manpower management also contribute to increased professionalism. There will be less turnover and less turbulence in assignments, producing more effective man-days and better team effort. Motivation will be higher producing men happier in their work and thus, as the British experience has clearly shown, more effective men. Training costs will go down, while new forms of training to maximize potential will be encouraged. There will be a better match of skill with job and a reduction in the two evils of bad management—overskilled unchallenged to perform and underskilled incapable of performing. Open channels of communication will be further developed, permitting change from within and opportunities for new ideas to be heard. It is the pressure of having to attract and retain good men that has and will continue to impel these improvements.

Society benefits from the all-volunteer force no less than the military. In the words of President Nixon:

> A system of compulsory service that arbitrarily selects some and not others simply cannot be squared with our whole concept of liberty, justice and equality under the law.

It is precisely this sentiment which requires a continuing reevaluation of the need for the draft—for only when the Nation's security is at stake and there is no means short of a draft which will provide for the common defense, can a

draft be tolerated. We must not forget the principles upon which this Nation was founded—minimal interference by the Government with the freedom of the individual to lead his life as he chooses. We have lived with the draft so long that many of us might forget that it should be used only when absolutely necessary.

It is this necessity which the Nixon administration, with my enthusiastic support, is eliminating. It is doing this through improved manpower management within the services and through a variety of actions by Congress.

Last year, the Senate adopted the Allott amendment to the military selective service and pay bill. That amendment expressed this body's belief that it should do all that it could to end the draft. By substantially raising the pay of first term servicemen, my amendment implemented the recommendations of the Gates commission.

In its report of February 1970, the commission recommended "that these additional funds be provided effective July 1, 1970." It went on to say that:

> We believe, on the basis of our study, that the increased pay and other recommended improvements in personnel management will provide enough additional volunteers during the transition to achieve an all-volunteer force by July 1, 1971.

In other words the President's Commission on an All-Volunteer Armed Force expressed its belief that only 1 year from implementation was necessary to achieve an all-volunteer force.

Last fall, the Congress adopted an altered pay program for the military, after compromising with the House of Representatives. The final pay scale was not as strong as the Gates commission recommended and went into effect only last November 14. A cost-of-living increase on January 1 of this year brought the first-term soldiers pay to a closer approximation of the Gates commission recommendations.

We are now experiencing the results of that increase with an increase in true volunteers. But pay alone will not remove all of the obstacles to achieving an all-volunteer force. Personnel management is equally important and in that area there has not been immediate success. It has taken us longer to modernize a manpower system which depended on the existence of the draft than had been expected.

The services are not to be slighted by underestimating their extraordinary achievements so far. Few organizations can boast such a major reversal in manpower policies in such a short time. After a 30-year history of relying on conscription as the basis for their manpower, the services had a major task ahead. Every single facet of military manpower management was affected by those 30 years of draft reliance, and it is not an easy task to redesign the methods of recruiting, of assigning men, of distributing service benefits such as housing and travel, of regulating the numbers and quality of men enlisting, reenlisting, and being promoted through complicated career patterns. All of this has not been easy, and the task is not yet done. For this reason, the full period of extension, granted by Congress last year should be given to the services for finishing their difficult task.

I hasten to add, however, that I do not see the outstanding accomplishments of the services as totally free of some poor judgment. No operation of the magnitude of switching to a volunteer system can be without fault. Last year's reduction-in-force appeared to me somewhat ill designed. I noted that hearings before the Senate Armed Services Committee have sought to clarify this particular problem. Even with these difficulties, however, the services should be able to finish the job and complete the needed reforms by the end of the draft next June 30.

Congress has its responsibilities as well. The President has sent us a sound program of expenditures for the all-volunteer force. Of particular interest are increased recruiting programs and costs of shifting some responsibilities of the current first-term soldier to civilians. In connection with the latter, I am particularly anxious to see the benefits derived from an increase in time for training and military duties, rather than the wasteful, demoralizing, and nonprofessional activities now burdening our servicemen. And naturally, we cannot expect the services to recruit sufficient men without sufficient recruiters. The budget requests made by the President in these areas still await congressional action. It is not necessary to violate the President's proposed spending limit to assure a full recruiting and civilianization program. I sincerely hope that the Congress will not restrain the President's efforts to move to an all-volunteer force by failing to fully fund these programs.

Finally, an administration-endorsed special pay system for the Guard and Reserves, the medical specialties, and certain highly skilled individuals and a revision of the wasteful reenlistment bonus system is awaiting congressional action. The bill which I filed in the Senate along with Senators STAFFORD, TOWER, and CRANSTON is an important tool for the services in fully obtaining an all-volunteer force. I am hopeful that action will be taken on this measure in the near future.

It is my belief that the full period the Congress provided last September will afford the services ample time to manage their manpower reforms properly. And once the Congress meets its responsibilities to the services and the American people, the goal of an all-volunteer force will be obtained with ease by early next year. Thus, I cannot foresee any reason, short of an international crisis, for the extension of induction authority next spring.

Barring some such unforeseen problem, I hope to vote next year to put draft on standby. After all of the efforts the Congress and administration have made so far, a test period of no draft for at least 2 or 3 years is fully justified.

Mr. TALMADGE. Mr. President, I oppose the amendment offered by the distinguished Senator from Oregon. I do not oppose it because I feel it is premature. I oppose it because I firmly believe that America will be making a serious mistake if it abolishes the draft entirely and adopts the volunteer army concept, now or in the foreseeable future.

Mr. President, I feel that there are many valid reasons for opposing the volunteer army. There are security considerations—it would be hazardous indeed to attempt to weather a war of any dimension without the draft. There is the question of money—the cost of a volunteer army would cut heavily into the money we will save when we finally remove ourselves from this terrible war in Vietnam. But, the main reason I have for opposing it is what such a decision would say about us as a country, and what we stand for.

America is under almost constant criticism today, both from within and without. Some people seem to feel that our Nation has become a large ship drifting through an uncharted sea with no one in firm control of the helm.

But, there are still some points worth making about this country. America still seems to be an attractive enough place so that we have to limit the number of people who can come in every year—and that is not true in all parts of the world. Our leaders are accused of being politically motivated, but what that really means is that they are accountable to the people of this country for what they do—and that is not true in all parts of the world. We are a country deeply torn by dissension and different points of view, but the points of view are freely expressed—and that is not true in all parts of the world.

This is a list that could be extended to some length, Mr. President, but I think the point I am trying to make is clear. America, as a nation, still stands for some good things. I do not believe that an army of mercenaries would be an impressive addition to that list. An all volunteer army simply means that the poor boys will be fighting the rich boys' wars.

Whether or not you support a volunteer army has nothing to do with being pro or antiwar. No one of any intelligence is prowar. However, whether we like it or not, we need an adequate Military Establishment today. There can be legitimate disagreements on the size of this establishment. But, no one with any intelligence would contend that we need no military at all. Therefore, the question to be answered is, How do we fill this need?

There has been a good deal of criticism of our selective service, Mr. President, and some of it is well taken. Some say our draft laws are becoming as complex and intricate as our income tax laws—and like our income tax laws, not many of the loopholes favor the poor of our Nation.

But, what are we talking about replacing it with? An all-volunteer army. Now, who is going to volunteer for such an army, Mr. President? The Rockefeller children? the Ford children? the Mellon children? We all know the answer to that. What we are doing is replacing our former system of deferments and exemptions with one simple qualification—if you have enough money so that you are not tempted by the salary, then you do

not have to go. Instead of divinity students and medical students, we are now deferring playboys.

When we read in the history books about men who paid other men to take their places in the ranks, it does not reflect much credit on those who did the paying. I think that is what we, as a nation, are contemplating, Mr. President, and I think it discredits us as well.

There seems to be some people in this country today who believe that if we do away with the means of waging war, that war itself will disappear. I submit, Mr. President, that they have the cart before the horse. We can do away with war by increasing understanding between nations. When our potential adversaries learn that they cannot subdue us by force, they will seek to find ways of living with us. Then, and only then, will we have taken the first substantial step down the road toward peace. Until that time, Mr. President, we must have a trained and ready fighting force. That force should be a cross section of the Nation it is sworn to defend. A truly great nation strives not only to expand its opportunities and share them equally, but also to realize its obligations and distribute them equally. That is the kind of country we have said we are trying to become, Mr. President. I hope we do not decide to swerve from this course which is worthy of the best efforts of us all.

Mr. MATHIAS. Mr. President, I support the amendment of the Senator from Oregon (Mr. HATFIELD) to end the draft on December 31, 1972. I give this measure my unqualified support, because it is designed to assist the President in achieving one of the major goals of his administration.

In seeking a mandate from the American people in 1968, Richard M. Nixon boldly faced one of the most controversial issues of the day—the Selective Service draft:

> Just as soon as our reduced manpower requirements in Vietnam permit us to do so, we should stop the draft and put our Selective Service structure on standby.
>
> * * * * *
>
> It does not work fairly—and, given the facts of American life, it can't.
>
> The inequity stems from one simple fact—that some of our young are forced to spend two years of their lives in our nation's defense, while others are not. It's not so much the way they're selected that's wrong, as it is the fact of selection.
>
> * * * * *
>
> Today all across the country we face a crisis of confidence. Nowhere is it more acute than among our young people. They recognize the draft as a infringement on their liberty—which it is. To them, it represents a government insensitive to their rights—a government callous to their status as free men. They ask for justice—and they deserve it.

President Nixon has demonstrated his commitment to that campaign pledge by:

Appointing a commission of distinguished Americans to develop a plan for ending the draft;

Initiating compensation proposals to provide a competitive basis for attracting a high-quality volunteer force;

Reducing draft calls from 300,000 in 1968 to less than 50,000 in 1972;

Terminating the use of the draft for the conflict in Vietnam;

Promoting a wide range of programs designed to upgrade the quality of the Armed Forces, eliminate the irritants traditionally associated with military life, and enhance the dignity of the individual GI.

It should be noted, however, that at the same time these creative reforms were being initiated by the President, other actions have illustrated a reluctance among some elements of the defense establishment to make an all-out effort to achieve the President's goal. Volunteer force initiatives were cut back by $50 million for fiscal year 1973, the Navy delayed far too long in expanding its recruiting operation, and the Army has been slow to implement some of its programs—in particular, the area of barracks improvement has suffered from funds being diverted away from "people-oriented" planning.

These examples would seem to illustrate a belief in some quarters that there is little need to act now—that the volunteer force can be given a low priority because Congress will again extend the draft in 1973 if requested, just as it has extended the draft upon every request since 1951.

Nothing, Mr. President, could be further from the truth. Anyone who recalls the close debate over the draft last summer will recognize that this body will no longer grant the power to conscript, except in time of grave national emergency.

FEASIBILITY OF THE HATFIELD AMENDMENT

As the Senator from Oregon (Mr. HATFIELD) has noted, his amendment will give the Armed Forces a sufficient transitional period to prepare for the volunteer force. And it will provide for a more effective military force. As Assistant Secretary of Defense Roger T. Kelley told the Senate Armed Services Committee this spring:

> In moving to a voluntary organization we are also renewing and revitalizing the military organization. This cannot be done by pay alone. Satisfying and challenging jobs and educational opportunities must be offered. In the long run an organization composed of volunteers, having functioned in competition for its people, will tend to be more effective than one which relies on the forced entry of people. A more effective force is one of the promises of a volunteer force.

TERMINATION OF SELECTIVE SERVICE

The time to end the draft is now. We have reached the point where the inequities in the draft cannot be removed, where the power of the executive to raise and support armies must be shared with the Congress, and where our young people should be given the opportunity to choose for themselves the manner in which they will serve the Nation.

Today, military manpower needs require that only one young man in five join the armed forces—and that less than one in 20 be drafted. No matter how well the lottery is made to function, it simply cannot spread the burden of military service evenly when so few are needed. And, as the Draft Task Force of last year's White House Conference on Youth pointed out, even under the lottery, the educated and affluent can more easily escape induction into the Armed Forces. The Task Force, which included such authorities on the draft as Secretary Kelley, Representative WILLIAM A. STEIGER, and Dr. Walter Y. Oi of the Gates Commission staff, noted that—

> Men can still be deferred as conscientious objectors, and under recent court rulings, an individual needs only to establish the sincerity of his beliefs (not necessarily religious beliefs) to be deferred. Higher education enables an individual to more clearly articulate his beliefs and gives him a decided advantage over the less educated men. Medical and mental disqualifications that bestow 4–F and 1–Y deferments are presumably determined by Army doctors, but we learn that even these can be manipulated. The possibility for such manipulation was best described by an Army doctor who related: "A white kid, a college student who came in with asthma, or an ulcer or a psychiatric problem had usually been treated for his condition for years. He knew the doctor who saw him for asthma at age 15 and had a letter from the doctor. We might not be able to verify the condition, but we would still disqualify him. The typical black kid came from a ghetto or a rural area, and he might have had the same conditions, but he never had been treated for them and we never found out about them."
>
> The opportunities to avoid the draft by finding irregularities in local board procedures or through other loopholes are clearly greater for the well-to-do youth who can readily obtain draft counseling or even hire a lawyer; draft lawyers today claim that they are winning over 90 per cent of their cases. It is clear that even with a lottery, the burden of the draft will still be carried by the less educated, physically qualified youths from the lower middle classes.

THE CONDUCT OF FOREIGN POLICY

The very existence of conscription allows for an all too easy application of military solutions to foreign policy problems. In an early defense of the congressional prerogative in foreign policy, Daniel Webster issued a warning which rings prophetically true in light of our experience in Vietnam:

> In the present want of men and money, the Secretary of War has proposed to Congress a military conscription. For the conquest of Canada, the people will not enlist; and if they would, the treasury is exhausted and they could not be paid. Conscription is chosen as the most promising instrument, both of overcoming reluctance to the service, and of subduing the difficulties which arise from the eschequer.
>
> Persons thus taken by force and put into the army, may be compelled to serve . . . according to the will and pleasure of the government. This power does not grow out of any invasion of the country, or even out of a state of war. It belongs to the government at all times, in peace as well as in war, and it is to be exercised under all circumstances according to its mere discretion.
>
> Is this, sir, consistent with the character of a free government? Is this civil liberty? Is this the real character of our Constitution? No, sir, indeed it is not. The constitution is libelled, fouly libelled. The people of the country have not established for themselves such a fabric of despotism . . . Where is it written in the Constitution . . . that you may take children from their parents, and parents from the children, and compel them to fight the battles of any war in which the folly or wickedness of government may engage it?

For the better part of our Nation's history, Congress steadfastly avoided granting the power of conscription to the

Executive, except for brief periods during the Civil War and World War I. However, after World War II and the onset of the cold war, the enthusiasm of the Congress for oversight of foreign policy matters diminished. The House and Senate routinely granted an extension of the draft every fourth year—never questioning whether peacetime manpower needs could be met on a voluntary basis.

The tragedy of our involvement in Vietnam illustrates the insidious effect of the draft on the foreign policy process. In August 1964, Congress approved the Gulf of Tonkin resolution, largely as a show of support for a Presidential response to what was described as an attack on our naval vessels. But over the next 12 months—without ever consulting the Congress—the draft was used to slowly but steadily increase the size of the Armed Forces. Then, in late July of 1965—almost a full year after the Tonkin resolution—those conscripted forces provided the basis for the first massive infusion of troops into Vietnam. The distinguished chairman of the Armed Services Committee last year noted the deleterious consequences of such executive escalation:

> Only by a decisive vote in the Congress which represents the people can there be a real test of the sentiment of the country for supporting any war and mobilizing all our resources.
>
> I readily recall the gradual escalation under which the highest officials of our country testified that with an additional 50 or 100 thousand troops and passage of another year, the Vietnam problem would be solved. This process was repeated year after year and, as we know, the problem is not yet solved although a solution is in sight.
>
> Let me emphasize that I believe that Congress should exercise its Constitutional role in a more vigorous fashion. I totally reject the concept advocated from time to time that the President has certain inherent powers as Commander in Chief which enable him to extensively commit major forces without Congressional consent.

Mr. President, had we not been operating under a system of conscripted manpower, the President would have had to ask the Congress for the authority to use compulsion to achieve such a drastic increase in force levels. I am convinced that had the Congress been forced to vote on reinstating the conscription of young men to support the war in Vietnam at the same time it voted on the Gulf of Tonkin Resolution, the course of that unfortunate conflict would have been drastically altered.

We are now presented with the historic opportunity to prevent future Vietnams by terminating the induction authority and returning to the Congress its rightful power to raise and support armies.

THE PRESIDENT AND THE YOUTH OF AMERICA

In conclusion, Mr. President, I should again wish to express my belief that we could not be on the verge of terminating the draft were it not for the forthright stance taken by President Nixon. The eloquent expression of his April 1970 message on the draft sums up all that ever need be said on this subject:

> With an end to the draft, we will demonstrate to the world the responsiveness of republican government—and our continuing commitment to the maximum freedom of the individual, enshrined in our earliest traditions and founding documents. By upholding the cause of freedom without conscription we will have demonstrated in one more area the superiority of a society based upon the belief in the dignity of man over a society based on the supremacy of the State.

Mr. MUSKIE. Mr. President, I will vote against the Hatfield amendment which would end the draft system at the end of this year. I strongly support reforms in the military manpower system, such as additional financial incentives, which will enable the country to move toward zero draft calls in times of peace. But I believe the draft system must continue to be available during times of war or national emergency. I have explained my position at length during previous occasions on which this issue has come before the Senate. I would like to do so more briefly today.

I believe we must first of all consider the question of what means a society uses to select those young men who will fight and perhaps die in a war. We will be asking these men to take risks in exposing themselves to the greatest sacrifice any society can demand. What are the most just means in a democratic society? When all is weighed, I think there can be only one answer: That all the young men in that society, rich and poor, majority and minority, must be presented with an equal risk of undergoing the danger of those sacrifices. I see no other fair way of distributing this potential for death, since all men cannot serve in battle.

The proposed alternative to a draft system is a volunteer army. The major inducement for service in such an army must be economic, whether volunteering is for pay, training, education, or escape. There are disputes over which group in our society would volunteer under such a system—middle class, lower middle class, urban black, rural white, and so on; but essentially it makes no difference, for whoever does volunteer will do so because he finds the incentives in the Army better than those in private life.

Such a system allows the more affluent members of society to avoid the obligations of defending that society during times of crisis. It was followed in the Civil War when wealthier young men could avoid the draft by buying a substitute for something like $300. I think, over a century later, with a greater appreciation for the demands of equal protection, we must reject such a method of selection during wartime.

Secondly, I believe we must recognize that the draft system, by imposing the greatest cost of war—military service—uniformly throughout the country, serves as a healthy check upon any tendency to commit our Nation to unwise military adventures abroad. A volunteer army would impose the burden of service upon those least likely to protest politically and upon those least likely to do so effectively, even if they wanted to do so. Through increased military appropriations, a process which is easily accomplished because of the committee structure of the Congress, a President can easily escalate a conflict using a volunteer army without confronting those political forces in our Nation which would be best able to oppose such escalation. We would reduce citizen impact on foreign policy.

In contrast, the draft system imposes service upon all, and if a President increases military manpower commitments, he must face the task of convincing all segments of society that such an increase is necessary for the public good.

Finally, I believe that a volunteer army during war might be prohibitively expensive. Our society cannot afford to spend billions of dollars for the primary purpose of avoiding military induction during times of war for those who would rather not serve this Nation's defense. We have too many other urgent priorities to which we must devote our precious resources—including the development of economic opportunity for those who now find such opportunity only in military service.

For these reasons, I must oppose the concept of an all-volunteer army and continue to support the draft system for use during times of war and national emergency.

Mr. TUNNEY. Mr. President, I cannot accept the Hatfield amendment to end the draft. While I believe that the draft has been abused and misused, has been distorted by its application in Indochina beyond its legitimate purposes. I do not believe that the solution to the problems wrought by Vietnam will be resolved by an end to the draft.

Tomorrow, Mr. President, we will have the opportunity to vote to end the tragic, cruel, and senseless war in Indochina. We will have an opportunity, clearly and decisively, to say "no more war" in Vietnam. Passage of that legislation is imperative. It is still the most urgent priority of this Congress.

But, despite its misuse, the draft remains an alternative that is preferable to the volunteer army proposed by the Nixon administration. It is my view that our problems in Vietnam would be compounded rather than reduced by an all-volunteer army.

A volunteer army would present this Nation with several unpleasant problems. First, it would be devoid of the healthy crosscurrents of civilian life. It would be removed from civilian ranks and would not be affected substantially by the constant and salutary infusion of men who are not career soldiers, men whose civilian backgrounds and attitudes maintain an essential balance in the Armed Forces.

Second, an all-volunteer army would create a permanent combat force comprised of the poor, the uneducated and the minorities—people who would look upon the military as the only avenue of opportunity to escape from the pockets of poverty and prejudice which exist in America. Only the disadvantaged in our society would be exposed to the cruelty, the horror, and the agony of war. For only they would have the financial incentive to join a volunteer army.

Thus, a volunteer army would be less responsive to the civilian direction and control that is essential to a free society. At the same time it would be a shelter for the disadvantaged but an unheard-of

concept for the comfortable. Such an institution, Mr. President, would not be one characterized by diversity of thought, creative or imaginative concepts, or the potential for critical comment. Such an institution, I believe, would be detrimental to a free society.

It would be far easier to wage wars with a band of mercenaries than with a groups of draftees. It would be far easier to delude ourselves into thinking that lives are cheaper and wars are morally less debilitating when they are being waged by professional soldiers.

This is an ugly and dangerous concept and one that I feel pervades the idea of an all-volunteer army.

I urge my colleagues in the Senate to think about the draft in terms of life and death; for this is what the draft has meant to thousands of young Americans. Matters of this moment and urgency should not be reserved to the disadvantaged few. The issues should be apparent and real for all America. For only then will all America be exposed to the vital questions and implications of the draft.

Accordingly, I must oppose Senator HATFIELD's amendment, for I believe it is not the wisest or the best way to protect our young citizens or our Nation from the horror and the agony of war.

THE END OF THE DRAFT

Mr. BROCK. Mr. President, we are on the verge of a historic effort—the end of mass conscription in the United States. With a meaningful reduction of force, so wisely initiated by the Committee on Armed Services, I believe we can render the draft unnecessary.

Last year by creating a competitive pay scale for the military, we in the Congress provided the President with one necessary tool to end the draft far ahead of the legislated deadline. While the approach of putting the military on parity with civil service pay is a good foundation toward the achievement of an all-volunteer force, it is not the final solution. To obtain a true volunteer force will require a modern approach, a full appreciation of human resources, and the best of management.

Mr. President, I am very reluctant to oppose the pending amendment because of my respect for many of the Senators who are sponsoring it. I have also been impressed by the cogent, lucid, and compelling statements made by its proponents. I do oppose the amendment, for one reason—by doing the job right we can make the volunteer Army work. If, in our haste to achieve it we lay an inadequate foundation, it will fail. To me, the ultimate objective is far too important for such a gamble. Thus, I will vote, as I have in the past, for a volunteer Army, and for a program which will enable us to meet the President's absolute deadline for ending the draft on June 30, 1972.

In recent years the controversial debate of the "Volunteer Army" versus the draft has been the subject of countless editorials, television shows, and political campaigns. President Nixon introduced the issue in the presidential campaign of 1968 and he has consistently worked to bring about an end to the system which denies the basic rights of the individual granted by a free society.

The President has markedly reduced reliance on the draft and reversed the trend to use conscription as an open account to draw people whenever they are needed. The Selective Service Act of 1968 essentially authorized the President to maintain whatever manning level desired by simply increasing the draft. It was under this method that former President Johnson expanded the total Armed Forces from 2.65 to 3.5 million and the Army alone from 973,238 to 1,397,899 in roughly a year's time by simply increasing the draft from 7,800 in December 1964, to 40,200 men in December 1965. This 36 percent increase in the size of Armed Forces represented a 500-percent increase in the draft rate and brought the Vietnam war home to the public and the draft system into the political arena.

Through implementation of new competitive wage scales for the military, President Nixon has been able to reduce draft calls tremendously. In fiscal year 1971 draft callups totaled 152,000. This was reduced to only 25,000 in fiscal year 1972.

In 1969 the President established a new lottery system to make the draft more equitable. This year, this first phase of transition to a total volunteer forces has not exceeded 75 as a maximum. Soon the lottery may be dropped forever.

To date, the military services have implemented many new important reforms for ending the draft with excellent results. In fiscal year 1972 the Department of Defense met 90 percent of its recruiting objectives. In June, 1972, total military enlistment production was 17,908 above May. Of these 76 percent could be classified as true volunteers. Moreover, contrary to the fears of draft supporters, pay increases and reduced draft pressure have resulted in an improvement on the quality of personnel entering the Army. In June, 31 percent of all enlistments fell into mental groups one and two and only 18 percent were mental group four's. Seventy percent of the total enlistments were high school graduates. Also, combat arms enlistments have shown a definite improvement. In fiscal year 1971 enlistments for this category stood at 9,800 and increased dramatically for fiscal year 1972 to 38,800.

In the past DOD recruiting programs have been a low priority item. Draft reliance relegated many recruiting offices to signing up only those individuals who applied. To correct the problem, the Army doubled the size of its recruiting force and expanded the number of field offices. By upgrading the status of recruiters through intensified training, special duty assignment pay, and allowances for out-of-pocket expenses, the Army has built the foundation for an aggressive recruiting program. This effort has been aided by new special opportunities for training, the popular "unit-of-choice," and the area-of-choice options.

If we are to maintain congressionally approved manning levels throughout all branches of the uniformed military services through voluntary enlistment, we must move quickly to improve nonmonetary incentives to enlist. There is no doubt that we are veering away from the diseconomic use of the draftee. From his day of induction, the average recruit will spend approximately 1 year in basic training, specialty training, annual leave, and then on-the-scene training before he will actually fill a functional billet. Hence, a 2-year draftee has only 1 year of productive military service.

The noncareer 'first termers" have been the focal point of the debate on voluntary service as opposed to continuation of the draft. Noncareer is presently comprised of well over half of the enlisted ranks. This proportion is too high to be effective or efficient. The turnover rate is too expensive. It costs approximately $3,600 to train each first termer.

Through reform we must induce first termers to remain beyond the service period of the 2-year draftee. If the initial enlistment period for a first termer averaged to only 3 years, the productive service of a typical first termer would be doubled in duration and actually improve in quality as the average experience level of his production service is increased by 50 percent. With a 4-year initial contract for 3 years at an experience level of 2 years in service. Unfortunately, much remains to be done before we can realize our goal.

The list of management deficienices in gaining an all-volunter force is lengthy.

According to Secretary of the Navy Warner, the Navy began its recruiting drive 9 months later than it should have.

Paid drill reserves have fallen below their authorized strengths.

The Army's reenlistments remain substantially below plan.

The draft remains as a crutch to deny moving allotments, family separation allowances, and housing opportunities to more than 200,000 first term enlisted men.

And the Army has mismanaged its current reduction-in-force program to a point where the lower than authorized end strength for fiscal year 1972 could result in additional accession requirements for fiscal year 1973.

Mr. President, if we are to have a true volunteer force 11 months hence, not only must we correct the deficiencies within the military, we must make every effort to let the youth of America know what a military career has to offer them.

The potential volunter must believe that a military career can be fruitful, rewarding occupation competitive in every way with civilian life. We can accord the individual all sorts of incentives to join but if he does not know what is offered, then the incentives will serve no purpose.

In discussing ways to attract the potential volunteer the Army's Deputy Chief of Staff for Personnel recently told a House Armed Services Subcommittee that paid advertising plays a critical role.

Once we went on the air with a combined paid TV, radio, and our normal magazine advertising and newspapers, along with the options that we had to sell—the new options for Germany, Vietnam and Korea, the unit of choice in the United States, training, and so

forth, the 32 enlistment options which we offer—the enlistments started to go up and have been consistently going up until last month. They were at 18,000 plus in a non-draft environment.

In addition, the combat arms enlistment went from roughly 400 a month up to about 4,000 a month.

If you put all of that together, sir, and say, "Is that due to paid TV and radio?" it's very difficult to say how much is due to that. But I think that the fact that we had something to sell, and the fact that we were displaying a better public image of the Army, combined with the enlistment options, combined with the expansion of the recruiting command, plus all the other efforts that have gone into this thing, that the combination has certainly, in my opinion, proven to be a winner.

In hearings before the House Interstate and Foreign Commerce Committee an Army official testified:

Reducing reliance on the draft will depend in large part on our ability to inform the youth of this nation of the advantages of a military career. The judicious use of advertising is a necessary part of a successful advertising campaign.

Mr. President, spreading the word that the military can offer the individual a rewarding lifetime career is essential to the success of the all-volunteer force. If we combine the major elements of reform, recruitment, and recasting the image the public has of the armed services, we can look forward to the return of yet another individual freedom.

Voluntarism is the touchstone of our democracy. If America is willing to show her young men the respect they deserve for their willingness to serve, I am convinced that an effective all-volunteer force may be maintained.

AN END TO THE DRAFT

Mr. McGOVERN. Mr. President, I wholeheartedly support the efforts of the distinguished Senator from Oregon (Mr. HATFIELD) to put an end to the draft. I share very strongly his view that we can terminate the induction authority in 5 months and still provide sufficient time for the transition to a volunteer force.

Mr. President, when I addressed this issue in 1968, I called for a complete end to compulsory military service. It is inimical to the deepest traditions of American life. Now in 1972, the time has certainly come to return to the cherished tradition of voluntarism.

The use of conscription for the last 30 years has made us all too accustomed to its presence—a presence which clearly violates our American heritage. The first settlers arrived in America to avoid impressment by the Crown. Ever since then this Nation has held the belief that only out of the most dire necessity should we resort to the compulsion.

But a return to our traditions of freedom is not all that is gained by ending the draft.

Assistant Secretary of Defense Roger Kelley told the Senate Armed Services Committee that the experience of the past year bears out the accuracy of his predictions on the benefits to the military of an all-volunteer force. At that time he reported:

In the adult work world, the Armed Forces (like other organizations) function best in a free environment where they compete with others for people.

An organization composed of volunteers, having survived the test of free competition, tends to be more efficient than one that relies on forced entry.

The alleged pitfalls of the voluntary military organization—that it will be dominated by mercenaries, who will take over our Nation, or be all black—are gratuitous and false claims, totally unsupported by the makeup of that portion of the military organization that is volunteer.

Once the transition to an All-Volunteer Force has been accomplished, the military organization will be totally more effective and will consist of many fewer people than its conscripted counterpart.

On the basis of both tradition and efficiency, we should end the draft just as soon as national security permits it.

Congress and the administration have both taken steps to end reliance on the draft. Minimal use of the induction authority over the last year suggests that we have reached the historic time when we can end the draft for good.

Let me point to just a few of the circumstances underlying that position.

The Defense Department has before it a substantial array of manpower options which, if exercised, would eliminate any possible gap between the service's needs and the number of men they obtain.

First. The services could embark on the long-overdue program to replace uniformed men with civilians—a proposal which has been recommended and discussed for several years and which provides the added attraction of saving money.

Second. Opportunities for women to serve in an equal capacity with men are underutilized and late in coming.

Third. The Navy's success in the Second World War with lateral entry programs—bringing in skilled workers directly at the rank and pay they deserve—as we currently do with doctors and chaplains—should be setting the pattern for all the services now.

Finally, there is considerable potential for better recruiting practices.

The Navy is just beginning to catch up from a year's delay in beefing up its recruiting establishment. The Army has doubled the number of men in the field. But an archaic information system still retards the effectiveness of the recruiters. Better selection criteria and more sophisticated use of screening techniques, to avoid the loss of a single qualified man, are needed as well.

In addition to action to insure sufficient volunteers, the services should avoid some of the management pitfalls into which they have fallen during the last year.

In this respect, I offer my sincere congratulations to the chairman of the Armed Services Committee who, for 2 years in a row, has examined in detail the manpower authorization levels proposed by the administration, and has led the way in reducing their inflated requests. His hearings uncovered a major disaster for the Army last year in the way they handled the congressionally mandate reduction in force. Few would disagree with the conclusions of those hearings that the move to an all-volunteer force has been severely set back by the inexplicable delays in cutbacks by the Department of the Army. Reenlistment of first-term servicemen—those who were already trained and skilled and who had the motivation to stay in the service—had to be forced down precipitously to insure the proper reduction. The ultimate costs of such an endeavor in both men and dollars has yet to be determined. But they are certain to be astronomical.

A further basis for acting now is found in a review of the report issued by the Gates Commission—the President's Commission on an All-Volunteer Armed Force. The Commission recommended that an increase in basic pay for first-termers be provided effective July 1, 1970. They went on to say:

We believe, on the basis of our study, that the increased pay and other recommended improvements in personnel management will provide enough additional volunteers during the transition to achieve an all-volunteer force by July 1, 1971.

In other words, had the Gates Commission recommendations been implemented when they should have been, the end of the draft would have followed just 1 year later.

Last fall Congress passed the largest pay raise for servicemen in history. The cost-of-living raise of January 1 of this year brought the pay figures up to the recommendations of the Gates Commission. On December 31 we will have waited 1 year since the implementation of the pay raise—clearly sufficient time to meet the transitional timetable of the President's own Commission.

Finally, the underlying basis for ending the draft at the end of this year, rather than 6 months hence, is what I would like to call a self-fulfilling prophecy. I firmly believe that the earlier we end the draft, the sooner the services will come to understand that conscription is not a viable option for them.

I have no doubt that the services will do what they must to insure the national security. Manpower reform and the improvement of personnel management will come all the sooner, if the easy resort to compulsion to produce more men is eliminated as an option. Planning, programing, and budgeting—Washington's favorite words—will become a reality out of necessity.

I am not impressed with the argument that because the Army and Navy entered this fiscal year with shortfalls to be made up, that the draft will be necessary through next June. Projected manpower requirements show that after this unusual transitional year, requirements for manpower drop significantly, especially for the Navy where they drop from some 125,000 this year to only 85,000 next year. Thus, we have only this year's hump to get over, and there is plenty of time to do that before the draft authority is terminated.

More important, those shortfalls are insignificant in number. Last year Congress voted a reduction in average strength of some 56,000 men—50,000 for the Army alone. This year, the Senate Armed Services Committee has recom-

mended—and I fully support—a further reduction of average strength of some 56,000 men—with some 26,000 for the Army. I would go much further. But if Congress can determine that such a reduction is feasible, a more intensive study into the layers of support within the Defense Department can reveal even greater room for reducing required strength. I have noted with interest the report issued by a House Armed Services Subcommittee chaired by the exceedingly able Congressman OTIS PIKE which noted the significant imbalance in our force structure caused by the overabundance of top-brass. There is certainly room, they suggest, for reducing the numbers of "colonels carrying briefcases for generals." Moreover, last year's debates on the draft extension revealed a senior Army officer's estimate that some 95,000 soldiers were doing no more than KP and grasscutting.

By terminating the draft, the services will not be able to afford such surplus manpower. The projected shortfalls of 50,000 or 60,000 men in proportion to entire Defense requirements is just not enough men to warrant an extension of the draft authority, especially when viable alternatives are available.

Mr. President, let me conclude by quoting the man who is closest to this issue: the Assistant Secretary of Defense for Manpower and Reserve Affairs. Just five weeks ago, before the National Convention of the Reserve Officers Association, the Secretary made this statement:

> The All-Volunteer Force is beyond the stage of debate. It is an idea whose time has come, and a goal whose final attainment is in close range and within sight.

I believe we can assure attainment of that goal by ending the draft on December 31, 1972.

Mr. STENNIS. I yield back the remainder of my time.

Mr. HATFIELD. I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, our colleagues, I think, had anticipated that the rollcall would come at about 4:30. I want to personally congratulate and thank the Senators for having concluded the debate earlier. I think our colleagues, however, should be given a brief notice, so therefore, I would ask, with the indulgence of my colleagues, that I may suggest the absence of a quorum.

Mr. STENNIS. Mr. President, I suggest the Senator notify Senators interested in the next amendment, the author of which is the Senator from Massachusetts, to be ready to move forward on that amendment in about 15 minutes.

Mr. ROBERT C. BYRD. Very well. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Louisiana (Mr. LONG), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. GAMBRELL) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kansas (Mr. DOLE) and the Senator from Oregon (Mr. PACKWOOD) are detained on official business.

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "nay."

The result was announced—yeas 25, nays 64, as follows:

[No. 324 Leg.]

YEAS—25

Bayh	Hughes	Percy
Brooke	Mansfield	Proxmire
Cook	Mathias	Ribicoff
Cranston	McGovern	Schweiker
Fulbright	Metcalf	Stevenson
Gravel	Mondale	Taft
Hart	Nelson	Williams
Hartke	Pearson	
Hatfield	Pell	

NAYS—64

Aiken	Dominick	Montoya
Allen	Eagleton	Moss
Allott	Eastland	Muskie
Anderson	Ervin	Pastore
Beall	Fannin	Randolph
Bellmon	Fong	Roth
Bennett	Goldwater	Saxbe
Bentsen	Griffin	Scott
Bible	Gurney	Smith
Boggs	Hansen	Sparkman
Brock	Hollings	Spong
Buckley	Hruska	Stafford
Burdick	Humphrey	Stennis
Byrd, Harry F., Jr.	Inouye	Stevens
Byrd, Robert C.	Jackson	Symington
Cannon	Javits	Talmadge
Case	Jordan, Idaho	Thurmond
Chiles	Kennedy	Tower
Cooper	Magnuson	Tunney
Cotton	McClellan	Weicker
Curtis	McGee	Young
	McIntyre	

NOT VOTING—10

Baker	Harris	Mundt
Church	Jordan, N.C.	Packwood
Dole	Long	
Gambrell	Miller	

So Mr. HATFIELD's amendment (No. 1370) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote whereby the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate the next amendment.

Mr. ROBERT C. BYRD. Mr. President, I was asked by the Senator from Massachusetts (Mr. KENNEDY) to enter a quorum call as soon as the Senate is ready to consider his amendment. I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call be charged against the time of the Senator from Massachusetts.

The PRESIDING OFFICER. There is no time on the amendment until the amendment is laid down.

Mr. ROBERT C. BYRD. Then I ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. 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. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 13, between lines 7 and 8, insert a new section as follows:

SEC. 203 (a) It is hereby declared to be the policy of the United States that Federal funds may be used to conduct research involving human beings as experimental subjects only when each participant has freely volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research.

(b) In order to carry out the policy stated in subsection (a) of this section with respect to the Department of Defense, none of the funds authorized by this or any other Act may be used by the Department of Defense to contract with any individual, corporation, institution, organization, or other entity, for the purpose of carrying out any research project which uses human beings as experimental subjects unless—

(1) the Secretary of Defense has determined that such project is essential to the national defense;

(2) the Secretary of Health, Education, and Welfare has been informed of the project and he has either (A) indicated in writing to the Secretary of Defense whether the research project is one which will involve substantial risk of serious injury to the physical or mental health of the human subjects to be used and whether the research project is one which will involve substantial risk of resulting in any genetic change in such subjects, or (B) permitted forty-five days to elapse after having been officially informed of such project without having submitted to the Secretary of Defense a written notice as described in subclause (A) of this clause;

(3) the human subjects to be used have been fully informed of the nature and purposes of the research project and of any possible physical and mental health consequences that may result from participation in such research project, including any physical and mental health consequences included in the report of the Secretary of Health, Education, and Welfare submitted pursuant to clause (2); and

(4) each person participating in such project has freely volunteered to participate after he has received the information referred to in clause (3).

The PRESIDING OFFICER. The Chair reminds Senators that, under the previous agreement, there is 1 hour for debate on this amendment, to be equally divided between the Senator from Massachusetts and the manager of the bill.

Mr. STENNIS. Mr. President, in the name of membership, I ask that the Chair maintain order to the extent that we can at least hear.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until Senators have taken their seats and ceased audible conversation.

HUMAN EXPERIMENTATION AMENDMENT TO MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. KENNEDY. Mr. President, advances in modern medical science have lengthened the span and changed the quality and very meaning of human life. But at the same time, these advances have opened a Pandora's box of ethical, social, and legal issues in areas such as heart transplants, artificial kidneys, test tube babies, genetic intervention, behavior modification, and experiments on human beings.

For example, recently a hospital has been sued for allegedly allowing a black laborer to die so that his heart could be used in a transplant operation. I would not want to comment on the merits of that particular case, but it illustrates the range of difficult questions which must be faced: When heartbeat and other vital signs can be maintained by artificial means, how is death to be defined? Under what circumstances may the organs of the deceased be used for transplants? Who should give permission for such transplants? Did racial considerations affect the decision to use this heart, as was alleged in the suit?

Medical science advances pose many other difficult ethical and social questions:

Should carriers of hereditary diseases, like sickle cell anemia, be prohibited from having children? Should they be counseled against having them?

Should retarded persons be segregated from members of the opposite sex? Should they be sterilized?

What are the ethical implications of test tube babies? What will happen to our population when men and women are free to determine the sex of their children? Or to fabricate babies with preestablished characteristics?

How should society regulate the use of behavior modification drugs and other techniques to control human behavior? How can we control the controllers?

How should the Nation allocate scarce medical resources between organ transplants for a few individuals versus research and services which can help many?

Which individuals should receive the life and death benefit of artificial kidney facilities? How should we choose among those who need this help?

How long will the Nation tolerate a situation in which 50,000 need kidney services, and only 2,000 can receive them because of financial limitations?

The solutions to these sorts of problems cannot be found within science alone. As Dr. Jerome Wiesner said, "Science is no substitute for thought." These issues cannot be resolved by complex mathematical formulas or high speed computers.

They fundamentally involve questions of ethics and social responsibility. To come to grips with them, we must focus the full range of human talent and imagination—from the natural and social sciences, the arts and humanities, religion and philosophy, and the professions of law, medicine, and public service. We must draw on all the resources mankind has to offer; for after all, it is the quality of man's life which is at stake.

Obviously the solution to these problems will not come overnight. The Senate has already taken a major step toward the solution of these problems. On November 9, 1971, as chairman of the Health Subcommittee, I held hearings on these issues and specifically focused on Senate Joint Resolution 75, to establish a National Advisory Commission on Health, Science, and Society. This resolution had been introduced by the distinguished Senator from Minnesota (Mr. MONDALE). The hearings record provided overwhelming support for this resolution, and on December 2, 1971, the Senate passed Senate Joint Resolution 75. The resolution is now before the Health Subcommittee in the House, and I am hopeful that it will receive hearings and House action this year.

But even if the resolution is passed, and the National Advisory Commission on Health Science and Society is established, it will be 2 years before the Commission presents its final report to the President and the Congress. And then it will undoubtedly take additional time before the recommendations of the Commission are incorporated in appropriate legislation and executive action.

It is fitting and necessary that this Commission activity occur. For these problems will confront mankind for the foreseeable future. Developing lasting solutions to the problems must require considerable thought and effort.

But while these long-term efforts are underway, it is equally important that we move ahead and take whatever constructive steps are possible now to cope with the existing problems in these areas.

One of the most significant problems in this entire area is that of human experimentation. Historically the advance of modern medical science has traditionally made use of human experimentation, frequently with the scientists using themselves as experimental guinea pigs. Without some human experimentation it would not have been possible to develop the smallpox vaccine or to begin to cope with malaria. And the development of modern drugs is dependent on a certain amount of experimental drug use among special patient groups. Such drug testing has to be much more closely monitored and regulated than it has been in the past, but under the proper controlled conditions it has to occur; for human experimentation is an essential requirement for medical progress.

The thrust of my remarks today is not that human experimentation is inherently bad or that it should be banned or prohibited. Human experimentation is essential in a balanced program of medical research. But the problems posed by human experimentation—in medicine, ethics, law, and social policy—are enormous. How we resolve these issues will have a major impact on the lives of millions of Americans over the coming years.

The kind of impact human experimentation can have has been dramatically demonstrated in recent days with revelation of the tragic syphilis project at Tuskegee. The disclosure of a 40-year experiment on hundreds of poor, black men stricken with syphilis in Alabama, raises the specter of an Orwellian nightmare. Because we now have complex devices like kidney machines, and because we can now transplant a man's heart; and because we have now ended the deathly plagues of smallpox and polio—too many Americans have been lulled into a false sense of security about the powers and practices of medical science. But the news that a Federal agency—the Public Health Service—has used taxpayers' dollars to conduct a program to experiment on poor, sick, black people—without their knowing it—is an alarming revelation at best.

Many questions leap to mind with that outrageous news:

Why were not the patients treated with penicillin after that "wonder" drug had been discovered?

Why did the experiment include only men? And why were only black men included?

How many of those men are now in mental institutions, because the syphilis infection caused irreversible brain damage?

How many of those test patients fathered children who contracted congenital syphilis?

Are Federal agencies conducting any other such experiments?

And, why has the news of the Tuskegee experiment come to light right at this time?

Current Public Health Service figures show that nearly 100,000 new cases of syphilis were reported nationwide in 1971. During 1970 and 1971, the increase in reported cases rose 8 percent and 15 percent respectively. Those alarming rates definitely suggest that syphilis has reached epidemic proportions. Health authorities are particularly concerned at the fact that especially high rates are reported among our Nation's young people.

Can it be that the news about the 40-year-old Tuskegee experiment is intended to appease the national concern over the current syphilis epidemic? Since some health officials insist that treatment of the few Tuskegee survivors is

useless—do they also plan to announce that treatment of today's teenagers is not required?

Mr. President, there is an almost endless stream of questions raised by the announcement that syphilis experiments on hundreds of black men have been sponsored by the Public Health Service. The amendment I have offered today is but one small step in coping with these problems. But it does establish as national policy that Federal funds can be used for human experimentation only when the participants have freely volunteered after knowing the risks involved.

The Tuskegee case is perhaps the most striking and heart-rending instance of human experimentation which has yet been brought to light. But many other cases exist. Some involve clearcut violations of human rights, as in Tuskegee. But many others involve complex problems of fact, of law, of medical judgment, of ethics, and social policy. The range of issues involved can be seen from the following examples:

At an institution for the mentally retarded, children were deliberately exposed to hepatitus to study the problems involved in developing immunity to the disease. The issues in this case are complex. The families of the children apparently did give their consent to the procedure, but many authorities on medical ethics question whether parents have the moral right to "volunteer" their children for experiments. And even when parents do volunteer their children in such a case, are they doing so under some subtle pressure which prevails when children are inmates of such an institution?

Another factor in this case was the fact that almost all children in this particular institution would contract hepatitus sooner or later, whether or not they were deliberately exposed. So the doctor in charge of the research asserted that deliberately exposing them under controlled conditions did not increase the danger to them. Others have argued, however, that the problem lies with the inadequate conditions at the institution. If proper sanitation were maintained, they would not contract the disease as a normal matter of course. I think this case illustrates the kind of problems we have to face in this area.

Another case involves experimenting with prisoners. In one case, prisoners who were particularly prone to serious violence have been subjected to brain surgery to try to alter their behavior characteristics and inhibit or destroy their tendency toward violence. Some medical authorities argue that this is a perfectly acceptable procedure for such cases. But others assert that it is merely a way of turning the prisoners into vegetables who will not have the capacity for violence after their operation. Even if the medical profession were to determine that this is a sound procedure in certain cases, who is to determine which individuals have a strong-enough tendency to violence that can only be treated by surgery? And what procedures are they to follow in making that decision? And even if certain individuals were singled out by such a procedure, how would they volunteer to have the operation? In their situation could they really understand all the facts involved? And can any prisoner, who is in an inherently coercive situation, really "volunteer" for anything? In this connection it is worth noting that in Great Britain the use of prisoners in human experimentation is prohibited by law, on the grounds that prisoners cannot really volunteer, in the true sense of volunteering. This problem of "what it means to volunteer" also applies to individuals in mental institutions and to patients with a terminal illness, who may be desperate to try anything.

Another case, which was the subject of a recent Washington Post editorial, involved 398 women who were mostly Mexican-Americans. In a study funded by AID, the women were divided into three groups. One group was given regular commercially marketed birth control pills. Another group was given an experimental pill which had not yet been tested out in terms of its effectiveness or its safety. The third group was given a placebo or fake pill with no effect. The startling point about this experiment, however, was that the women were not told they were participating in an experiment. Thus all the women thought they were taking birth control pills which were effective. The sad result of this experiment was that a number of the women who took the placebo or fake pill gave birth to unwanted children, with all the potential tragedy that that portends. And the experimental pill was later declared to be unsafe for human use by FDA, so that the women in that group were using a dangerous medication without knowledge that it was being administered to them.

One of the AID officials involved in dealing with the study was quoted in the press as commenting:

> The potential benefits to humanity in this kind of study outweigh the potential risks to the individual subjects.

Perhaps there is someone wise enough to make such judgments, but the essence of democracy is that we do not delegate to any officials the right to make such decisions for others. Free choice is at the basis of our Nation, and if we once allow that right to be eroded—regardless of for what purported humanitarian purposes—we have lost one of our most precious rights.

We cannot permit Government bureaucrats to make decisions which place others into experimental situations without their full knowledge and without their volunteering to participate. We must establish a national policy for human experimentation which safeguards this right and which provides Government officials with procedures to guide their actions on such matters.

Another case involved 525 members of the Air Force who had strep sore throats. It was common medical knowledge at the time of this incident that treatment with penicilin could prevent strep throat from developing into rheumatic fever; but that without penicillin some of the airmen would be likely to develop rheumatic fever. The doctors running this experiment were aware of these facts; yet they wanted to learn what the effects of withholding penicillin would be. So none of the 525 airmen received penicillin, and at least 25 of the airmen contracted rheumatic fever. According to the testimony we received at our hearing last November, none of these airmen knew they were being experimented on; they were certainly not volunteering with awareness of what was involved.

Another case involved a group of 80 to 100 terminal cancer patients who were being treated with whole-body radiation at a civilian general hospital. The hospital had a contract with the Defense Department to study the effects of the whole-body radiation on the cancer patients. The results were provided to DOD for use in planning with respect to nuclear warfare; for the whole body radiation which the patients received had some similarity to what soldiers would experience on a battlefield if they were exposed to radiation from a nuclear explosion.

There is nothing inherently wrong with such a project provided that the radiation dosage which the patients received was not affected by the requirements of the DOD contract; and that the patients knew the nature of the research they were participating in and freely volunteered to do so, after having a thorough explanation of what was involved. However, because there was considerable confusion about the facts of the case, a controversy developed with charges and countercharges being made about the project. As a result of this controversy the institution at which this treatment occurred has since suspended the project, and indicated that if it is resumed in the future it will not be with Defense Department funds.

I have no intent in mentioning this case to criticize the Defense Department or the institution involved. The point is that adequate policies and procedures were lacking for handling such a situation, and as a result controversy and confusion developed which were certainly not beneficial to DOD, to the institution involved, or to the individual patients who participated in the research. The purpose of my amendment is to prevent such situations from developing in the future.

A final illustration of the problems involved in human experimentation also involves DOD funding of a project at a civilian medical institution. This case involves patients who have cancer of the eye, and whose eyes are going to be removed in an operation. Shortly before they are due for the operation, their diseased eye is subjected to an intense beam of radiation, similar to what military personnel would receive if they witnessed a nuclear explosion in the distance. After the diseased eye is removed, the tissue is studied to help in military planning with respect to nuclear conflict. Again the case is not cited in a critical vein, but merely to indicate the existence of such projects and the need to assure that there are adequate policies and procedures to safeguard the rights of the individuals involved.

I think the foregoing examples show the range and complexity of the problems involved in human experimentation. We cannot solve these problems overnight.

The Health Subcommittee has been studying these problems, with the aim of determining what legislation may be necessary in this area. And I am considering the need for hearings on human experimentation to aid in the development of such legislation.

But while we are working on the more fundamental problems and trying to develop lasting solutions to them, there is an important constructive step which the Senate can take today in its consideration of the military procurement bill.

Let me reemphasize the point that human experimentation under appropriate safeguards is an essential part of medical research. And the Defense Department has many legitimate requirements to conduct and sponsor human experimentation.

For example, when military test pilots test a new aircraft, they may have their physiological responses monitored to help in evaluating the plane and in preparing for its use in normal operations. This is a form of human experimentation, and it is of course fully justified, even though the subject's participation may involve serious risk of substantial injury or death to himself. He volunteers for such service with full knowledge of what is involved.

Similarly, testing out new undersea vehicles or deepsea diving techniques can involve substantial danger to the volunteers involved, and is a form of human experimentation, but again is fully justified. And in more conventional terms, the military has to experiment with human reactions to night combat, to undue stress and strain, and to a host of other situations which occur in military activity. Similarly, DOD runs vast educational and training programs, and needs the benefits of research on training methods, like computer assisted instruction.

So there are many areas of legitimate, necessary research on human beings which DOD carries out. It is not my purpose to attempt to delineate these or in any way circumscribe them. The purpose of my amendment is merely to assure that basic national policy is established and followed to protect the rights of the human beings involved in the research.

This is a goal with which I think there should be little, if any, disagreement. In this connection, it is my understanding, as indicated by the staff of the Armed Services Committee, that the Department of Defense does not oppose this amendment.

I am also delighted that the distinguished Senator from New Hampshire has decided to cosponsor this amendment. As chairman of the Armed Services Subcommittee on Research and Development, he is an authority on such matters; and I welcome his support for this measure.

Incidentally, I should mention that 16 Senators have cosponsored the amendment. In addition to Senator McINTYRE, they include Senators BAYH, BROOKE, CRANSTON, HARRIS, HART, HUGHES, HUMPHREY, INOUYE, JAVITS, McGOVERN, MONDALE, RANDOLPH, RIBICOFF, TUNNEY, and WILLIAMS.

The purpose of the amendment is to help in clarifying national policy on human experimentation, and particularly to assist DOD in implementing this policy with respect to human experimentation which is carried out under DOD contract. The present DOD policies in this regard are not entirely comprehensive and clear; so I believe this amendment can be of considerable help to DOD. The staff of the Armed Services Committee was helpful in obtaining for us copies of DOD regulations on human experimentation; and at my request the Comptroller General also made a survey and summary of the situation. I shall ask that the material they provided be inserted in the RECORD at the conclusion of my remarks. But the major point is that the regulations are not entirely uniform or comprehensive so that my amendment should prove helpful to DOD in establishing clear policies on human experimentation.

The substance of the amendment is simple. Subsection (a) establishes as national policy that Federal funds will be used for human experimentation only when the participants have freely volunteered after being fully informed of the risks involved. This subsection applies to all Government agencies. Subsection (b) applies this policy to the Defense Department. It says that DOD can contract for research on human beings only when: First, it is essential to the national defense; second, when HEW has indicated whether substantial risk of serious injury is involved; third, when the participants have been fully informed of what is involved; and fourth, when they freely volunteer to participate.

To summarize my remarks, the problem of human experimentation is enormous. My amendment is only a small, but I believe significant, step to move forward on this front. It would clarify national policy on human experimentation. And it would assist the Department of Defense in implementing that policy.

I am convinced it would be of great help to the Defense Department, to the institutions which perform the research, and above all, it would help protect the human rights of the individuals involved in the experiments.

I urge each Senator to support this amendment.

Mr. President, at my request the General Accounting Office studied the policy of the Department of Defense regarding the protection of human beings used in medical research projects under DOD contracts. The Comptroller General of the United States wrote me summarizing the GAO findings, and I ask unanimous consent that his letter be printed in the RECORD.

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

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 26, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate.

DEAR MR. CHAIRMAN: Pursuant to your request of December 23, 1971, and discussions with your office, we obtained documents relating to . . . the policy of the Department of Defense on the subject of the protection of humans used in medical research projects under contract. . . .

Concerning the policy on the subject of the protection of humans used in medical research projects, an official of the Department advised us that the policy of the Department was set forth in Department of Defense Instruction 5030.29, dated May 12, 1964. The instruction, which is applicable to all components of the Department and to its contractors or grantees, states that:

"The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

"Each Military Department will establish within the office of its Surgeon General a formal Review Board of professional personnel to consider each research proposal from within that Military Department or from its contractors or grantees which may involve the use of human subjects in the clinical investigation of new drugs. Before a clinical test with an investigational drug may be performed under the sponsorship of a Military Department—

"1. the plan of the test and other pertinent details must be submitted to the appropriate Review Board,

"2. the Board must indicate its approval, and

"3. the approval must be confirmed by the respective Surgeon General."

With the exception of certain reports that were required to be filed with the Food and Drug Administration of the Department of Health, Education, and Welfare in the case of investigational new drugs, no procedures were specified in the instruction with regard to the use of human subjects for other research purposes. The reports to be filed with the Food and Drug Administration were set forth in a Memorandum of Understanding between the Department of Health, Education, and Welfare and the Department of Defense, dated February 1964, which contained the procedures to be followed to ensure that the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 355), and the regulations issued under the act are fully met.

Although the instruction appeared to be directed primarly toward the investigational use of drugs, an official of the Department of Defense advised us that the instruction applied to all medical research projects. He stated also that each service directed its own research projects without control from the Department.

We contacted officials of the Departments of the Army, Navy, and Air Force and of the Defense Nuclear Agency . . . to determine whether they had any instructions or regulations that were applicable to the use of humans in medical research work under contract. The officials were not aware of any instructions or regulations, other than the instructions and regulations implementing human subjects that would apply to contractors conducting medical research for their organizations.

An official of the Department of the Air Force advised us that the Air Force did not conduct medical research under contract. Officials of the Departments of the Army and Navy stated that, although most medical research had been conducted in-house, some had been performed under contract. They stated also that, when work is to be performed under contract, they must be satisfied that patient consent forms will be used and that human subjects will be adequately protected before a contract is executed.

An official of the Defense Nuclear Agency advised us that, although the Defense Nuclear Agency did not have any contracts for the use of human subjects for medical research, the following language had been in-

cluded in all medical contracts after August 1971.

"The COR [Contracting Officer's Representative] shall be informed in writing of any project plans on the part of the Contractor to employ new, experimental, and investigational drugs or other hazards in research involving human subjects, and such experimentation shall be specifically authorized by the Contracting Officer in writing prior to the prosecution of such research. Without the concurrence and authorization by the Contracting Officer for the specified drug or other hazard involved, such research shall not be performed. (The purpose of this clause is to insure compliance with the Department of Defense Instruction, 5030.29, 1964 May 12, entitled 'Investigational Use of Drugs or Other Hazards by the Department of Defense', a copy of which is furnished to the Contractor with this Contract)." . . .

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report. We trust these comments will serve the purpose of your inquiry.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. KENNEDY. Mr. President, at the request of the staff of the Health Subcommittee, the staff of the Armed Services Subcommittee on Research and Development contacted the Defense Department to inquire about their policies and procedures regarding human experimentation. Attached is the DOD response, including copies of applicable regulations. I ask unanimous consent that this information be printed in the RECORD.

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

OFFICE OF THE DIRECTOR OF DEFENSE AND ENGINEERING,
Washington, D.C., February 18, 1972.

Mr. HYMAN FINE,
Professional Staff Member, Committee on Armed Services, Old Senate Office Building, Washington,, D.C.

DEAR MR. FINE: Enclosed are preliminary answers to your questions of 14 February 1972. We hope they will be of help to you.

To provide full answers to your questions, particularly number 1, will involve considerable effort for us; may I receive from you confirmation that such detail is necessary?

Since the medical field is somewhat sensitive about the use of the term "guinea pig" for human subjects, I've taken the liberty to slightly reword your questions.

Sincerely,

GUS D. DOROUGH,
Deputy Director, (Research & Advanced Technology).

Attachments.

QUESTIONS AND ANSWERS

Question 1. Is the Defense Department spending any money or asking for any money for research purposes which would use military or civilians as "experimental subjects" in medical research (include all funds spent to date, broken out by fiscal year, by appropriation, and by program and project)?

Answer: The answer is yes, but to determine the amount with the kind of detailed breakdown your request will require considerable collating effort. We believe the dollar value is a relatively small percentage of the total medical R&D. A very common area of human personnel use involves studies on the medical effects of certain military environments (high performance aircraft, submarines, and other climatic and underwater environments). Another use is in the final stages of development of vaccines against infectious diseases.

Question 2. If the Defense Department is using, or should plan to use human beings in medical research, what authority, if any, is necessary for them to undertake such research? Secretary of Defense approval, etc.? Is Surgeon General or anyone in HEW involved? Is the Environmental Protection Agency involved?

Answer: The authority necessary to undertake research varies with the DoD agency and the nature of the research. In general it requires the approval of a major laboratory director as a minimum, and more commonly requires the review and authority of the Surgeon General of a Military Department and frequently is restricted to the authority of the Secretary of a Military Department.

The main guides in this area are a DoD instruction and Army, Navy and Air Force regulations and instructions. Copies of these are enclosed.

The Surgeon General and HEW are definitely involved in all research pertaining to the investigational use of new drugs. This is a result of an interagency agreement, a copy of which is enclosed.

As far as we can tell the Environmental Protection Agency is not directly involved in any DoD research with human volunteers, unless the research itself has an environmental implication.

Question 3. What information is given to those who may participate in such research as "experimental subjects"? Are they fully informed as to all of the risks or possible consequences of the testing on themselves?

Answer: Informed consent is a primary ethical and legal requirement for all DoD use of human volunteers. The enclosed instructions and regulations describe this in some detail. We will provide amplifying information if you so desire.

Question 4. What controls exist within the Department of Defense to ascertain the needs for these projects, the impact on the patients, and the adherence to accepted medical standards for the programs?

Answer: The most important control does not exist in any regulation or bureaucratic procedure. It exists in the integrity and ethical standards of the physicians charged with conducting and supervising such research.

No regulation requires that the principal investigator and his professional co-workers be the first humans to receive a new vaccine or explore a new part of an acceleration profile, but they usually are.

The formal controls are outlined in the enclosed documents, but we will provide you with amplifying information if you so desire.

Question 5. Are there different standards applied to military personnel than to civilians?

Answer: In terms of supervision, volunteering, informed consent, freedom to terminate, there is no difference between military and civilian standards.

Professionals and technicians in the Armed Forces traditionally have voluntarily accepted higher degrees of risk to obtain vital information, than would be regarded as appropriate to ask of civilian volunteers. Examples are the Army Yellow Fever Volunteers. Colonel W. R. Lovelace (MC) U.S. Air Force–High Altitude Parachute Research in World War II and Lt. Carter Collins, MSC USN centrifuge demonstration that men could tolerate the G forces of reentry from space.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND THE DEPARTMENT OF DEFENSE CONCERNING INVESTIGATIONAL USE OF DRUGS BY THE DEPARTMENT OF DEFENSE

BACKGROUND

Section 505(a) of the Federal Food, Drug and Cosmetic Act, as amended by Section 104 of P.L. 87–781, 76 Stat. 784, 21 U.S.C. Sec. 355, (1962 Supp.) established new procedures for the approval required before the new drug can be introduced into interstate commerce. Section 355(1) of Title 21, United States Code (1962 Supp.) establishes exemptions from the new approval procedures for drugs which will be used only for manufacture of other drugs or for investigational purposes. That section establishes the general basis for exemption and provides that the Secretary of Health, Education, and Welfare shall promulgate regulations to give effect to the general guidance of the statute.

On January 8, 1963, the Secretary published the regulations in 28 Federal Register 179 (1963); the regulations will eventually appear in Title 21, Part 130, Section 130.3 of the Code of Federal Regulations. These regulations establish the procedure and prescribe the necessary forms to be filed in order to exempt drugs to be used only for investigational purposes from the approval procedures of the Food, Drug and Cosmetic Act.

PURPOSE

The purpose of this Memorandum of Understanding is to state the procedures that will be followed by the Departments of Defense and Health, Education, and Welfare to insure that the requirements of the Federal Food, Drug, and Cosmetic Act and the investigational drug regulations issued under that Act are fully met without jeopardizing or impeding the requirements of national security or the requirements of Federal laws and regulations relating to such use of drugs.

The Surgeon General of each Military Department has established within his office a formal "Review Board" which carefully considers each research proposal from its own agency or from outside contractors which may involve the use of human subjects in the clinical investigation of new drugs. Each "Review Board" is staffed with professional people capable of performing competent review of such research proposals to insure adequate protection of human subjects. The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

Before a clinical test may be performed with an investigational drug, the plan of the test and other pertinent details must be submitted to the appropriate "Review Board," the Board must indicate its approval, and the approval must be confirmed by the appropriate Surgeon General.

AGREEMENT

Under these circumstances, the Departments of Defense, and Health, Education, and Welfare agree that the following procedure meets the requirements of the Food, Drug, and Cosmetic Act:

1. Clinical investigations that are classified for reasons of national security will not require the filing of a formal "Claim for Exemption" to the Department of Health Education, and Welfare. Approval of the test by the appropriate Review Board and Surgeon General will automatically exempt the drug being employed from the application of the new drug section of the Food, Drug, and Cosmetic Act during the investigational study. The Department of Defense will report to FDA findings associated with such studies which FDA should be aware of in order to make a sound evaluation of nonclassified studies proposed on the same or similar drugs. Additionally, the Department of Defense will discuss its classified investigations of drugs periodically with FDA personnel who have proper security clearance.

2. In the case of non-classified security research programs sponsored by the Department of Defense and conducted within its research facilities or for the Department upon contract, copies of the request for approval submitted to the appropriate DOD Review Board, the Review Board's evaluation and approval, and notice of approval by the

appropriate Surgeon General will be filed with the FDA as the claim for exemption for the investigational drug.

3. When the Department of Defense performs clinical tests upon new drugs being sponsored by the pharmaceutical industry, the ordinary claim for exemption (Form 1571 of the Investigational Drug Regulations) will be filed with the Food and Drug Administration.

ANTHONY J. CELEBREZZE,
The Secretary of Health, Education, and Welfare.
CYRUS VANCE,
The Deputy Secretary of Defense.
February 18, 1964.

QUESTIONS

1. Is the Defense Department spending any money or asking for any money for research purposes which would use military or civilians as "guinea pigs" in medical research (include all funds spent to date, broken out by fiscal year, by appropriation, and by program and project)?

2. If the Defense Department is using, or should plan to use human beings in medical research, what authority, if any, is necessary for them to undertake such research? Secretary of Defense approval, etc.? Is Surgeon General or anyone in HEW involved? Is the Environmental Protection Agency involved?

3. What information is given to those who may participate in such research as "guinea pigs"? Are they fully informed as to all of the risks or possible consequences of the testing on themselves?

4. What controls exist within the Department of Defense to ascertain the needs for these projects, the impact on the patients, and the adherence to accepted medical standards for the programs?

5. Are there different standards applied to military personnel than to civilians?

RESEARCH AND DEVELOPMENT—USE OF VOLUNTEERS AS SUBJECTS OF RESEARCH

HEADQUARTERS,
DEPARTMENT OF THE ARMY,
Washington, D.C., March 26, 1962.

1. PURPOSE

These regulations prescribe policies and procedures governing the use of volunteers as subjects in Department of the Army research, including research in nuclear, biological, and chemical warfare, wherein human beings are deliberately exposed to unusual or potentially hazardous conditions. These regulations are applicable worldwide, wherever volunteers are used as subjects in Department of the Army research.

2. DEFINITION

For the purpose of these regulations, unusual and potentially hazardous conditions are those which may be reasonably expected to involve the risk, beyond the normal call of duty, of privation, discomfort, distress, pain, damage to health, bodily harm, physical injury, or death.

3. EXEMPTIONS

The following categories of activities and investigative programs are exempt from the provisions of these regulations:

a. Research and nonresearch programs, tasks, and tests which may involve inherent occupational hazards to health or exposure of personnel to potentially hazardous situations encountered as part of training or other normal duties, e.g., flight training, jump training, marksmanship training, ranger training, fire drills, gas drills, and handling of explosives.

b. That portion of human factors research which involves normal training or other military duties as part of an experiment, wherein disclosure of experimental conditions to participating personnel would reveal the artificial nature of such conditions and defeat the purpose of the investigation.

c. Ethical medical and clinical investigations involving the basic disease process or new treatment procedures conducted by the Army Medical Service for the benefit of patients.

4. BASIC PRINCIPLES

Certain basic principles must be observed to satisfy moral, ethical, and legal concepts. These are—

a. Voluntary consent is absolutely essential.

(1) The Volunteer will have legal capacity to give consent, and must give consent freely without being subjected to any force or duress. He must have sufficient understanding of the implications of his participation to enable him to make an informed decision, so far as such knowledge does not compromise the experiment. He will be told as much of the nature, duration, and purpose of the experiment, the method and means by which it is to be conducted, and the inconveniences and hazards to be expected, as will not invalidate the results. He will be fully informed of the effects upon his health or person which may possibly come from his participation in the experiment.

(2) The consent of the volunteer will be in writing. A document setting forth substantially the above requirements will be signed by the volunteer in the presence of at least one witness not involved in the research study who will attest to such signature in writing.

(3) The responsibility for ascertaining the quality of the consent rests upon each person who initiates, directs, or conducts the experiment. It is a personal responsibility which may not be delegated.

b. The number of volunteers used will be kept at a minimum consistent with *c* below.

c. The experiment must be such as to contribute significantly to approved research and have reasonable prospects of yielding militarily important results essential to an Army research program which are not obtainable by other methods or means of study.

d. The experiment will be conducted so as to avoid all unnecessary physical and mental suffering and injury.

e. No experiment will be conducted if there is any reason inherent to the nature of the experiment to believe that death or disabling injury will occur.

f. The degree of risk to be taken will never exceed that determined to be required by the urgency or importance of the Army program for which the experiment is necessary.

g. Proper preparations will be made and adequate facilities provided to protect the volunteer against all foreseeable possibilities of injury, disability, or death.

h. The experiment will be conducted only by scientifically qualified persons. The highest degree of skill and care will be required during all stages of the experiment of persons who conduct or engage in the experiment.

i. The volunteer will be informed that at any time during the course of the experiment he will have the right to revoke his consent and withdraw from the experiment, without prejudice to himself.

j. Volunteers will have no physical or mental diseases which will make the proposed experiment more hazardous for them than for normal healthy persons. This determination will be made by the project leader with, if necessary, competent medical advice.

k. The scientist in charge will be prepared to terminate the experiment at any stage if he has probable cause to believe, in the exercise of the good faith, superior skill, and careful judgment required of him, that continuation is likely to result in injury, disability, or death to the volunteer.

l. Prisoners of war will not be used under any circumstances.

5. ADDITIONAL SAFEGUARDS

As added protection for volunteers, the following safeguards will be provided:

a. A physician approved by The Surgeon General will be responsible for the medical care of volunteers. The physician may or may not be the project leader but will have authority to terminate the experiment at any time that he believes death, injury, or bodily harm is likely to result.

b. All apparatus and instruments necessary to deal with likely emergency situations will be available.

c. Required medical treatment and hospitalization will be provided for all casualties.

d. The physician in charge will have consultants available to him on short notice throughout the experiment who are competent to advise or assist with complications which can be anticipated.

6. APPROVAL TO CONDUCT EXPERIMENT

It is the responsibility of the head of each major command and other agency to submit to The Surgeon General a written proposal for studies which come within the purview of this directive. The proposal will include for each study the name of the person to be in charge, name of the proposed attending physician, and the detailed plan of the experiment. The Surgeon General will review the proposal and forward it with his comments and recommendations on medical aspects to the Chief of Research and Development for approval. When a proposal pertains to research with nuclear, biological, or chemical agents, the Chief of Research and Development will submit the proposal, together with The Surgeon General's review, to the Secretary of the Army for approval. No research with nuclear, biological, or chemical agents using volunteers will be undertaken without the consent of the Secretary of the Army.

7. CIVILIAN EMPLOYEES

When civilian employees of the Department of the Army volunteer under this program, the following instructions will be observed:

a. Any duty as a volunteer performed during the employee's regularly scheduled tour of duty will be considered as constructive duty for which straight time rates are payable. Time spent in connection with an experiment outside the employee's regularly scheduled tour will be considered as voluntary overtime for which no payment may be made nor compensatory time granted. The employee will be so informed before acceptance of his volunteer services.

b. Claims submitted to the Bureau of Employees' Compensation, U.S. Department of Labor, because of disability or death resulting from an employee's voluntary participation in experiments, will include a citation to title 10, United States Code, section 4503 as the Department of the Army authority for the use of such volunteer services.

c. All questions concerning hours of duty, pay, leave, compensation claims, or application of other civilian personnel regulations to volunteer employees will be presented through channels to the Deputy Chief of Staff for Personnel, ATTN: Office of Civilian Personnel.

8. IMPLEMENTING INSTRUCTIONS

Heads of major commands and other agencies will issue necessary implementing instructions to subordinate units. Copies of implementing instructions will be furnished to the Chief of Research and Development.

[Appendix]

LEGAL IMPLICATIONS

The following opinions of The Judge Advocate General furnish specific guidance for all participants in research using volunteers:

1. Authority. The Secretary of the Army is authorized to conduct research and development programs including the procurement of services that are needed for these programs (10 U.S.C. 4503). The Secretary has the authority to "assign detail and prescribe the duties" of both members of the Army and civilian personnel (10 U.S.C. 3012(e)).

2. Military personnel and Department of

the Army civilian employees. Compensation for the disability or death of a civilian employee resulting from personal injury or disease proximately caused by his employment is payable under the Federal Employees Compensation Act (39 Stat. 742 et seq.), as amended (5 U.S.C. 751 et seq.), regardless of whether his employment was of a hazardous nature. The amount and type of disability compensation or other benefits payable by reason of the death or disability of a member of the Army resulting from injury or disease incident to service depends upon the individual status of each member, and is covered by various provisions of law. It may be stated generally that under present laws no additional rights against the Government will result from the death or disability of military and civilian personnel participating in experiments by reason of the hazardous nature of the operations.

3. Private citizens. It is the policy of the United States to prohibit the acceptance of voluntary services particularly when they may provide a basis for a future claim against the Government. (R.S. 3679, as amended; 31 U.S.C. 665(b).

4. Use of appropriated funds for the purchase of life insurance. As the payment of insurance premiums on the life of an officer or employee of the United States is a form of compensation which is not currently authorized, payment of those premiums is prohibited (R.S. 1765; *Commissioner of Internal Revenue* v. *Bonwit*, 87 F 2d 764 (2d Cir. 1937); *Canaday* v. *Guitteau*, 86 F 2d 303 (6th Cir., 1936); 24 Comp. Gen. 648 (1945)).

5. Contractor's employees. There appears to be no legal objection to the use of employees of contractors in research and development experiments. It is the responsibility of the contracting officer to determine whether the terms of the contract are sufficiently broad to permit the participation of these employees. Generally, benefits to which private employees may become entitled by reason of death or disability resulting from their employment are payable under State law except persons covered by the survivors insurance provisions of the Social Security Act (49 Stat. 623, as amended (42 U.S.C. 402)). Reimbursement of the employer for additional costs by reason of this liability of his employees will depend upon the terms of each contract. These employees are not disqualified from prosecuting claims against the Government under the Federal Torts Claim Act (28 U.S.C. 2671 et seq., see AR 25-70). In cost reimbursement type research contracts with commercial organizations the cost of maintaining group accident and life insurance may be reimbursed to the contractor (subject to certain exceptions) under ASPR 15-205.16 provided that the approval of the head of the Procuring Activity is obtained (APP 10-551).

6. Irregular or fee-basis employees. Intermittent services of such employees are authorized. (For experts and consultants see Sec. 15, Act of 2 Aug. 1946 (60 Stat. 810; 5 U.S.C. 55a); Sec. 501, DoD Appropriation Act, 1961 (74 Stat. 349); note APP 30-204.1, CPR A7; Sec. 710 Defense Production Act of 1960 (64 Stat. 819; 50 U.S.C. App. 2160); and for architects, engineers, and other technical and professional personnel on a fee basis, see 10 U.S.C. 4540.). Whether these employees can be detailed or assigned to the proposed experiments will depend upon the statutory authority for employment and the provisions of their employment agreement in each case. The Federal Employees Compensation Act, *supra*, in all probability applies with respect to these irregular and fee-basis employees for any injury or disease resulting from their employment, although a final determination in such cases will have to be made by the Bureau of Employees Compensation, Department of Labor. Subject to such restrictions and limitations as may appear in the statutory authority under which he is employed, it would appear that the Government may legally bear the expense of premiums upon the life of an irregular or fee-basis employee whose rate of compensation is not fixed by law or regulations. In this regard, it may be advisable for the Government to provide an additional allowance to the employee for financing such private insurance arrangements as he may wish to make rather than to undertake direct negotiations with insurance carriers for the desired coverage.

7. Conclusion. Subject to the above conditions, Armed Forces personnel and/or civilians on duty at installations engaged in research in subject fields will be permitted to actively participate in all phases of the program.

By order of the Secretary of the Army:

G. H. DECKER,
General, United States Army,
Chief of Staff.

J. C. LAMBERT,
Major General, United States Army,
The Adjutant General.

DEPARTMENT OF THE NAVY,
Washington, D.C., April 28, 1969.

SECNAV Instruction 3900.39.
From: Secretary of the Navy.
To: Distribution List.
Subj: Use of volunteers as subjects in research, development, test, and evaluation.
Ref: (a) Manual of the Medical Department Chapter 20, Research and Development, Paragraph 20-8, Use of Volunteers in Hazardous Experiments.
Encl: (1) Sample Human-Volunteer Consent Document.

1. *Purpose.* To prescribe policies and procedures of the Department of the Navy governing the use of volunteer subjects in research, development, test, and evaluation (RDT&E) conducted by, within, or for the Naval Establishment wherein human beings are experimentally exposed to hazardous conditions or materials. This Instruction does not apply to the use, in the treatment of individual patients, of drugs approved by the Federal Drug Administration for investigational use only. It does apply to the use of investigational drugs under an approved RDT&E project or task in a volunteer population of healthy persons or a volunteer population of patients in which the experimental drug testing has no relationship to the cause of their being on the sick list.

2. *Background.* In the use of volunteers as subjects in hazardous experimental situations, it is obvious that military R&D commanders, scientific and technical program managers, and project directors have special responsibilities both moral and legal in nature. It has long been recognized that hazardous experiments utilizing human test subjects are absolutely necessary to extend the frontiers of medical science, aerospace flight, and undersea exploration. The atrocities which were committed against human beings during the Second World War served as a decisive factor in the adoption by the World Medical Association of a clearly stated code of medical ethics. It is accepted United States national and Department of Defense policy that the use of human subjects be based upon voluntary, informed consent and be confined to experiments or tests which are necessary, scientifically sound, and reasonably safe.

3. *Definitions.* For the purpose of this Instruction, hazardous conditions or materials are those which present risk of privation, discomfort, distress, pain, physical or mental injury, or death greater than the hazards inherent in training or work within accepted occupational parameters.

4. *Policy.* Certain basic principles must be observed to satisfy moral and legal concepts. These are:

a. Voluntary consent is essential.

(1) The volunteer must have legal capacity to give consent. He will be so situated as to be able to exercise free power of choice, without the intervention of any element of force, deceit, duress, or ulterior form of constraint or coercion. He will have sufficient knowledge and comprehension of the elements of the subject matter involved to enable him to make an understanding and enlightened decision. Such knowledge will be provided to the volunteer in such a manner as not to compromise the experiment. Thus he will be told, prior to acceptance of his consent, the nature, approximate duration, and purpose of the experiment; the method and means by which it is to be conducted; and the inconviences and hazards entailed—all in such a way as not to invalidate the results. He will be fully informed of the effects upon his health or person which may possibly result from his participation in the experiment. He will be made to understand clearly that, at any time during the course of the experiment, he will have the right to revoke his consent and to withdraw from the experiment without prejudice to himself.

(2) The document of consent will be in writing, setting forth the above requirements and containing, or having attached and referenced, a summary of the information given to the volunteer pursuant to the foregoing requirements. It shall also contain a statement by the volunteer that he is not relying upon any information or representation not set forth in the document of consent and that his consent is given as an exercise of free will, without any force or duress of any kind. The document will be signed by the volunteer—over his full name; his rank, rate, grade, or title; and his date of birth—in the presence of at least one witness who is not directly involved in the experiment or test and who will attest to such signature in writing. Enclosure (1) provides a sample of an acceptable volunteer consent document, the original of which will remain in the records of the activity conducting the RDT&E.

(3) The responsibility for ascertaining the validity of the consent rests upon the person who directs the experiment or test. It is a personal responsibility which may not be delegated.

b. The number of volunteers used will be kept at a minimum consistent with sample-size requirements necessary for scientifically valid conclusions.

c. The experiment must be such as to contribute to an approved naval RDT&E project. In addition, the experiment or test should be such as to yield fruitful results for the good of society, unobtainable by other methods or means of study, and not random and unnecessary in nature. There will be reasonable anticipation that the results will justify the performance of the experiment or test. Accordingly, all experiments and tests will be based upon prior study or experimentation and designed to accomplish this objective. All medical experiment or experiments involving the use of an experimental drug should be based upon the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study.

d. The experiment or test will be conducted so as to avoid unnecessary physical or mental stress. No experiment or test will be conducted if, upon careful consideration by the person who directs the experiment, there is reason to believe that death or disabling injury will occur. The degree of risk to be taken will never exceed that determined to be justifiable by the humanitarian importance of the problem to be solved by the experiment. Proper preparations will be made under the supervision of a qualified physician, knowledgeable in the test field, and with adequate medical facilities and safety equipment being provided to protect the volunteer against the possibilities of injury, disability, or death. Adequate and complete medical treatment will be available for

treatment of casualties. The physician-in-charge will have consultants, available on short notice, who are competent to advise or assist with unexpected complications.

e. The experiment or test will be directed only by scientifically qualified persons with a high degree of technical and professional competence in conducting such procedures. All personnel supervising or participating in such procedures must be adequately trained to perform their duties reliably in foreseeable circumstances. The highest degree of care will be required at all stages of the experiment or test.

f. Volunteers will have no physical or mental diseases which will make the proposed experiment more hazardous for them than for normal healthy persons. This determination will be made by the experiment or test director on the basis of competent medical advice.

g. The experiment or test director, or his acting subordinate, will exercise careful judgment, superior skill, and good faith at all times during the course of the experiment or test. The director will terminate the procedure at any stage if it is likely that continuation will result in injury, disability, or death to a volunteer. During the course of an experiment or test, a volunteer shall be at liberty to revoke or withhold his consent and to withdraw, without prejudice to himself, from the experiment or test, or from a portion thereof. New dangers and adverse developments arising during the course of the experiment or test, about which the volunteer has not been briefed or warned, shall be reported to the volunteer in a timely manner unless such communication would pose an immediate threat to his safety.

h. Prisoners of war will not be used under any circumstances.

5. *Procedures.* a. The experiment or test director will prepare a written request for approval of the use of volunteers in any proposed procedure coming within the purview of this Instruction. The request will include the names of the director and the conducting activity and the identity of the responsible supporting medical activity. It will speak appropriately to the principles of policy guidance expressed in paragraph 4 of this Instruction. The request will enclose a plan of the experiment or test consistent with security requirements.

b. The request will be forwarded via (1) the appropriate military chain of command; (2) the Chief, Bureau of Medicine and Surgery; (3) the Chief of Naval Personnel/Commandant of the Marine Corps, or both, as appropriate; and (4) the Chief of Naval Operations (DCNO(DEV)) to the Secretary of the Navy (ASN(R&D)).

(1) The RDT&E chain of command endorsements are to be directed primarily to the technical soundness and program importance of the experiment or test for which the use of human volunteers is proposed.

(2) The Chief, Bureau of Medicine and Surgery, will direct his endorsement specifically to the degree of hazard inherent in the test, the adequacy of safety measures, the adequacy of medical supervision and support, and the adequacy of the human-volunteer consent statement to be utilized.

(3) The Chief of Naval Personnel/Commandant of the Marine Corps will direct their respective endorsements in particular to the utilization of active-duty military personnel in existing billets for voluntary duty as experimental subjects, and to other aspects as they deem appropriate.

(4) The Chief of Naval Operations (DCNO (DEV)) will direct his endorsement to the validity of the requirement for doing the experiment; the adequacy of the certification by BUMED on pertinent medical aspects; the approved utilization of personnel in the manner proposed; and the statement of program needed by the sponsoring command. Administrative and coordination action will be assigned to the Staff Assistant for Medical and Allied Sciences.

(5) The Assistant Secretary of the Navy (Research and Development) will act as approving authority for the Secretary of the Navy. Review of legal aspects will be accomplished by the Office of the Judge Advocate General.

6. *Management.* Since the use of volunteers in experimental or test situations is an integral part of the conduct of the RDT&E Program and does not involve the establishment of additional manpower billets, action on such requests, including coordination of manpower and legal aspects, will be through the RDT&E chain of command.

7. *Implementation.* Addressees are authorized to take such action as is necessary to assure compliance with this Instruction throughout the Naval Establishment.

JOHN W. WARNER,
Under Secretary of the Navy.

[Sample form]

APRIL 28, 1969.

CONSENT TO PARTICIPATE VOLUNTARILY IN A RESEARCH, DEVELOPMENT, TEST, OR EVALUATION (R.D.T. & E.) PROCEDURE

Date _____.

1. I hereby volunteer to participate as a subject in a RDT&E procedure being conducted under Element No. ____, Project No. ____, Work Unit Title "_____," which has been approved by _____ (sponsoring command). I understand that the adequacy of safety measures has been certified by the Chief, Bureau of Medicine and Surgery, and that authority to use human volunteers has been granted by the Secretary of the Navy.

2. The nature and purpose of the procedures have been explained to me as follows: (See attached summary.)

3. In making my decision to volunteer, I am not relying upon any information or representation not set forth in this document, or attached summary. My consent is given as an exercise of free will, without any force or duress of any kind. I understand that my consent to participate does not constitute a release from any possible future liability by the United States attributable to the experiments.

Signed: _____
(Typed name, rank, rate, or grade)
Date of birth _____.
Witnessed: _____.
(Not directly involved in test)
Approved: _____ (Test Director).

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., August 28, 1969.

RESEARCH AND DEVELOPMENT—USE OF VOLUNTEERS IN AEROSPACE RESEARCH

(This regulation establishes the policy and assigns the responsibility for using volunteer test subjects in aerospace research, development, test and evaluation (RDT&E). It applies to the use of humans in studies conducted in facilities where the subjects are Government employees and where there is a risk of health damage.)

1. APPLICATION OF THIS REGULATION

The provisions of this regulation:

a. Apply to RDT&E procedures in which human subjects are used and in which there is inherent risk of distress, pain, damage to health, physical or emotional injury, invasion of privacy, surrender of autonomy or death. Such tests usually are conducted to determine either the level of human tolerance/performance for a condition that may be imposed by Air Force operations or the adequacy of equipment designed for human use (see AFR 80–14). This includes tests and experiments conducted within a Federal Government installation or facility regardless of the composition of the investigating team (contractor personnel, military personnel, civil service personnel or a mixture thereof) or at contractor facilities when the human subjects are Government employees, either military or civilian.

b. Do not apply to:

(1) Investigations conducted under the provisions of AFRs 169–6 and 169–8.

(2) RDT&E that involves inherent occupational hazards to health, or exposure to potentially hazardous situations such as those encountered in training or other duties requiring orders for regular and frequent performance of hazardous duty; for example: flight training, jump training, pressure chamber indoctrination, and handling of explosives, etc.

(3) The human engineering portions of a research project when they involve only hazards encountered in normal training or other normal military duties and when disclosure of the research conditions would defeat the purpose of the investigation by revealing the artificial nature of the experiment.

(4) Experiments using human subjects that are judged to be nonhazardous on the basis of meeting *all* of the following criteria:

(a) They are conducted in the usual ambient environment of the laboratory, office, or in moderate weather outdoors.

(b) They involve only the application to the subject of stimuli to the communication senses (sight, hearing, touch, and smell) at energy levels and durations known to be well within commonly experienced and tolerated ranges.

(c) They do not involve the planned application of unusual or known to be harmful physical or chemical energy to the subject, such as noise, vibration, barometric pressure alterations, deceleration or acceleration, immersion in water, chemical agents, or drugs, etc.

(d) They do not involve unusual physical exertion or application of force by the subject.

(e) The experimental environments have no ground safety hazards, such as electrical shock, sharp objects, slippery floors, or obstacles not readily visible.

(f) Have no combination of conditions which are expected to produce any of the adverse effects covered in paragraph 1a.

2. OBTAINING VOLUNTARY CONSENT

a. The principal investigator must insure that the volunteer (or the person acting for him) has the legal capacity to consent, is able to exercise true freedom of choice without overt or hidden persuasion, and is fully informed. The fact that a member of the Armed Forces is less than 21 years of age does not impair his legal capacity for this purpose.

b. Before a volunteer (or the person acting for him) is permitted to give his consent, the investigator must give him an accurate explanation of the research study that he can and does understand. The explanation shall include at least:

(1) The purpose, nature, and duration of the study.

(2) The methods and means by which the study will be conducted.

(3) Foreseeable inconveniences, hazards, and effects upon the volunteer's health that could result from his participation in the experiment.

(4) An identification of any parts of the test program that neither the volunteer nor the individual conducting the test can stop immediately.

c. The volunteer (or the person acting for him) must give his consent in writing as shown by attachment 1; when a person is acting for the volunteer, the wording will be appropriately modified. He must sign the consent in the presence of at least one witness who will then attest to the volunteer's sig-

nature by signing in the place provided. In addition, the investigator who advised of possible consequences must also sign the consent in the presence of the same witness.

3. Use of Volunteers in RDT&E. The following criteria apply to all RDT&E efforts which involve volunteers as subjects:

a. All necessary preliminary tests with laboratory animals and human simulators must have been conducted and evaluated before a human subject is used. Hazardous research that uses volunteers will be performed only to validate important data essential to a project, development, system or Air Force mission.

b. Research studies using volunteers will be conducted to avoid all unnecessary physical or mental discomfort. Before the investigation or test begins, a physician will conduct, and record such examinations and evaluations of the volunteer as his professional judgment dictates. Permanent records of these examinations will be maintained as part of the project record, as required in AFR 161–2, and also in the volunteer's DD Form 722, "Health Record."

c. A physician, other than the principal investigator will be designated to be responsible for the professional care and safety of the volunteer during the project. This physician will *not* be involved in the research or test in any way other than to be the protector of the life and health of the volunteer. This physician or the investigators may terminate the study at any time.

d. The volunteer, at any time, has the right to revoke his consent and withdraw from the experiment without prejudice. The volunteer must be fully informed of these facts and procedures.

e. Before being a subject of RDT&E, the consent of the volunteer, or his legal representative, must be obtained and placed in the records of the project. (See attachment 1.)

f. If the volunteer has taken medication or received medical or dental treatment since last used as a subject, it is mandatory that he inform the principal investigator and the physician of this fact before the conduct of the next experiment.

g. For each RDT&E project, the Laboratory or Test Director and a physician must examine a protocol submitted by the project/task scientist to determine:

(1) The necessity to use volunteers.
(2) The safety precautions.
(3) The protective measures.
(4) The adequacy of medical surveillance.

Both the Laboratory or Test Director and a physician will sign a certification attesting to the above conditions. These documents will become permanent records in the RDT&E protocol.

4. COMMAND RESPONSIBILITIES

a. Major commands will establish suitable procedures to insure compliance with the policies stated in this regulation.

b. Laboratory commanders will approve or disapprove all RDT&E protocols involving the use of volunteer subjects and are responsible for basing this decision upon appropriate medical review and advice.

5. PUBLICATIONS PERTAINING TO HUMAN VOLUNTEERS

All printed papers or articles reporting research in which volunteer subjects are used will contain the following footnote: "The voluntary informed consent of the subjects used in this research was obtained in accordance with AFR 80–33.

By order of the Secretary of the Air Force.

JOHN D. RYAN,
General, USAF, Chief of Staff.

JOHN F. RASH,
Colonel, USAF, Director of Administration.

AUGUST 28, 1969.

VOLUNTEER'S CONSENT

Subject: Consent of Volunteer.

1. I hereby volunteer to participate as a test subject in the following (insert "investigation" or "test" as appropriate) which has as its purpose (state the purpose in sufficient detail to assure that it will be clearly understood by both the medical review authority and the volunteer). (Insert rank, name, component, and corps) has discussed with me to my satisfaction the reasons for this (insert "investigation" or "test" as appropriate) and its possible adverse and beneficial consequences.

2. This consent is voluntary and has been given under circumstances in which I can exercise free power of choice. I have been informed that I may at any time revoke my consent and withdraw from the experiment without prejudice and that the investigator or physician may terminate the experiment at any time regardless of my wishes.

3. I understand that before my use as a test subject, I must inform the principal investigator and project physician of any change to my medical status. This information will include any medications I have taken and any medical or dental care/treatment received since my last use as a test subject.

(Signature of Volunteer.)
(Signature of Officer who Advised of Possible Consequences.)
(Signature of Witness.)

DEPARTMENT OF DEFENSE INSTRUCTION,
May 12, 1964.

Subject: Investigational Use of Drugs by the Department of Defense.

Reference: (a) Drug regulations published by Department of Health, Education and Welfare (21 CFR 130.3).

I. PURPOSE

This Instruction specifies the manner in which the regulations cited in reference (a) will be applied to the investigational use of drugs by the Department of Defense.

II. APPLICABILITY

The provisions of this Instruction apply to all DOD Components and their contractors or grantees engaged in the investigational use of drugs.

III. RESPONSIBILITIES

A. The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

B. Each Military Department will establish within the office of its Surgeon General a formal Review Board of professional personnel to consider each research proposal from within that Military Department or from its contractors or grantees which may involve the use of human subjects in the clinical investigation of new drugs. Before a clinical test with an investigational drug may be performed under the sponsorship of a Military Department—

1. the plan of the test and other pertinent details must be submitted to the appropriate Review Board,

2. the Board must indicate its approval, and

3. the approval must be confirmed by the respective Surgeon General.

IV. REPORTS

A. Clinical investigations that are classified for reasons of national security will not require the filing of a formal "Claim for Exemption" to the Department of Health, Education, and Welfare. Approval of the test by the appropriate Review Board and Surgeon General will automatically exempt the drug being employed from the application of the new drug section of the Food, Drug, and Cosmetic Act during the investigational study. The Military Departments will report to the Food and Drug Administration (copies to OSD unnecessary) findings associated with such studies which FDA should be aware of in order to make a sound evaluation of non-classified studies proposed on the same or similar drugs. Additionally, the Military Departments will discuss their classified investigations of drugs periodically with FDA personnel who have proper security clearance.

B. In the case of non-classified security research programs sponsored by the Department of Defense and conducted within its research facilities or for the Department upon contract, copies of the request for approval submitted to the appropriate Review Board, the Review Board's evaluation and approval, and notice of approval by the appropriate Surgeon General will be filed with the FDA as the claim for exemption for the investigational drug.

C. When the Department of Defense performs clinical tests upon new drugs being sponsored by the pharmaceutical industry, the ordinary claim for exemption (Form 1571 of the Investigational Drug Regulations) will be filed with the FDA.

V. EFFECTIVE DATE AND IMPLEMENTATION

This instruction is effective immediately. Two copies of implementing instructions shall be forwarded to the Director of Defense Research and Engineering within sixty days.

HAROLD BROWN,
Director of Defense Research and Engineering.

Mr. DOMINICK. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. DOMINICK. Does the Senator have any programs he knows of that are being started now, or are being conducted now, which will be in violation of the proposal he has made?

Mr. KENNEDY. No. I have been careful not to identify any of the existing programs, because we are not seeking to ascribe blame or criticize particular programs. The amendment is addressed at the general problem. The problem, as suggested by the Comptroller General, is that there is no single standard, no uniform or comprehensive policy to cover all DOD contracts for human experimentation, which amount to approximately $10,000,000 per year. So it seems to me, in order to establish a uniform policy, this amendment is worthwhile.

Mr. DOMINICK. I believe the Senator has a perfectly good amendment. The only thing I was wondering about was whether there was anything we could do immediately. I gather that hearings will be held.

Mr. KENNEDY. That is right. The Senator from Colorado is familiar with some of the matters which have been brought to the attention of the committee as a result of newspaper reports and others, but I am not prepared at this time to get into an evaluation of the programs. We need more time for that. Staff studies are being made on some of the programs. I do not want to identify them at this time. But there is justification, given the facts, to establish a uniform policy. I would hope this amendment would meet that need.

Mr. DOMINICK. I thank the Senator from Massachusetts.

Mr. ALLEN. Mr. President, will the Senator from Massachusetts yield for a further question?

Mr. KENNEDY. I yield.

Mr. ALLEN. Does the Senator's amendment guard in some way against the kind of program such as the U.S. Public Health Service inaugurated back in the early 1930's at Tuskegee, Ala., where some 400 poor, black, uneducated citizens of that area were drawn into an experimental program under which they were hospitalized for a given treatment for every ailment that they had except the real one that they had, which was syphilis; and this program continued up to the present time, even though a cure for syphilis was developed many years ago, in the early 1940's, I believe. The medicine and the treatment for cure of syphilis was withheld from these 400 citizens under that early program, with these people not being advised of the nature of the program that they were participating in, the agreement being that they would stay under the program for the remainder of their lives, and that at the end of their lives, they would be subject to an autopsy to determine the debilitating effect of the disease.

Would the Senator's amendment ward off a program of that sort?

Mr. KENNEDY. I believe that it would. Quite clearly, it is intended to encompass that kind of program. I fail to see how, if those individuals had been notified and made aware of the dimensions of that program, if they had been made aware of the fact that a cure for syphilis had been developed—through penicillin—how there would have been any further justification to continue that program.

Mr. ALLEN. They were not advised.

Mr. KENNEDY. No, they were not advised or notified. This amendment would apply to such cases in the future. Furthermore, let me say that I was very much distressed to read the newspaper accounts of that program.

We had Dr. Du Val, Assistant Secretary of Health, Education, and Welfare, before our committee and we asked him to make a complete report on this, as well as other human experimentation programs conducted by the HEW. He will submit them to our Health Subcommittee and we intend to conduct our own investigation, not only into that one, but other kinds of human experimentation programs.

This amendment would obviously address itself to that particular development, and others; I was horrified to read about that particular program the Senator mentioned.

Mr. ALLEN. When did Dr. Du Val say that this report or investigation of this program would be made available to the general public?

Mr. KENNEDY. We asked him on Thursday of last week, and if my memory serves me correctly, he said it would take about 4 to 6 weeks, and, in the meantime, what he did say was that procedures will be followed in HEW to insure, during the time they are conducting this study, that this will not happen again. The report will be printed in the RECORD as soon as we receive it, for the benefit of all Senators.

Mr. ALLEN. I thank the Senator from Massachusetts very much. I want to assure him that I support his amendment.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from New Hampshire is recognized for 5 minutes.

Mr. McINTYRE. Mr. President, I am pleased to speak in support of the human experimentation amendment which it is my privilege to cosponsor with my distinguished colleague from the State of Massachusetts. Senator KENNEDY's amendment to the military procurement authorization bill is another clear indication of his concern with matters involving the health of our population.

The declaration of policy which is contained in the proposed amendment is much broader in its meaning than is involved in the operations of the Department of Defense. However, it should serve as a basis for providing the impetus to all Federal agencies which are engaged in research involving the citizenry of our country to insure that their physical and mental health is adequately protected.

There have been instances reported in the press involving the Department of Defense and the Department of Health, Education, and Welfare where some doubts were raised concerning the procedures employed in the conduct of research on human beings. It is important that when the Department of Defense undertakes to contract for such research with individuals, corporations, institutions, or other organizations outside the Federal Government, any risks to the physical or mental health of the subject be made known to that subject before research is conducted. In that case, the person involved will have an opportunity to have considered all aspects of the research before he agrees to participate.

The additional provision which would establish a formalized procedure involving the Secretary of Health, Education, and Welfare, who will review such proposed research before the Department of Defense may proceed, represents another positive means for insuring the intent of this amendment is being properly implemented.

I am informed that the Department of Defense has reviewed the language of the proposed amendment and has no objection. I urge my colleagues, therefore, to join with me in agreeing to this amendment.

Mr. STENNIS. Mr. President, I yield myself 1 minute before I yield to the Senator from Ohio (Mr. TAFT) to say that I have been over this amendment as it now stands, and even though I do not like the idea at all of putting a primarily health provision into a military hardware bill, I do recognize its merits, as a regulation only, dealing with human beings. Those purposes being set forth clearly and reasonably, in its present form, I do not think I could oppose the amendment or that I should oppose it. So I am going to agree, in its present form, to support the amendment. But there will be some further debate on it and I make that announcement now.

Mr. President, I am glad to yield 10 minutes to the Senator from Ohio. And I can yield him additional time if he requires it.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAFT. Mr. President, I thank the distinguished chairman for yielding to me at this time.

I bring up the matter that really lies behind this amendment with some qualms. I think it is unfortunate, as the chairman has stated, that this issue is raised on a military authorization bill. It should, I certainly think, receive the attention of the Senate and should receive the attention of the House and should become law, or a provision similar to this should become law.

I have no arguments with the merit of the language in the amendment. However, there are inherent dangers involved in this situation that the Senate ought to consider very carefully.

I have no desire today, as I have indicated, to go into any great detail with regard to the rather protracted discussion and exchange of correspondence that I have had with the Senator from Massachusetts on this subject relating to the investigation by the subcommittee of an institution in my State.

I am not going to belabor that and go into that in any great detail. As a matter of fact, a good deal of the correspondence is already in the RECORD. It is contained in the CONGRESSIONAL RECORD, volume 117, part 36, page 47050, and in the RECORD of January 19, 1972, from page 250 on. It goes into some detail with regard to the entire problem.

The difficulty that arose in connection with this related to a project in which total body radiation was already being studied as a research activity by an institution and by professional men in the medical profession of the highest reputation and ability, in my opinion.

The matter was brought under the scrutiny of the staff of the committee without any action by the subcommittee itself. Investigators were sent out and a demand was made for information relating to the individual patients involved.

I have not explained that the financing of it by defense in this connection related to a report on what the effects of the particular program that was under way and was already being studied might be.

A refusal was made by the medical men involved to reveal the information, and I think very properly. And they have been upheld in this matter by legal opinion as to what the doctor-patient relationship is.

I feel that we ought to make some safeguards about this entire area.

I think that prior to that time in the RECORD I had asked for an investigation to go on. And as a matter of fact, there were a number of investigations. One of them was by a special committee appointed by the American College of Ra-

diology. They went into the matter and gave the program a clean bill of health and also as to the health of the individuals involved.

The people involved tell me that the publicity given to the program was unauthorized by the committee. At least, it was unauthorized by me. I am a member of that committee. This had a very deleterious effect on at least one patient involved.

Mr. President, when all time is yielded back on this amendment, I hope to offer a further amendment to the amendment which will have the effect of providing that no Federal money will be used to violate the doctor-patient privilege or require the disclosure of confidential information by other doctors engaged in any such research project.

I think this safeguard is overdue and necessary. I think that if we go the one step, in view of the track record that already exists on this particular case, we ought to go that additional step.

Mr. STENNIS. Mr. President, I yield myself one-half minute because of the importance of these proceedings. I hope that we can have quiet so that the Senators will have a chance to understand the discussion and maybe the conversations here can cease.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. KENNEDY. Mr. President, I would be willing to modify my amendment to include the language requested by the Senator from Ohio if we could add at the end, "except as may be required by law."

Would the Senator be willing to include those words? I am advised by legislative counsel that this would achieve, I believe, what he is attempting to achieve. It is certainly important. We definitely want to protect the confidentiality of the doctor-patient relationship. If I correctly understand the thrust of the Senator's amendment, it is to protect those rights. And I share with him the desire to achieve the goal of his amendment to my amendment.

If the Senator remembers, in the recent Communicable Disease Act that we just passed, the second title referral to a special health problem as it applied to syphilis. The question came up there as to how we were going to keep and maintain records.

I believe that we worked out a compromise in the Committee on Labor and Public Welfare that was satisfactory. I have received information by way of a telephone call to my staff that this language follows that very closely, and it would be acceptable to me if we could add the additional words.

Mr. TAFT. Mr. President, I am not sure that I understand the intent of the Senator. I understand the import of the language he suggests adding to my amendment. Is the import intended to specify that the requirement of law be one of protecting the confidential relationship between the doctor and the patient, or is it the intention that if there is a Federal law that requires the production of information, even though it violates that relationship, the information would have to be given?

Mr. KENNEDY. Mr. President, I had not seen the Senator's amendment until a few minutes ago. Since we do not want to modify or adjust or change the patient-doctor relationship, we do not want to write in something here which would vitiate what we did in the Communicable Disease Act and perhaps in other disease programs which may already be in existence.

As I say, title II of the Communicable Disease Act considered the whole question as applied to one particular disease.

I do not want in the amendment, which was very carefully worked out by those doing the research for that particular disease, and also with legal authority and with all doctors who are working on it, to vitiate what we did in the other act, or what has previously been done in similar acts.

It is identical to the language which would protect the doctor-patient relationship and would provide sufficient information necessary to develop a comprehensive kind of program with which to attack syphillis.

Mr. President, I am sympathetic to what the Senator is attempting to do. There is no intention in my amendment to violate the doctor-patient relationship. I would have no objection to accepting the Senator's amendment, provided it includes the change I proposed.

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

Mr. KENNEDY. Mr. President, I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I have heard the Senator from Massachusetts. It is not the intent of the Senator in any way to affect the Communicable Disease Act.

I think with his explanation of his intention in this connection of the change he is proposing would be appropriate, and my amendment could be offered when time is yielded back. I would be willing to include my remarks on the bill. I understand it is a parliamentary matter.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. Mr. President, as I understand the situation, the Senator from Massachusetts has to yield back his time before my amendment could be called up.

The PRESIDING OFFICER. All time would have to be yielded back before the Senator from Ohio could offer his amendment.

Mr. TAFT. The other question I wish to ask the Senator from Massachusetts. Would the Senator amend his amendment to include the language I have proposed, since that might be a shorter route?

Mr. KENNEDY. Mr. President, I move to amend my amendment as suggested by the amendment of the Senator from Ohio, and to add the additional language "except as may be required by law."

The PRESIDING OFFICER. Does the Senator from Massachusetts make that a unanimous-consent request?

Mr. KENNEDY. Mr. President, I have not asked for the yeas and nays. I believe that it is in order to make the request.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request to amend his amendment?

Mr. KENNEDY. I will, if necessary, but as I understand it, if the yeas and nays have not been ordered I can amend the amendment at any time. Is that correct?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that in this case modification takes unanimous consent because of a previous unanimous-consent agreement on this particular amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent to modify my amendment, as expressed in the amendment of the Senator from Ohio, with the additional language I proposed.

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

The amendment, as modified, is as follows:

On page 13, between lines 7 and 8, insert a new section as follows:

SEC. 203 (a) It is hereby declared to be the policy of the United States that Federal funds may be used to conduct research involving human beings as experimental subjects only when each participant has freely volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research.

(b) In order to carry out the policy stated in subsection (a) of this section with respect to the Department of Defense, none of the funds authorized by this or any other Act may be used by the Department of Defense to contract with any individual, corporation, institution, organization, or other entity, for the purpose of carrying out any research project which uses human beings as experimental subjects unless—

(1) the Secretary of Defense has determined that such project is essential to the national defense, and no federal employee violates the doctor-patient privilege or requires confidential information developed because of the doctor-patient relationship in any such research project, except as may be required by law;

(2) the Secretary of Health, Education, and Welfare has been informed of the project and he has either (A) indicated in writing to the Secretary of Defense whether the research project is one which will involve substantial risk of serious injury to the physical or mental health of the human subjects to be used and whether the research project is one which will involve substantial risk of resulting in any genetic change in such subjects, or (B) permitted forty-five days to elapse after having been officially informed of such project without having submitted to the Secretary of Defense a written notice as described in subclause (A) of this clause;

(3) the human subjects to be used have been fully informed of the nature and purposes of the research project and of any possible physical and mental health consequences that may result from participation in such research project, including any physical and mental health consequences included in the report of the Secretary of Health, Education, and Welfare submitted pursuant to clause (2); and

(4) each person participating in such project has freely volunteered to participate after he has received the information referred to in clause (3)

Mr. KENNEDY. I am prepared to yield back my time.

Mr. STENNIS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 minutes.

Mr. STENNIS. Mr. President, it has been impossible for those of us not familiar with the amendment to get the full significance of what it might mean. I have not seen the Taft amendment. I think the amendment of the Senator from Massachusetts was well placed, as far as this bill is concerned.

I have a verbal, oral report that the Department of Defense said the Kennedy amendment was workable, and so forth. I have nothing from them on the Taft amendment.

I mention that because sometimes it is possible to run into strong opposition to an amendment that has not been referred, and it becomes all but impossible to handle. However, I still feel as I did about the Kennedy amendment, which is now modified.

Mr. BAYH. Mr. President, I am pleased to cosponsor this important amendment to the military procurement authorization bill by my good friend, the Senator from Massachusetts (Mr. KENNEDY). It is only fitting that when we authorize many billions of dollars for the procurement of weapons designed to destroy human life that we at the same time express our concern for the sanctity of human life and the respect that we have for individual human beings.

The purpose of this amendment is to see to it that human beings involved as subjects in research and experimentation are not treated as mere laboratory specimens. This amendment establishes as national policy "that Federal funds may be used to conduct research involving human beings as experimental subjects only when each participant has freely volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research."

I am sure that none of our colleagues could quarrel with such a purpose, especially with the knowledge of the kind of experiments that have been conducted using human subjects—without these subjects having been informed of the possible risks and dangers involved in the experiments. It has long been a fundamental tenet of our law that an uninformed consent is no consent at all. Therefore when we read stories of how mentally retarded children are injected with hepatitis—children whose capacity to consent is questionable—and whose parents were not fully apprised of the risks involved; when we read of uneducated women in Texas who are deceived as to the nature of experimentation with contraceptives in which they are involved; when we are all too aware of the many abuses of prisoners with regard to their participation in often hazardous experiments—conducted at times under the most questionable of circumstances; and most recently when we all learned of the shocking and outrageous revelations regarding the Tuskegee study of syphilitic patients—when we are made aware of these trespasses against human dignity, all of which purported to be carried out only with the consent of the subjects, then it is time that we begin to define just what the elements of this consent must be.

This amendment writes into law the kind of safeguards that should have been carried out all along in every branch of the Government. We are finding out, tragically, now, that these safeguards may not have been carried out in all instances. Now at least the Department of Defense and its contractors will be required to comply with basic elements of decency: subjects must be fully informed of the possible risks to their physical and mental health, including such risks as the Secretary of Health, Education, and Welfare may report to the Department of Defense; and each subject must have freely volunteered to participate after he has received the information concerning the possible risks to his mental and physical health. And while this amendment by its terms applies only to the Department of Defense and its contractors, it is my hope that such regulation of human experimentation will be established in all the departments and agencies of this Government as a mark of the respect for human life which is the hallmark of a civilized nation.

I join Senator KENNEDY and the other cosponsors of this amendment in urging its adoption this afternoon.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. STENNIS. I am prepared to yield back the remainder of my time. But before I do so I imagine we can have a voice vote.

Mr. KENNEDY. Yes.

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts, as modified.

The amendment, as modified, was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION, 1973—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14108) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. THURMOND). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 31, 1972, pp. 25994–25995.

Mr. KENNEDY. Mr. President, the conference committee on the National Science Foundation authorization bill for fiscal year 1973 recommends a compromise authorization of $704 million for this fiscal year. This figure is exactly midway between the $681 million which would have been authorized by the House-passed bill, and the $727 million which would have been authorized by the Senate-passed bill.

I believe this compromise to be entirely fair and to provide the National Science Foundation with an authorization adequate to carry out its programs over the current fiscal year. Indeed, this will be the first National Science Foundation Authorization Act which provides more than $700 million. This is a milestone in the growth of the National Science Foundation as the principal civilian science agency of the Government. It highlights the increasing national need for research and education in science and engineering, and it indicates the recognition by Congress that the Foundation must be provided with adequate resources to meet those needs.

Since its creation as an independent agency in 1950, the National Science Foundation has carried out the extremely important mission of maintaining the Nation's scientific strength. The Foundation operates no laboratories or scientific facilities of its own, but through grants and contracts supports programs of scientific research and education in thousands of universities, research institutes, and other organizations. These programs cover all fields of science and engineering, encompassing the mathematical and physical sciences, engineering, social sciences, biological and medical sciences, materials research and the environmental sciences. They cover all levels of science education from elementary school through postdoctoral fellowships. And these programs are carried out in all of the 50 States to assure a strong, broadly based national scientific enterprise.

The impact of the Foundation's programs is both pervasive and profound on the Nation and on the future of mankind. For we live in an age of science—from the computers that increasingly manage our transactions to the transistors that power our electronic devices to the advanced medical technology which promises profoundly to affect the maintenance of man's health. Science has become essential to the Nation's military security, to the strength of its domestic economy and international economic position, and, indeed, to the resolution of the widespread social problems which beset our Nation.

But scientific research is not a spigot which can be turned on and off at will. Before scientific know-how can be effectively applied to particular problems in areas such as transportation, health care, housing, communication, energy resources, nutrition, and pollution control, the underlying foundation of basic research must be patiently and continuously built over the years, and the Nation's scientific and technical talent must be carefully nurtured and trained.

This is the key task to which the Foundation has directed its principal efforts over the years; but in recent years the Foundation has also expanded its

programs with respect to applied research which is relevant to the Nation's social problems. Although the various Federal agencies sponsor some applied research relevant to their particular missions, there remains a considerable amount of extremely important applied research which is too broad in scope or too fundamental in substance to fall within the mandate or resources of the mission agencies. The National Science Foundation is the only agency which can tackle these problems. So the role of the National Science Foundation is to keep the Nation strong in basic science, sponsor the applied research which cannot be effectively handled by other agencies, and assure the Nation an adequate supply of scientific talent.

Although the $704 million fiscal year 1973 authorization for the Foundation is $43 million less than the $747 million contained in the NSF authorization bill (S. 3511) which I introduced on April 19, 1972, this year's authorization will still be $50 million more than the amount which was requested by the administration. This additional funding is for urgently needed research and education programs in science and engineering. The principal programs which account for the additional funding are: $17 million more for science education improvement; $12 million more for graduate student support; $11 million more for institutional improvement for science; and $8 million more for research applied to national needs.

The increases in science education programs are necessary to arrest the recent decline in Federal support of science education programs and assure the Nation a strong academic science program and an adequate supply of scientific talent over the coming years.

Although the country is witnessing a high level of technical unemployment at this time, this is a condition which cannot be permitted to continue. S. 32, the National Science Policy and Priorities Act—which the Committee on Labor and Public Welfare unanimously ordered reported, and which I hope the Senate will pass before the August recess—should go a long way toward reducing the current unemployment levels of scientists, engineers, and technicians. The increasing pressure of national problems requiring science and technology for their solution makes it abundantly clear that overall demand for scientific talent in our society will continue to grow over the years ahead.

In the April 7 issue of Science magazine, the executive director of the Scientific Manpower Commission, Mrs. Betty Vetter, was quoted as follows:

> The needs for technologically trained experts to meet national and social goals will not have diminished by the time these smaller classes emerge from the educational pipeline. We will still be trying to erase urban blight, produce adequate clean energy, purge the environment, create effective transportation systems, and provide adequate health care, while maintaining our national defense and continuing some level of space exploration. If the state of the economy and a reordering of national priorities has enabled us to convert these needs into demand (meaning jobs), the supply of technologically trained specialists may again be too small in a few years.

The situation has been further exacerbated by the administration's unconscionable action in impounding $21 million in fiscal year 1972 appropriated funds for National Science Foundation education programs. During fiscal year 1972, the Office of Management and Budget impounded $5 million for institutional improvement for science, $4,800,000 for graduate student support, and $11,200,000 for science education improvement. Although the administration has indicated these funds will be released in fiscal year 1973, the injury to important science education programs has already been incurred.

To provide the Nation with the scientific talent which will be required over the coming years, it is important that the National Science Foundation be authorized the total of $116 million for educational programs which is contained in this bill. And to help assure that the intent of Congress with respect to these programs is carried out, the bill establishes floors under the three educational budget categories. Thus the bill provides a floor of $74 million for science education improvement; $16.5 million for graduate student support; and $13 million for institutional improvement for science.

The bill also establishes a floor of $19.5 million for energy research and technology programs; and the conference report calls upon NSF to spend the full $26 million which was allocated for these programs in the Senate bill, if sufficient supplemental appropriations are forthcoming. It is expected that the thrust of these additional funds for energy research and technology will be directed toward solar, geothermal, and other nonconventional and hopefully nonpolluting energy sources.

The report of the conference committee also recommends that the National Science Foundation establish a new Division of Energy Research and Technology to aid the Foundation in carrying out its growing responsibilities in the fields of energy research and development.

In the hearings on the NSF authorization, the committee received impressive testimony on the Nation's burgeoning demand for energy and the urgency of finding ways to meet those energy needs. For example, by 1985, it is estimated that the United States will have to import more than 44 percent of its oil. Some estimates indicate that domestic supplies of natural gas may be entirely exhausted by the decade 1990–2000, and that by that time as much as 50 percent of our petroleum requirements may have to be met from foreign sources. As stated in the Washington Post of April 14, 1972:

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

The additional funds provided for energy research and technology in this bill should help in enabling the Nation to meet this crisis, especially if supplemental appropriations are forthcoming and NSF spends the full $26 million recommended by the conference committee.

The bill also establishes a floor of $8 million for earthquake engineering programs; and the conference committee report indicates that NSF should spend the full $10 million for earthquake engineering contained in the Senate bill, if supplemental appropriations are forthcoming. The earthquake engineering program is of great importance to the lives and property of thousands of American citizens in all parts of the country. Contrary to the prevalent view, earthquakes in America are not limited to California and Alaska. There is no State in the Union which has not experienced earthquake damage at one time or another. Twenty States have been subjected to serious damage, and are likely to experience serious damage again. These include South Carolina, Nevada, Kentucky, Washington, Illinois, New York, Idaho, Massachusetts, New Hampshire, Tennessee, Mississippi, Montana, Wyoming, Utah, Maine, Indiana, Missouri, and Arkansas, as well as California and Alaska. Through the earthquake engineering program, the Nation can take steps to prepare for future earthquakes and to minimize their adverse consequences.

Another area of vital importance to the Nation's continuing efforts to improve environmental quality is the provision of modern research vessels needed for the conduct of advanced research in oceanography. Of the 32 research vessels supported by the National Science Foundation, 13, or more than 40 percent, were built 25 or more years ago. The Foundation's budget request provides for the construction of one new research vessel at a cost of $2.8 million. Close examination of the ship replacement requirements makes it clear that the Foundation should accelerate fleet modernization programs in fiscal year 1973.

Accordingly, the bill recommended by the conference committee places a floor of $4.5 million under the oceanographic ship construction/conversion program; and the conference committee report states that the Foundation should spend the full $6 million authorized for the program in the Senate bill, if sufficient supplemental appropriations are forthcoming.

The following is a brief summary of the programs included in the National Science Foundation Authorization Act:

First. Scientific research project support, $274,300,000. The objective of this program is to provide support for individual scientists or groups of scientists in finding answers to unresolved scientific questions. The fiscal year 1973 program provides for the expansion of biological, physical, environmental, and social sciences, and engineering, particularly in those areas where new knowledge can lead to the solution of problems of national concern in the seventies, or where increased efforts can significantly advance our understanding of basic

life processes, natural phenomena and physical laws that govern our universe.

Second. National and special research programs, $108,600,000. These are a variety of major programs which require special coordination and include the: International biological program; global atmospheric research program; experimental R. & D. assessment program; international decade of ocean exploration; ocean sediment coring program; Arctic research program; U.S. Antarctic research program; oceanographic facilities and support; and logistics support for the 1973 solar eclipse.

Third. National research centers, $42,300,000. These include the National Astronomy and Ionosphere Center at Arecibo; Kitt Peak National Observatory; Cerro Tololo Inter-American Observatory; and National Center for Atmospheric Research.

Fourth. Computing activities in education and research, $19,500,000. This program is designed to: Develop new knowledge in the computer sciences for application in the design of improved computer hardware, software, and integrated computer systems; promote the development of innovative computer uses in the educational process and seek new ways to couple the capabilities of computers to the conduct of research in all areas of science.

Fifth. Science information activities, $9,500,000. This program is designed to facilitate the flow of scientific and technical information and reduce unnecessary redundancy and overlap in the generation and dissemination of scientific information.

Sixth. International cooperative scientific activities, $4,700,000. This program is designed to promote U.S. access to, and appropriate participation in, international scientific activities.

Seventh. Research applied to national needs, $87,500,000. This program includes: advanced technology applications; energy research and technology programs; environmental systems and resources; social systems and human resources; and exploratory research and problem assessment.

Eighth. Intergovernmental science program $1,700,000 to aid State, regional, and local governmental agencies in making the benefits of science and technology more widely available within their regions.

Ninth. Institutional improvement for science, $18,500,000. These funds will go to colleges and universities to improve their academic science programs and to increase the effectiveness of their research programs, through improved management.

Tenth. Graduate student support, $21,200,000. This includes graduate fellowships to assure an adequate flow of highly talented individuals into science careers; and postdoctoral fellowships to assist scientists and engineers in upgrading their professional skills and in making a transition into other technical areas.

Eleventh. Science education improvement, $76 million. This program is designed to help improve the effectiveness of science education at all academic levels. It focuses on such problems as: Increasing the cost effectiveness of science education through improved programs, technology, and instructional strategies and methodologies; assuring the Nation of a large enough and flexible enough scientific and technical workforce; improving science education for the nonscientists; and providing adequate science educational opportunities outside the formal structure of the educational system.

Twelfth. Planning and policy studies, $2,800,000. This program is designed to provide the factual data and analytical basis for sound national science policy decisions.

Thirteenth. Program development and management, $29,300,000. These funds are used to provide for the operation and management costs of carrying out the preceding 12 programs.

In addition to the above programs, the bill authorizes the appropriation to the National Science Foundation of $7,000,000 to be paid in excess foreign currencies, for expenses which the Foundation incurs in its activities abroad.

As can be readily seen from this summary, the programs of the National Science Foundation are extremely diverse, cut across innumerable fields, and are far reaching in their implications. In many cases their effects may not be felt for years, or even decades. But if the history of the 20th century can serve as a guide, then sooner or later these effects will surely be felt and will have a major impact on the shape of our civilization and the quality of our lives.

There is no doubt that science is the key to progress in our time. The vitality of our economy and the viability of our society depend on further scientific advances. This authorization for the National Science Foundation represents an essential investment in the future of the Nation. If we are unwilling to make the necessary investment today, we will reap a bitter harvest in polluted water and air, in congested roads and cities, in contaminated food and drugs, in inadequate energy supplies, and in stagnant or even declining quality of life. And as we would suffer for our shortsightedness, so would our children, and our children's children for many years to come.

I urge the Senate to accept the recommendations of the conference committee and to approve this important authorization for the National Science Foundation.

I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9936) to amend the Federal Food, Drug, and Cosmetic Act to provide for a current listing of each drug manufactured, prepared, propagated, compounded, or processed by a registrant under that act, and for other purposes.

The message also announced that the House had agreed to the report of the committees of conference on the disagreeing votes of the two Houses in the amendments of the Senate to the bill (H.R. 11350) to increase the limit on dues for U.S. membership in the International Criminal Police Organization.

The message further announced that the House insisted upon its amendment to the bill (S. 3323) to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 3442) to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 10420) to protect marine mammals; to establish a Marine Mammal Commission; and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARMATZ, Mr. DINGELL, Mr. ANDERSON of California, Mr. GOODLING, and Mr. MCCLOSKEY were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

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

H.R. 6745. An act to amend section 122 of title 28 of the United States Code to transfer certain counties of the central division of the judicial district of South Dakota; and

H.R. 12979. An act to amend title 28, United States Code, to authorize the recall of retired commissioners of the United States Court of Claims for temporary assignments.

The enrolled bills were subsequently signed by the President pro tempore.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

The Senate resumed the consideration of the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973

for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Mr. STENNIS. Mr. President, that brings us down to the Hartke amendment. I suggest that the leadership notify the Senator from Indiana that we are ready to proceed with that amendment because we have dispensed with a rollcall vote and he naturally waited for the signal from the Senate.

In the meantime, I suggest the absence of a quorum and I hope the time is not charged to anyone under the circumstances.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STENNIS. Mr. President, I wish to advise the Chair that in the consideration of the Kennedy amendment the Senator from California had been promised 5 minutes and he did not have notification. I ask unanimous consent that we may hear the Senator from California for 5 minutes.

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

The Senator from California is recognized.

Mr. TUNNEY. Mr. President, I thank the distinguished chairman of the committee for his unanimous-consent request.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. TUNNEY. Mr. President, I rise to discuss the end of the war legislation pending before the Senate in the form of the amendment offered by my distinguished senior colleague from California (Mr. CRANSTON). I rise to discuss the urgency with which I believe it must be addressed.

It appears almost redundant to discuss month after month and year after year, the same issues—now almost timeworn—that mark our misadventure in Indochina. But still the war continues. And, as the war progresses, so must the protest.

But recently, Mr. President, a momentous issue has been brought with increasing frequency to the attention of the American people. And, as my contribution to this debate, I would like to focus on that issue.

I have decided with some reluctance to speak on this subject, but I believe that it must be raised on the floor of the U.S. Senate and I believe it must be raised now.

The subject is the bombing of dikes by American planes in North Vietnam. This is a sensitive issue, an issue which has already raised bitter emotions, occasioned fierce debate, become a matter of worldwide concern. It is not a pleasant issue.

I feel there is a great urgency in the matter of the bombing of the dikes. I think this act, this bombing of the dikes, this possible drowning or starvation of millions, this act above all others must be prevented and we must prevent it in a way that will insure that no more dikes will be bombed and that no more dikes can be bombed. The Senate must take it unto itself to pass legislation which will prevent this.

The rains have begun in North Vietnam. The waters are rising as they course down through the dozens of rivers interlacing the Red River Valley, a densely populated area inhabited by over 10 million people. In a month or so these waters will reach their peak, threatening to inundate the lands through which they rage, held back only by a complicated dike system several thousand years old. Some of these dikes range as high as 40 feet. They stretch for over 2,500 miles. If they do not hold, if the waters pounding against the dikes do break through, millions of people could meet instant death through drowning or a more protracted end through starvation.

North Vietnam's dikes, then, are not just another "target," not just another "military objective," nor even just another part of the "civilian infrastructure." They are the very underpinning of life for over 10 million of our fellow human beings, as essential as the food they eat, the water they drink.

I think it is clear from public admissions by representatives of the Department of Defense and the State Department that, in fact, some dikes have been hit.

This past Friday, July 28, 1972, the administration has made public a CIA report officially confirming that American bombs dropped by American aircraft have struck various dikes.

It does not seem fitting to enter into a debate on numbers here. On May 9 we were told by our military command that we were not hitting any dikes at all. Indeed, they went so far as to suggest that any dikes hit may possibly have been struck by North Vietnamese missiles fired at American planes which had missed and fallen back on the dikes. Now we are told that, in fact, American bombs have struck dikes on 12 separate occasions.

None of us know now if, in fact, this figure of 12 is correct, any more than we knew that our troops had killed hundreds of civilians in Mylai in March 1968, that three firestorms had been attempted in 1965, 1966, and 1967, that "protective reaction" strikes were in fact massive, all-out raids in the winter of 1972.

But what we do know now beyond any shadow of a doubt is that American aircraft are striking dikes in North Vietnam.

It also does not seem useful to cloud the issue by sterile argumentation over whether these dike bombings are "deliberate" or "accidental." After being told that we were not bombing any dikes, we were suddenly informed on June 9 that we were hitting the dikes after all, but that these strikes were "accidental." Then. on July 6 and July 17, Defense Secretary Laird stated that the dikes attacks were not really "accidental."

Rather, he explained, we are in fact targeting dikes if roads, antiaircraft sites, or bridges were located in or around them. Let us leave it to our semantic experts to tell us whether a strike which is targeted against a dike because it has a road running on it is "deliberate" or "accidental."

But what we can indisputably know now is that these strikes against North Vietnam's dike system appear to be an inevitable part of our bombing campaign in that tortured land.

And what we do know, therefore, is that if these attacks on the dikes are to stop the simplest, surest way to halt them is to stop all bombing over North Vietnam.

I am, therefore, joining my voice to those of the Secretary General of the United Nations, the General Secretary of the World Council of Churches, the distinguished justice who has served this country so honorably on the International Court of Justice, and a former U.S. Assistant Secretary of Defense.

If the Senate does not resolve to end this cruel and senseless war, I plan to ask you to join with me in legislating an end to the bombing of dikes and dams, the leveling of cities, the killing and maiming of civilians.

If the end-the-war legislation before this body is not accepted, I shall ask you to support an amendment calling for an end to the bombing of North Vietnam and thereby help to avert what Justice Jessup has rightfully warned could be "one of the greatest human catastrophes of the 20th century," and that is the massive bombing which has been going on over Vietnam.

I think we all realize that the bombing of the dikes transcends partisan debate. I think there are many people even who support the war who would not support the deliberate bombing of the dikes, which could produce death to so many innocent people.

I recognize that there are those who use the argument that when in war, you go after any target that would weaken the enemy, and that war is hell, and that we used fire bombing over Dresden, killing hundreds of thousands of people in World War II; but it would seem to me that we have come a long way since World War II and we are not up against an enemy that could conceivably destroy western civilization as we have known it.

We are up against a primitive economy, a people who have a long history of culture but who clearly do not have the military wherewithal to destroy our way of life.

I think that to risk the lives of hundreds of thousands—yes, even millions—of people through a continuation of the bombing in North Vietnam, bombs, which, as I say, result in destroying dikes, is inexcusable and un-

conscionable for a society that prides itself on the ethical value of human life the way we do in this country.

So I would hope that, in the first instance, the amendment offered by my distinguished senior colleague from California would be accepted, but in the event it is not accepted, I plan to offer an amendment tomorrow to stop the bombing of North Vietnam.

The PRESIDING OFFICER (Mr. STAFFORD). Who yields time?

Mr. STENNIS. Mr. President, the situation is that we are back now to the Hartke amendment. I do not want to call it up myself, but the time has come when we have to proceed one way or another. I have asked the cloakroom to call the Senator from Indiana.

If the Chair would hear me further on that, the leadership has been detained from the floor, and I am trying to get the Senator from Indiana in. The Senator from California says he needs 3 additional minutes, so I ask unanimous consent that he be given 3 more minutes.

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

AWARD OF SPACE SHUTTLE PROGRAM TO NORTH AMERICAN ROCKWELL CORP. OF CALIFORNIA

Mr. TUNNEY. Mr. President, I have a matter that I would like to bring to the attention of the Senate. It is a little out of order in that it does not pertain to what we are discussing today, but it is very important, I think, to the country.

I think we all realize that California's economic health is vital to the Nation's. That is one of the reasons why I worked so hard for the space shuttle program, and it helps explain my dismay that the democratic national committee would criticize the award of that program to North American Rockwell Corp. of California.

Our space program has provided the greatest incentive to scientific and technological discovery in this Nation's history, and already practical, everyday application is being made of dozens of advances made in metallurgy, communications, medicine, meteorology, and other scientific fields.

I believe Democratic National Committee Chairwoman Jean M. Westwood was wrong when she called the contract "an outrageous misuse of this Nation's tax revenues."

Our continued involvement in the Vietnam war surely is such a tragic misuse, but our space program is an essential extension of our Nation's relentless quest to improve the basic tools of science.

Clearly, I favor reconstruction of our national priorities to eliminate poverty, build schools, reduce pollution, fight crime, and rebuild our cities. At the same time, I do not believe we have to sacrifice prudent efforts in space.

The space shuttle clearly is not a partisan program, but rather a bispartisan effort of a number of Senators and Representatives.

Frankly, I am proud that North American Rockwell won the contract. It will mean more than 60,000 jobs for California and upward of $4 billion to her economy. And, of course, it will mean that the Nation will continue to improve her scientific and technological skills.

Mrs. Westwood concludes her statement with an attack on the President's reelection committee for not revealing contributors to its reputed $10 million kitty. In this, I wholeheartedly concur, for the committee's failure is but a contemptuous refusal by the President and his party to come clean with the American people.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The PRESIDING OFFICER. The Chair will inform the Senate that, under the previous agreement, the Senator from Indiana (Mr. HARTKE) is recognized to call up his amendment No. 1369, on which there is a limitation of one and a half hours of debate, to be equally divided between the Senator from Indiana (Mr. HARTKE) and the manager of the bill (Mr. STENNIS).

The Senator from Indiana.

Mr. HARTKE. Mr. President, the amendment, which was offered yesterday, and on which there was a little bit of confusion——

The PRESIDING OFFICER. Will the Senator from Indiana call up his amendment?

Mr. HARTKE. Mr. President, if I recall correctly, and if I understand the RECORD correctly, the amendment was called up yesterday by the distinguished Senator from West Virginia, the assistant majority leader.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARTKE. I ask that it now be made the pending business.

AMENDMENT NO. 1369

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

Mr. HARTKE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. HARTKE. Mr. President, the amendment which is pending, which was discussed at some length in my absence yesterday, is designed to alleviate an injustice that has been done by the Congress to the retired members of our uniformed services.

The amendment which I have offered will provide a one-time recomputation of military retirement benefits to the January 1, 1972, rates as compared to the January 1, 1971, rates as proposed by the administration bill. The 1972 rates will be effective immediately for persons who have retired for physical disability under the laws in effect before 1949, or a physical disability of at least 30 percent under later laws, and for nearly all those who have retired for years of service and are 60 or more years of age. Other retirees who are not yet 60 would have their retired pay recomputed at the time they reach that age.

I am in the unusual position of acting to redeem a campaign promise made by President Nixon in 1968. As part of his election drive, the President felt that the precipitous suspension of the recomputation system was, to quote the President:

> A breach of faith for those hundreds of thousands of American patriots, who have devoted a career of service to their country and who, when they entered the service, relied upon the laws insuring equal retirement benefits.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the entire statement of the President in 1968 be printed in the RECORD.

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

(See exhibit 1.)

Mr. HARTKE. The President pledged to remedy this inequity as soon as possible. That was almost 4 years ago.

Senator HUMPHREY and Governor Wallace were equally strong in their endorsement of a restoration of recomputation rights to retired officers.

The Hartke approach is very similar to the course recommended by President Nixon in H.R. 14524. The cost estimates of the Hartke amendment are less than the $288 million of the administration bill. That amount has already been included in the administration's budgetary request.

Mr. President, our retired military personnel have relied on a recomputation system that stood for almost 100 years. From 1861, when the President approved "an act for the better organization of the Military Establishment," officers of the uniformed services were entitled to retire for length of service and to have their pay determined initially as a percentage of the rates in existence at the time, to be recomputed upon the new rates each time raises were granted in the future to the members of the Active Forces.

Similar provisions were made for enlisted members of the forces a few years later.

This system was in continuous operation until passage of the Joint Services Pay Act of 1922, which denied to those retired prior to the effective date of the act the right to recompute their retired pay on the basis of the new schedules.

In 1926, the 69th Congress corrected this injustice by restoring the right to

recomputation for those on the retired rolls. The Senate committee report stated that:

The 1922 legislation deprives all officers retired prior to that date of said benefits, thereby violating the basic law under which these officers gained their retirement rights. There is no justice in two pay schedules for equal merit and equal service. (Senate Report 364, 69th Congress).

I submit, Mr. President, that the 1926 statement is equally valid today. And yet, Mr. President, today we have 11 different rates of retired pay for retirees of equal grade and service, with the oldest retirees, whose need is apt to be greatest, in each case receiving the smallest pay and the youngest receiving the largest. The disparity in many cases approaches 50 percent.

This situation exists because of the sudden suspension of the recomputation system in 1958 and its repeal in 1963, at which time a system of raises based upon increases in the cost of living was substituted with no "savings clause" to protect the previously earned benefit. This new provision has utterly failed to make up for the loss of the earned right to which the retirees had previously been entitled.

The reduction in the earned benefit was made in spite of the fact that the recomputation system had been reconfirmed by Congress in each pay act passed since it was restored in 1926, and in spite of the fact that the 1958 Pay Act was built upon the recommendations of the Cordiner military pay study committee. The Cordiner committee concluded that—

The incentive value of the existing military retirement system depends to a major degree upon the integral relationship with active duty compensation and the confidence which has been built up in the military body that no breach of faith or breach of retirement contract has ever been permitted by Congress and the American people.

As a consequence of the actions taken in 1958 and 1963, merit and length of service are no longer primary factors in determining the compensation a retiree will receive during the inactive phase of his career. On the contrary, it has now become a matter of when the individual was born and how successful he was in manipulating a favorable retirement date. For instance, a lieutenant colonel retiring today receives more retired pay than a major general who retired only 10 years ago.

In 1968, President Nixon pledged to submit legislation—

To remedy this injustice at the earliest possible time.

In keeping with that pledge, in 1971 he appointed an interagency committee to study the problem and on April 15 of this year he submitted a compromise proposal to Congress based upon the committee's recommendation. The proposal is for a "one-time" recomputation to the 1971 pay scales for certain classes of physically disabled retirees and for those with less than 25 years of service who are over age 60 and those with 25 or more years service at age 55. The 1973 budget contains funds in the amount of $288 million to cover the cost of the proposed compromise.

I think we have waited too long to remedy this injustice to those who have honorably and faithfully served their country during the two world wars, Korea, and Vietnam.

A full restoration of the recomputation system, however, implies a cost of $1 billion in fiscal year 1973. I propose a simpler and I believe fairer solution than the one forwarded by the Department of Defense for the administration. At the same time, it is designed to keep the expenditure at approximately the level provided for in the budget.

Perhaps at a later time, the appropriate committee can take up a proposal for a continuing system of recomputation for those who entered the service in the expectation that the Government would carry out its obligation. I would support such a move. However, at the moment, I believe it important that we take this first step in making good on the ethical obligation which we owe to those who served their country so well.

The PRESIDING OFFICER. The Senator has consumed the 10 minutes.

Mr. HARTKE. I ask for an additional extension of 3 minutes.

Mr. President, I ask unanimous consent that the name of the Senator from Texas (Mr. TOWER), who is the author of the most comprehensive recomputation bill, be added as a cosponsor of the Hartke amendment.

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

Mr. HARTKE. Mr. President, I have brought to the floor a chart describing two cases. One is the case of a commissioned officer, a major, and one of an enlisted man, a master sergeant. The major has 24 years of active service, and it shows how his retired pay is affected.

On the basis of examining the major's case, the disparity against older retirees amounts to 46.6 percent. The major with 24 years of service who retired in 1958 will have retirement pay in 1972, adjusted because of the increase in the cost of living, is $547. The same officer retiring today will receive $802. In other words, there is a difference of $255 for the same officer, simply because one man retired earlier. If anything, his retirement earlier means that he has greater expense today, more medical expense, more care for himself. Yet, he receives $255 less than a man who has retired this year.

The PRESIDING OFFICER. The Senator has consumed 3 additional minutes.

Mr. HARTKE. I ask for 2 additional minutes.

If the master sergeant retired in 1958, his present-day retirement pay would be $304. If he retires today, he gets $453. That is a difference of $149, or almost 50 percent.

The second chart compares the administration proposal for recomputation to the Hartke proposal. First, under the administration proposal, the one-time recomputation of military retirees are figured on January 1, 1971, base rates of active duty pay. The Hartke proposal would make that one-time recomputation on January 1, 1972, rates. The administration increase would occur immediately for retirees who have a disability rating of 30 percent or greater under the Career Compensation Act of 1949. The Hartke proposal is identical in that regard.

Under the administration proposal there is an increase for nondisability retirees who retire at the age of 55 with 25 years or more of service. That provision is not in the Hartke proposal. Administration bill also provides an increase at age 60 for those with less than 25 years of service. In effect, this feature is included in the Hartke amendment for the very simple reason that the Hartke proposal provides that an increase for all other retirees will occur at the age of 60.

The administration and the Hartke proposals both retain the Consumer Price Index cost-of-living increase.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. HARTKE. I yield myself 2 additional minutes.

Mr. President, yesterday, on the floor of the Senate, the distinguished chairman of the Armed Services Committee made some comments. Specifically, he introduced a statement from the Department of Defense, leaving the impression, that the administration was opposed to the Hartke proposal. That is only true insofar as they really say that they prefer the administration proposal, and I would imagine that it is not unusual for them to prefer their own bill to different approach, however, *similar* it might be to their own.

I point out that the Hartke proposal does provide for recomputation at the age of 60, not at the age of 44, not at the age of 50, but at the age of 60. Therefore, it excludes the provision of the administration proposal which permits recomputation at age 55 with 25 or more years of service. The Hartke amendment is $13 million less expensive. So it is more conservative than the administration proposal. It certainly is much more conservative than the Tower bill, and Senator TOWER has seen fit to endorse this proposal.

I point out, also, that the distinguished chairman of the Armed Services Committee said yesterday that the lifetime cost of the Hartke amendment would be $10 billion. The lifetime cost of the administration proposal would be $14 billion. If the Senator wants to rely on the statement of the Department of Defense, the administration bill proves to be much more expensive than the proposal I have submitted at this time.

I agree that we should have hearings. But for 4 years we have not had them. I agree that we should have hearings after we adopt the Hartke proposal, and I am willing to join the distinguished Senator in that effort. But I think we ought at least to keep faith with these people. We ought to try to make sure that the individuals on active duty should not have twice the retirement benefits of those who are already retired. What has happened is that some retirement benefits are now about 50 percent behind those of an active duty member of the armed services.

EXHIBIT 1

WASHINGTON, D.C.,
September 13, 1968.

Maj. Gen. W. PRESTON CORDERMAN,
President, Retired Officers Association,
Washington, D.C.:

Because of the concern of your organization with the issue of equalization of retired military pay I want to take this opportunity to share with you my views on this important subject.

For the past several years, our retired military personnel have been unjustly treated because of the failure of the administration and the Democratic-controlled Congress to remedy the growing disparity between active duty and retired military pay. This unfair discrimination is wholly contrary to the long established principle of equalizing retired pay with existing active duty pay for the same grade or rank. It is a breach of faith for those hundreds of thousands of American patriots, who have devoted a career of service to their country and who, when they entered the service, relied upon the laws insuring equal retirement benefits.

The retired pay of some of our older retirees has slipped more than 30% behind that of their younger comrades. In a period of skyrocketing cost of living increases, it is an intolerable and unfair burden for our retired military.

I intend to urge the Congress to remedy this injustice at the earliest possible time by passing legislation along the lines of that introduced by Senator Tower of Texas, chairman of my key issues committee. General Eisenhower and I worked vigorously to seek legislative relief in 1960. Now, after prolonged inaction by an administration of which Vice President Humphrey has been a part, the time is at hand to do simple justice and to recognize the great contribution to our Nation by those who have served their country with honor and distinction.

RICHARD M. NIXON.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield myself 20 minutes. The time can start running now.

Mr. President, I know of the sincerity of the Senator from Indiana in presenting this amendment. I do not have any feeling of censure for him or anyone who votes for it.

I am not trying to defeat any fair adjustments if there are any injustices. I am not trying to defeat the passage of a bill. But I have a responsibility here that makes it necessary to bring out the facts and give some warning signs about the road down which we are traveling and say something about what it will cost. A man does not buy a suit of clothes without asking first what it will cost. We have reached the time on this program, as well as others, when I think the American people expect us to ask what it is going to cost. Going to cost whom? Going to cost the American taxpayers. I think it is time to raise the question here, that if we are going to do this recomputation on military retirement benefits every few years, what are we going to do for the benefit of those who retired a few years ago as civil servants or as school teachers? What about the man that is retired now who earned $2 an hour as a machinist, and he was a good one, and the machinist that retires today—12 or 15 years after the other one—who is making $5, $7, or $8 an hour? What are we going to do about them?

Do we owe them something? Does society owe them something? Does the Government owe them some kind of adjustment?

I think this has gone just that far. If we are going to continue indefinitely to make these increases, we should have some calculations made to see what it is going to cost, at least partly to even up things with other people. That is exactly the issue we have before us now.

The facts in this case are of major importance. We do not get at the facts by comparing the Hartke amendment with what the Senator from Texas recommended or what the administration recommended. That is not the question. The question is: What can we afford in fairness to the taxpayers? Just because one plan is a little less or more than the other, I respectfully say that is no argument at all in favor of either one of them. The basic question is: What are we going to do with this problem?

I have not got time to go into it, but as to the point of 100 unbroken years of history, I respectfully submit that the facts do not support that assertion, although I know the Senator used it in good faith. But I will have to skip that.

We held hearings on this matter in 1963 and the case was presented in the same way, for a recomputation. There had not been one since 1958.

There appeared before the committee Admiral Smedberg and from his testimony I read on page 66 of those hearings held on July 16, 17, and 18, 1963.

The admiral was presenting the case for the retirees and he said:

> Senator, I feel it is most significant, sir, that this recomputation be permitted for those people who retired prior to 1958. I also agree from now on that there is no reason for any of us who retire to feel that our retirement pay should be boosted in conjunction with any increase in pay for the active forces.

Another point here, in the same hearings, another witness, for the Retired Officers Association, Rear Admiral Denfeld, quoted the Retired Officers Association and said they recommended the passage of the bill; then up on this subject:

> Senator CANNON. Thank you, Admiral. In order that we may have the record straight, as I understand it now, your association—that is, the Reserve Officers Association—recognize the fact as a fact that if Congress enacts this law to provide recomputation under the 1958 pay bill, with the 5 percent increase up to now, and the provisions in the bill with the cost of living raised hereafter, that this puts an end to recomputation once and or all.
>
> Admiral DENFELD. I think there is no question about that, Mr. Chairman. I think that this is the first time that they really have taken out all the provisions in previous bills for recomputation.
>
> Senator CANNON. And you support the bill on that premise.
>
> Admiral DENFELD. Yes, absolutely.
>
> Senator CANNON. With that recognition.
>
> Admiral DENFELD. Absolutely.

So, Mr. President, there is no question about that. The matter was settled at that time, and we can add, for all time, by letting them recompute their retirement or receive a 5-percent, lump-sum payment, whichever is greater, because some of them would benefit very little, and also wrote into the permanent law an automatic cost-of-living increase according to the standard provided by the Government. Those automatic increases have come periodically, sometimes twice a year, since 1963. Those increases add up to 60 percent already.

It was a matter that is permanent law. It would not be changed and no one was wanting to change it. It was fair, right, and proper. That was the way the entire matter was settled. This is all of public record and everyone knew about it.

That is what they call a one-time recomputation. Now we come back here today and we have another one. They call it a single recomputation or one-time recomputation bill. That is what the administration calls theirs, and I will come back to that point. That is what the Senator from Indiana calls his. That is what the others have referred to.

Mr. President, on the record of history, there is no such thing as one-time recomputation bill. It just means that this is one for now. There will be another one in 4 or 5 years. That is the history of it. This is just an installment plan on permanent recomputation. Let us not be fooled by terms. If that is what the Senate wants to do, that will be its will, but we will get into the figures later and show where we are going and that we are not doing anything similar about any other group.

What is the attitude of the Pentagon expressed by the one who is handling the matter over there? This would ordinarily fall under the Assistant Secretary of Defense for Manpower, Secretary Kelley, and he is a good one, but he is out of town now, and in his stead there a gentleman by the name of Robert C. Taber, lieutenant general, U.S. Army, and he says here in a letter to me dated July 28, 1972:

> DEAR MR. CHAIRMAN: This is in reference to your request for the views of the Department of Defense in regard to the amendment to be proposed by Senator Hartke to H.R. 15495—

That identifies the amendment—I will put the entire letter in the RECORD—but on page 2 at the top, after making certain comments on certain sections, he makes this statement:

> The Department of Defense respectfully urges the proposed amendment to H.R. 15495, as discussed above, not be adopted.

I repeat—"not be adopted."

Mr. HARTKE. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I will yield in a minute.

Now, Mr. President, I judge those words mean what they say. I am here caught between an item in the budget and the administration setting up the money for the payment of a recomputation, if it is passed. The letter, though, is from the Department of Defense and the only true spokesman for the administration as to this amendment.

This is a key point. There are not but four or five Senators present to hear this. However, this is a key point. The letter says: "Do not pass this amendment."

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

Mr. STENNIS. I will in a minute, please. I would like to finish my remarks and then I will yield on my own time to the Senator.

Mr. HARTKE. Mr. President, I thank the Senator.

Mr. STENNIS. Mr. President, let us not take the 1,000-percent assertion that the administration wants this amendment passed when the administration says that it does not want it passed. They have to put money in the budget if such a provision is passed.

That gentleman, speaking as I say for the Department of Defense, says that the recomputation of military retired pay was the subject of intensive review in the executive branch in recent months.

Here is the letter. I want everyone to read it. I do not want to take up too much time. It says in part:

In view of those differences, and further in the interest of full, orderly consideration of this important matter, the Department of Defense urges—

And that is a strong word—

that the legislation submitted by the Department of Defense to the Congress on April 15, 1972, be considered and enacted by the Congress in lieu of the proposed amendment to H.R. 15495.

I do not know of anything else in writing to prove what the administration is asking to be done about the amendment.

In that connection we have not held any hearings this year on this. And the House has not held any hearings on it. Our committee has spent double time, virtually every member of the committee, since January on other military matters. But I have in mind—and I state this is a fact, if the Senator wants me to use the word "promise," I use the word "promise"—that if this amendment does not pass, I will set up a subcommittee empowered to look into the matter, as a subcommittee did in previous years, and take the Hartke proposal, the administration proposal, or the proposal of anyone else and go into it and try to find a basis which is fair. But I will have someone make the request that they go into this proposition with an idea of trying to bring about a plan for the future that is fair and bearable, because I tell the Senate now that something has got to be done to stop these runaway figures and the runaway costs for this group of people. And I am for them and not against them. It is a matter of fairness to all taxpayers, and they are taxpayers, too.

I want something that will make this program manageable and make sure that it will operate properly. At some time in the future we have to do something about letting everyone who wants to retire, when they have been in the service for 20 years, and then draw retirement pay for the rest of their lives under these rates that go up and up and up every year.

I think that a man who has served 30 years in the Army is entitled to retire at a higher rate than a man who has served only 20 years. In the first place, he has given 10 years more of his life. He has given 50 percent more of his time than the man with 20 years of service. His civilian longevity is going to be less. He does not have those 10 workable years on the outside.

I am talking about fairness, and not a matter of individuals. We may not find an answer. However, I want someone to try to do so. And that is one of the things I point out. That is where we have been doing a lot of work and we will get into these hearings this year. I urge that we do. I do not think that we can finish the hearings. This is a very complex and involved matter. By early 1973, I would propose that that subcommittee report to the full committee. And I will see that the full committee has a chance to pass on it soon after it is reported. If they vote it out, it will then be up to the Senate to consider what it will do.

Mr. President, I cannot speak for the House. However, I know that they are not indifferent to this problem.

To that end now, when the time comes parliamentary-wise, based upon the facts and the promise that I have made, I will move to table the amendment. I do not ordinarily do that. However, this is controlled time anyway. Everyone will have had all the time they want in which to discuss the matter.

I want to give notice that in all fairness that that is my present intention.

Mr. President, getting on to the facts, we have had increases since 1958, as I have said. They are automatic increases and are still in the law. They amount to a 60-percent increase. They will continue right alongside the civil service people. These are cost-of-living increases. These figures go to the whole problem.

Mr. President, I refer to one other thing in this letter from General Taber. He estimates that the cost of this amendment would be a total of in excess of $10 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 10 additional minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 10 additional minutes.

Mr. STENNIS. Mr. President, the plan of someone else may involve a cost of $12 billion. However, that is hardly relevant. The point is that this amendment, if we pass it, would cost in excess of $10 billion. It would cost $275 million the first year. And the lifetime cost would be in excess of $10 billion.

In 1960, the cost of the retired pay for our military friends was $700 million. Those who do not already know the next figure will be shocked. In 1972 the cost of retired pay under the present law for retired military personnel will be $4.4 billion. That is a 600-percent increase.

Mr. President, 23 years from now—and that is 1 year less than twice the 12-year period I have just referred to—according to the Department of Defense estimates, under the present law, without any increases, without the Hartke amendment, and without other increases, we will have to pay, for military retired pay alone, $21 billion a year.

What are we going to do about these mechanics that retire on $2.50 an hour? What are we going to do about the civil service people who have paid in on their retirement? What are we going to do?

I think we had better look at them along with these others.

Mr. President, it is a shocking fact that there is an accrued liability now for past service, past time and service rendered in past years by these people, under the present law, of $117 billion. I mean by that that this is the accrued cost. And we are not appropriating the pro rata part of the money every year. We are passing it up and leaving it there as a minus mark. So, in years to come, we will have to pay all of that rather than financing it now. If we financed it now and let it draw interest, it would be $117 billion. If not, it will be $234 billion. And that is the amount that has already accrued not counting additional ones that may come into the service.

Those are some of the staggering facts I want the committee to consider. I find also that the average age of officers at the time of retirement is 46 years. These are 1971 figures. The average age of retirement for enlisted men in 1971 was 40 years of age. The average lifetime retirement pay for all military officers—the average, putting them all together, captains, majors, lieutenant colonels, and generals—the average they would draw according to 1970 figures, in military retired pay alone, is $255,000. Mr. President, that is more than a quarter of a million dollars in retirement. The average enlisted man would receive $121,000.

I do not know what the man who retired with equal ability and skill as a civil service employee would receive. I do not know what his retirement would be, but I do not believe it would be anything like that or nearly that much. I do not know how they compute civil service or social security and I do not know what they have paid in to receive retirement payments. But under the present system our military personnel do not have to make a contribution into the retirement fund.

Those who are currently retiring, that is, on the January 1, 1972, pay scale, would have figures as follows. I gave the average. For a colonel it would run from $309,000 to $391,000, depending on the time and age at which he retired. The enlisted man would run from $125,000 to $290,000 high, as a possibility.

This retirement system has gone forward so fast and we have to have a retirement system—I do not want to abolish it—but I am afraid it will abolish itself by destroying itself, by running away.

We used to have motors that had to have governors on them. I remember one time when the governors went off and one engine tore itself to pieces. I guess it threw itself into a thousand parts. I am afraid this system is running downhill so fast it is going to destroy itself. That is why I think we have to put some remedial legislation on the books.

Last January I spoke on this matter on my own volition and said: I do not want to rob anyone of a right, but we have to set up a retirement system in the military and start it running now and get some contributions, some money into it, and have it operating so that finally the old system will fade out. Those in it will fade

out, as the years come and go, and we will be on a sounder basis.

I have certain salient points that I would like to get before the membership and then I am going to conclude for the time being.

Military personnel make no contribution to the retirement system. That is a fact of life which has to be considered.

Now, there is another point. Since 1957 our military personnel have had the benefits of the Social Security Act. Those that wanted to could join the social security system, and those that did join it had the benefit of the Federal Government paying what we might call their back time. The Federal Government paid its part of their time each year, and they paid for their part for each year thereafter. But that was a gift. All the back pay was put in for them.

As I said, these retirees now get periodic cost-of-living increases. That is fair and right and it applies in the same way as to our civil service people. If this amendment is agreed to, on reaching the age of 60 each retiree will be able to recompute under the 1972 scale. Many of them would be working then at very respectable salaries. I hope all of them who want to work are able to do so. But they will have been working and receiving those funds and they will have this recomputation and also receive periodic costs-of-living increases.

When all those things are happening to a person I believe we should look around before we take a final approach on this matter. That is what the administration has done. They have looked around and they have sent a letter in here. They stated in the letter:

> Wait. Do not act from an amendment from the floor. It should be explored more.

All those things would happen if this becomes law. Those who receive disability retirement receive that tax free. I do not know how many of the retirees are on disability but I notice in the Hartke amendment if they have as much as 30-percent disability they do not have to wait until they get to be 60 years of age. I do not know what 30-percent disability means. I may be under that much disability.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. STENNIS. Mr. President, with all those considerations we should pause here and say, "Let us take a look; let us take a second look before we adopt this amendment." I hope Senators will do just that and that it will give me and the committee the opportunity of carrying out this plan as I have outlined it and we will do our best.

I yield now to the Senator from Indiana if he has a question.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, the Senator from Indiana was going to yield to me for 15 minutes. If there is no objection I may proceed now.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to support the amendment introduced by the senior Senator from Indiana. For almost a century, our retired military were paid a percentage of active duty base pay. Since 1958, this time-honored method has been discarded, and the pay of retired personnel has lagged in comparison with pay for current members retiring from service. The amendment introduced by my colleague from Indiana, Senator HARTKE, would correct this grave injustice.

Mr. President, did you know that a sergeant-major with 30 years of service to his country who retired in 1969 is paid $3,710 more a year than his identical counterpart who retired in 1958? The gap is even greater today. Yet, both face the same cost of living. This kind of inequity exists in all ranks between those who retired before 1958 and those who have retired since 1958.

Mr. President, for almost a hundred years, retired pay percentage was computed on active duty base pay. This method treated everyone fairly. It was recomputed each time active duty base pay was increased until 1958 when this tradition was broken. Under the present system, the pay gap widens each time there is an active duty pay raise.

Persons who entered the Armed Forces prior to June 1, 1958, had every right to expect that their retired pay would be computed no less favorably than then provided by law. Tragically, we have not kept the faith.

Mr. President, in the 91st Congress, about 47 Senators and many more Representatives introduced or cosponsored legislation to base retired pay on a percentage of current active duty base pay to conform to the long-established principle which had existed for almost a century. The failure of the Congress has caused these bills to die without a vote in the Senate or in the House.

In this session of Congress, 61 recomputation bills have been introduced or cosponsored in the House. My distinguished colleague from Texas, Senator TOWER, has introduced S. 377, which is cosponsored by about 42 Senators. It is obvious that the time has come to correct an injustice.

Mr. President, the action in 1958 served to create a "second-class" group of retirees and put the military on notice that they were no longer under the protection of the law governing the computation of their retired pay in effect when they embarked upon a career in the services. With the last pay raise of January 1971 there are now 10 "classes" of retirees drawing varying rates of retired pay for equal grade and length of service. This injustice is further compounded by the sad fact that those who suffer most, who are hardest hit by these disparities, are the old retirees, who retired under significantly lower pay scales and who are incapable of supplementing their meager retirement pay because of age or disability.

Under the present system, inequities develop because active duty pay increases faster than the Consumer Price Index which was substituted for recomputation in 1958. The Consumer Price Index formula has served in a meager way to alleviate the plight of the retiree who entered the services with every expectation that his retired pay would, by law, be related to active duty pay. However, in spite of these nominal increases, I would like to point out for the record the disparities in retired pay between two grades with 24 years of service. A major, or equivalent, who retired before June 1, 1958, draws about $501 monthly retirement, while his counterpart retiring after January 1, 1971, draws about $738, a differential of about 47.3 percent. The comparable figures for a master sergeant are about $278 and $418, for a disparity of about 50.4 percent. Each future active duty pay raise will increase these disparities and create yet another class of retirees.

Mr. President, there have been numerous boards, committees, and study groups on the subject of military pay, active and retired. It is noted that President Nixon recently recommended corrective action to the Congress after an extensive Inter-Agency Study. President Nixon has kept his promise. Four years ago, President Nixon stated:

> For the past several years, our retired military personnel have been unjustly treated because of the failure of the Administration and Congress to remedy the growing disparity between active duty and retired military pay. . . . I intend to urge the Congress to remedy this injustice at the earliest possible time. . . . Now, after prolonged inaction . . . the time is at hand to do simple justice.

I am confident a majority in the Congress welcome the administration's proposal to correct the injustice, although it is a compromise proposal. This amendment is also a compromise in order to reduce cost, but it is better than nothing.

Mr. President, I feel that this body can do no less than to give prompt attention to the plight of those who laid their lives on the line to preserve our heritage, not just because the law demanded it, but because they were committed and served voluntarily until they had, by virtue of their sacrifices, attained retirement.

Mr. President, I hold in my hand copies of telegrams sent in 1968 by President Nixon, saying that he favors a recomputation, another by Presidential candidate, Senator HUBERT HUMPHREY, giving a commitment along the same line, another by George Wallace, a candidate for President in 1968, who also approved a recomputation. Every major presidential candidate in 1968 supported recomputation — President Nixon, Senator HUMPHREY, and Governor Wallace.

The distinguished Senator from Texas (Mr. TOWER) introduced a bill on January 27, 1971, S. 3777 which has, in addition to the Senator from Texas, 42 cosponsors. I believe the junior Senator from Texas (Mr. BENTSEN) has introduced an identical bill, which would make, in all, about 44 Senators who have gone on record as favoring recomputation. They are as follows: Senators ALLEN, ALLOTT, BAKER, BAYH, BELLMON, BENNETT, BROCK, CANNON, CHILES, COOK, COOPER, COTTON, CRANSTON, CURTIS, DOLE, DOMINICK, EASTLAND, FANNIN, FONG, GOLDWATER, GURNEY, HARRIS, HOLLINGS, HRUSKA, INOUYE, JACKSON, KENNEDY,

MAGNUSON, MATHIAS, MCCLELLAN, MCGOVERN, MOSS, PASTORE, PEARSON, PELL, PROUTY, RANDOLPH, SCOTT, SPARKMAN, STEVENS, THURMOND, and TUNNEY.

Mr. President, in addition, the ranking member on the Republican side of the Senate Armed Services Committee, Senator MARGARET CHASE SMITH, has indicated her support of this bill.

I cannot believe that this many Senators would have been sucked in on a proposition unless they felt there was merit in it. The bills were studied. They joined as cosponsors. They joined voluntarily. Almost half the membership of the Senate has indicated an interest in correcting this injustice.

This bill does not provide for full recomputation. If so, a young man who joined the Army at 21 and stayed 20 years and retired at 41 years of age would not have his retirement recomputed until he was 60. He would draw his retirement based on the active duty pay at the time he retired. This bill, therefore, is less costly than the bill introduced by the Senator from Texas.

Mrs. SMITH. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Maine, who is the ranking Republican member of the Armed Services Committee.

Mrs. SMITH. Mr. President, I notice that my name was not listed among the cosponsors. I have long supported recomputation, in fact, I made a fight for it on the floor some years ago, and have been a cosponsor from the beginning of the bill. I am sure it has been omitted by error.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from Maine for that statement. Possibly her name was omitted by error. I am sure it can be added to the bill.

I just want to say that the bill the administration supports would cost about $288 million a year. A full recomputation bill would cost several times that amount. But the measure introduced by the distinguished Senator from Indiana will cost only $275 million.

This is a fair bill. It is a just bill. It only applies, as I said, to people over 60 years of age, and I want to say further that the President would not have put the money in the budget this year if he had not felt that this was a just piece of legislation. It is hoped that the Senate will see fit to take this matter into consideration.

Mr. President, this is the most conservative of all three approaches. The bill of the Senator from Texas, as I have stated, would cost several times the cost of this bill—around a billion dollars the first year. The bill of the administration would cost about $288 million—$13 million more than this bill. This is the most conservative bill on recomputation that has been introduced.

What is the fairness of a man who retired back in 1958 getting 50 percent less than a man who retires in 1972 who held the same grade? In fact, the man who retired in 1958 is now older. He needs the retirement more; he needs a greater amount than the younger man retiring now in 1972.

It is nothing but simple justice, fairness, and honesty that this bill pass. I am sure something will be done on this matter. It may not be done today, though I hope it will. But something is going to be done. This is the most conservative approach that has been made, and it is made with the idea in view that the officers who retire before 60 can engage in other work and get by, but when they reach the age of 60, they can recompute their pensions as of that time.

That is a fair basis to put it on, Mr. President.

I hope that the Senate will see fit to pass this amendment, because it is a just amendment, and I commend the distinguished Senator from Indiana for offering it.

Mr. HARTKE. Mr. President, I compliment the Senator from South Carolina, who has worked on so many matters with me on the Veterans' Committee, because, in a way, this is the same approach we have taken in that field. What we are working for is equity and fairness of treatment.

Many persons are themselves personally interested in this legislation, including the members of the Veterans of Foreign Wars and the American Legion, have made this matter part of their legislative programs. I would like to quote, from the Veterans of Foreign Wars Priority Goals, Legislative and Security, for 1972, item No. 6 under the heading "Military Manpower and Personnel," in which they:

> Urge a vigorous effort to have benefits and privileges restored to retired military personnel equivalent to those of active duty military personnel.

Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator from Indiana has 13 minutes remaining.

Mr. HARTKE. Mr. President, I yield myself 5 minutes at this time.

The distinguished chairman of the Committee on Armed Services is certainly one Senator who has the respect of this entire body, and certainly the respect of the Senator from Indiana, because of his longtime devotion to the principles of fairness and equity. I suspect that in this case one of two things is true: Either that he misunderstands our intentions, or otherwise that he feels this is not an appropriate time. I am willing to accept either of these explanations.

The fact is that what we are trying to do here, very simply, is make a temporary adjustment in a situation which has been ignored since 1958. In many cases, we do know that the military establishment is forcing individuals to retire. They are people who have come into the services to help their country in time of great stress and strain.

There are differences in this body as to what the effects of this past war have been, but there can be no difference about one simple fact of life: that if you retired as a master sergeant or a major in 1958, you ought not to be treated with disrespect by breaching a promise made at the time of your enlistment, a commitment made to all military personnel that people of equal rank should be treated with equal respect. That is all we are trying to do.

What the Senator from Mississippi has said, as I understand it, is basically that we need a complete reexamination of this policy.

Mr. President, the passage of this measure would not prevent that. Everything he said about a subcommittee being established, in my opinion, should be done. If there is inequity or injustice, or too much expense, if the present system is wrong, that is one thing. But the fact is that we are not dealing with something ad infinitum into the future; we are dealing with a one-time recomputation. We are saying to the military retirees involved, "Look, we made a commitment to you, and we are going to keep our commitment." The fact is that we should not permit persons of equal rank to be treated with that type of disparity.

Let me point out further, so that there will be no misunderstanding, that we are not advocating these benefits for people who retire at 40 years of age. They will have to wait 20 years to receive the benefits of this proposal. Whether we need a new system or not is not in controversy. The present system, as the Senator from Mississippi has stated, costs $4.4 billion. That is the total cost without the amendment, and that is not materially affected. The military procurement bill that the Hartke proposal will amend amounts to $20.5 billion. The Hartke proposal itself is an item of less than $300 million—$275 million, on a one-shot operation to try to provide for some equity and some fairness. This is just a step, in the words of President Nixon, toward simple justice.

I would like to read what the President said in the concluding part of his statement in September, 1968. This is President Nixon speaking, 4 years ago:

> I intend to urge the Congress to remedy this injustice at the earliest possible time by passing legislation along the lines of that introduced by Senator Tower of Texas, chairman of my Key issues Committee. General Eisenhower and I worked vigorously to seek legislative relief in 1960. Now, after prolonged inaction by an administration of which Vice President Humphrey has been a part, the time is at hand to do simple justice and to recognize the great contribution to our Nation by those who have served their country with honor and distinction.

President Nixon referred to just the small amendment we have before us. The Tower proposal the President specifically endorses would cost more than a billion dollars.

As I have stated, we have a situation where the President's message, as I have previously stated, was concurred in by the then Vice President Senator HUMPHREY, who endorsed it on July 29, 1968, and Governor Wallace, who endorsed the same proposal on September 24, 1968. I ask unanimous consent that their endorsements be printed in the RECORD.

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

WASHINGTON, D.C., *July 29, 1968.*

Maj. Gen. W. PRESTON CORDERMAN,
President, Retired Officers Association, Washington, D.C.

DEAR GENERAL CORDERMAN: You might be interested to know that I am sympathetic to

your efforts to obtain an equalization of retired pay. I shall be happy to support you in whatever way that I can.

I have studied carefully the history of this problem. I can see no logic, least of all fairness, in the present system. It does not make sense for the government to provide eight different rates of pay to military retirees of the same rank, who have served exactly the same length of time, enduring equivalent hardships and dangers. The date of retirement is the gauge now for how much a person receives. In each case, the lowest rate is for the oldest group of retirees.

The disparity is compounded against the older groups with each successive rise in the "cost of living."

Throughout my legislative career, I have advocated fairness, based on sound economic considerations, in my approach to veterans' affairs and benefits. I consider equalization of retired pay not only as a desirable proposal, but one which will correct obvious inequities.

Sincerely,

HUBERT H. HUMPHREY,
Vice President.

MONTGOMERY, ALA.,
September 24, 1968.

Maj. Gen. W. PRESTON CORDERMAN,
President, Retired Officer's Association,
Washington, D.C.

DEAR GENERAL CORDERMAN: It is a pleasure for me to advise you that I fully support the principles that a military retirement benefit provided by law when a person enters the military service, should not at a later date be denied to that person by the government.

I believe that an obligation incurred by the government should be fully and fairly satisfied. I, therefore, support your efforts to insure that military retirees of the same grade and years of service, who entered the armed forces while the laws provided for computation of retired pay upon current active duty rates, should have their pay so computed.

When Congress abruptly suspended the direct relationship between retired pay and current active duty rates in 1958, provision should have been made to protect the equities of those persons who had entered the service prior to the change in rules. It appears to me that legislative relief to correct the current injustice is urgently needed, especially when the retired pay of some of our older retirees has slipped more than 30% behind that of their younger comrades.

I assure you that I shall support legislation which will equalize military retired pay for persons of the same grade and years of service.

Sincerely yours,

GEORGE C. WALLACE.

Mr. HARTKE. I want to point out something remarkable. George Wallace used to have a pet phrase. He said, "There is not a dime's worth of difference between the two political parties." I say there was not a dime's worth of difference between Hubert Humphrey, Richard Nixon, and George Wallace on this issue, and there should not be a dime's worth of difference between us in this body as we consider this matter today.

This proposal deals only with people over the age of 60. It is a one-time operation, It is a conservative measure, and it is certainly entitled to every consideration. The Department of Defense letter says only that they endorse the administration proposal. If the Senator from Mississippi were more inclined to be sympathetic toward this proposal, and felt that the administration proposal should be adopted——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARTKE. I yield myself 1 more minute.

If the Senator from Mississippi were more inclined to accept the proposal of the administration, I could even amend this measure to do just that. But I think it the better part of judgment to deal with this problem in this way, so that the chairman of the Armed Services Committee can go ahead with his committee next year and have an in-depth study, and come back to us with appropriate legislation. We are not doing anything to destroy that opportunity for a greater contribution toward our armed services.

Mr. President, let us remember one thing. The defense of this country depends upon those people who have been a part of the defense system. Some of them are veterans. Others are retired military personnel. All we say is that they are entitled to fair treatment from their Government. After all, the Government took their time and life, their bodies and sometimes their minds. They are certainly entitled to have fair treatment and honesty in response.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I find myself in a very unusual situation, in that I think I have fought longer and harder to obtain recomputation than any Member of this body. But I stand here today as a retired major general of the Air Force Reserve, receiving retirement income, which a Reservist is allowed to do by law. I think I would be voting against principle if I voted for or against the amendment, and if I am asked to vote on a straight up or down vote, I shall merely record myself as being present. But if a motion is made to table, and I understand there may be, then I would feel free to vote.

Mr. President, I have asked for hearings on recomputation for as long as I have been here. We held hearings back in 1958, but they did not turn out to be fair to the man who retired before 1958 and in some respects not fair to the man who retired after that time.

I note that on the chart of the Senator from Indiana starts with 1958. We should be concerned with the man who retired before 1958, because he is the one who really has been hurt in the matter of failure to have recomputation.

Adjustment is needed; but, Mr. President, this is not the way to do it. We are dealing with a very, very important matter. In my humble opinion, the whole subject of military retirement needs thorough study. It needs adequate hearings. It needs to be put on an actuarial basis, which it is not on now. With the increase in salaries that we have provided for the military, I think the military themselves would be favorable toward participation such as is the case with all civil servants.

In the past, retirement has been one of the fringe benefits. Pay for the military man never has been even remotely comparable to the civilian side of our life. So the Federal Government has provided the income for retirement without the military man being responsible for any payment. I think that today they probably would welcome a chance, as we do, to contribute to some extent to their retirement.

A study is needed of this matter, and we cannot make a study of it by looking at two charts on the floor of the Senate and listening to debate on this subject for an hour and a half. In my humble opinion, a subject that has not been studied by the Armed Services Committee of the Senate for 14 years cannot be heard or discussed adequately in a way that will enable any Member of this body to vote intelligently.

I realize that there is a great deal of political sex appeal in this matter, that every member of the military services across the Nation is looking to us right now to vote favorably upon this proposal. I will probably catch hell—if Senators will excuse the word—from friends of mine in the service because of the position I am forced to take by feeling that the amendment, if adopted, is not going to do what the man in uniform wants done—namely, to have a retirement that is going to be adjusted to meet the rising cost of living, to be established on a basis that he can retire, and, more important than anything else, the service-connected amendment that was before the Senate the other day, whereby the surviving spouse, the wife, would benefit to the extent of 55 percent in the case of her husband passing on.

Mr. President, as I said at the outset, I am in an unusual position. I probably would be wise if I just kept my mouth shut and sat down. But I cannot do that in a case where I feel that—although the Senator from Indiana and others interested in this amendment are acting in all sincerity—if this amendment is adopted by the Senate, it is not going to be accepted by the House, because they have not had hearings on it at a later date.

I suggest—if the chairman of the committee feels inclined—that he could offer the Senator from Indiana a chance to withdraw his amendment, with the understanding that there would be immediate hearings and a subcommittee appointed immediately to have hearings, with the hope that even in this session we might be able to get something out on which we could vote, as we agreed to the other day, when we agreed with the Senator from Maryland (Mr. BEALL) that the Armed Services Committee would hold hearings on the matter of survivor's benefits.

I think the same thing can be done here, and I assure the Senator from Indiana that I will personally put my attention to it, to the end that we will have adequate hearings. This is a subject I have been interested in ever since I have been in the Senate, and I am glad that it is surfacing. But I am not happy that it is surfacing in a way that I think is going to be more detrimental to the man in uniform than helpful. I am convinced that we can and we must work out a new system of retirement for the man in uniform. It has to be more fair than the

system we have had in the past. I think I can safely say that the man in uniform feels that this change is needed, and he is not going to oppose the kind of retirement payments that might be necessary to keep it actuarially sound.

I repeat that we look at the chart, and we are interested in 1958 on, and a great inequity was done to the men who retired before 1958, and we have never done anything to correct that.

I think I could draw a much more enticing chart than the one showing the cases of the major and the master sergeant. If we take the cost of living in 1958 and apply it to a major retiring, the cost of living eventually could earn for this man, if he lived long enough, more retirement than a man retired as a brigadier general or a major general prior to 1958.

Mr. President, there are many, many imponderables. Many things are unknown about this subject. It is a subject that has to be studied, and the floor of the Senate is no place to study it, although I think it is a good place to bring up the subject so that the chairman of the Armed Services Committee can realize that there is a great interest in this matter and, hopefully, will act in the months ahead to the end that we in this Congress, or at the opening of the next Congress, can finally have a chance to vote on something that is not temporary, that is not going to take care of anyone for a few months, but will take care of the man in uniform for years ahead.

Mr. President, I repeat: I cannot vote on this amendment if it is a straight up and down vote, because of my position. If a motion is made to table, I will feel free to vote. I hope this amendment would be withdrawn or tabled.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. STENNIS. How much time does the proponent have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 7 minutes remaining.

Mr. HARTKE. Mr. President, I should like to comment briefly on what the distinguished Senator from Arizona has said.

He is talking about people who retired before 1958. We picked up the date of 1958 because that is simply when the change was made.

All we are doing to these people is saying, "If you are 60 years of age—that is not too young—and you are a retired military person, then you certainly are entitled to be given consideration for what has happened to the base pay of military people in the interim."

These individuals had no choice whatever about those pay raises. They did not vote for them. The Senate voted base pay increases for military personnel. Whether that decision was right or wrong does not detract in any way from the claim these individuals have for fairness and justice.

With respect to contribution to a retirement system, the Senate has not given the right to military personnel to contribute. If the Senate wants to change that next year, that may be a salutary decision. But that is not the fault of the people who have retired. They could not have made a contribution if they had wanted to. If they had, they just would be given their money away.

We are saying that for those people over 60, we recognize the commitment that was made by three candidates for President 4 years ago. We are saying that, in all fairness and equity, they should be treated as individuals who have a right to expect this Government to keep its contract. That is all.

I say to the distinguished chairman of the Armed Services Committee that if he wants to talk about lifetime cost, let us remember that the total lifetime cost estimated for the social security fund at this time is $1,200 billion. When we talk in terms of lifetime cost of $10 billion for this bill, $14 billion for the administration proposal, or $36 billion for the Tower proposal, let us not be carried away by these lifetime estimates. The truth is that if most people would examine what they pay into a life insurance policy over a lifetime, they will receive the shock of their lives. Let us avoid these kinds of shocks.

I reserve the remainder of my time.

Mr. STENNIS. I yield myself 5 minutes.

Mr. HARTKE. Mr. President, will the Senator yield for a moment so that I may ask for the yeas and nays on my amendment?

Mr. STENNIS. I yield.

Mr. HARTKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CHILES). The Senator from Mississippi is recognized for 5 minutes.

Mr. STENNIS. Mr. President, I want to commend the distinguished Senator from Arizona (Mr. GOLDWATER) for the great deal of common sense he has expressed to all Senators present in this Chamber. I want to refer to the charts of the Senator from Indiana. He is talking about this master sergeant with 24 years of service who retired in 1958 and gets $304 a month, whereas if he retired in 1972 he would get $453 a month. The master sergeant who retired in 1958 has been out 14 years. What has he been doing all that time? Using his earning capacity. He has been earning more money than that. So we cannot consider him to be a cipher. He is no pauper. He has had this earning capacity for 14 years and he has been using it. If he retired at 40, he is now only 54 years old. Presumably, he is still in the full vigor of health.

They can give me figures here about these people, but turn over back on the next page of the book, and we will find that the civil service people and all the people under social security, and other groups, this amendment does not one thing for them. My point is, we have got to move the programs along more in a sense of proportion, more in a sense of fairness, and more in a sense of equality.

I want to refer to the 100-year program that has been going on. The historic facts are that the pay raise of 1908 was the first general pay raise since 1870. The next raise did not occur until 1922, and the next one was in 1941. So whether we call that recomputation, or whatever it was, it was applied to people who were 60 years old before they got out at that time. So it is altogether a different situation now.

When these fine young men come in at 18 and go out at 38, with the annual average span of life, thankfully, they have all these years ahead of them. I believe the average life today is 75 years. After having retired at 38, they spend more time in retirement than they did in uniform. Times have changed. We have got to keep this thing in bounds. We have got to change the system to cope with it.

The Senator called on me here about going on, even if this amendment becomes law, to press for reform. I want all employees in there together. That will help to get some reform because the military are a respectful group as well as an active group and we need their help if we are going to get any reform. But if we give all this money now, this thing will be as dead as Hector from now until it comes time to recompute again.

Now, Mr. President, my time is short. But I want to point out again what I consider the five or six salient points, by way of comparison, which should be considered. We should halt ourselves here and say, "Wait a minute." This amendment has a lot of good in it, but let us table it for now. Let us get to hearings. Let us bring back a bill, hopefully, with some reform in it, and then get some permanent legislation on the subject.

So I point out now these facts, and they will be true if this amendment passes. Military personnel make no contributions to the retirement system now. Since 1957 they have had social security benefits, too. I guess perhaps Senators did not remember that.

When we passed it in 1957, the Government paid up all the past dues, so to speak.

Now, Mr. President, there is no pleasure, of course, in opposing that which a great number of people honestly believe they are entitled to. But I have a duty to bring the full facts to the Senate and I have done this in my remarks. I have a duty to make a definite recommendation to the Senate. I think the full facts of the entire matter should be developed by in depth hearings on the entire subject and that is what I propose. The legislative department is entitled to the full and active effort of the executive department on this perplexing subject. Both the House and the Senate can hold full hearings. I propose to appoint a subcommittee for that purpose and ask them to prepare and start hearings this year, on the entire subject matter, complete hearings as soon as reasonably possible in 1973, and report a bill to the full committee which, as chairman, I give assurances will be called up before the full committee for consideration and dis-

position. If a bill is recommended, it will be reported to the Senate floor for such action as the Senate may take. I make this statement in the nature of a promise for my part.

This, I submit, is a fair way to dispose of the entire subject and I hope the amendment is not agreed to on this procurement bill where it would necessarily have only a slight chance, if any, of becoming law.

Mr. President, the yeas and nays on the amendment have been ordered and when the time of the Senator from Indiana expires, I propose to make a motion to table.

Mr. HARTKE. Mr. President, if the Senator desires 2 minutes of my time, I will be glad to give it to him.

Mr. STENNIS. I thank the Senator but he is entitled to his own time.

Mr. HARTKE. Mr. President, this is a very simple amendment. The heart of it is recommended by this administration in these words:

As a result of that review by the executive department, after consideration of all the aspects of the matter, the proposal for a one time recomputation of military retired pay based on January 1, 1971 pay rates was adopted and was submitted to Congress on April 15, 1972.

In essence, Mr. President, that is included in the Hartke amendment. What we are saying is practically the same thing. As I said, if the chairman of the committee were interested in taking the administration's proposal, I would be willing to withdraw my proposal and introduce that of President Nixon. The Hartke amendment meets the commitment made by President Nixon and by his two opponents in 1968. It is the commitment that was made to that master sergeant by his Government.

The President and Congress have an opportunity to keep that commitment. A master sergeant who retires in 1972, will retire on $453 a month, while the man who is older and has been retired for 14 years gets $304 a month, a difference of 49 percent, or $149 a month.

We are talking about equity. We are talking about justice. We are talking about the system as it is. If the Senator from Mississippi wants to reform the program, he will have to get the administration to change its mind first, because they are not talking about reform.

The distinguished Senator from Mississippi is talking about reform. I will join him in that effort and we will both work together on such a program. I will work hard with him and I hope that the administration will, too.

Mr. TOWER. Mr. President, I support Senator HARTKE's amendment to the military procurement bill. Retired military officers have suffered too long under the inequities of the current military retirement system. There is no justification for more recent retirees getting, in some cases, one and a half times the retirement compensation received by older retirees. To compound this inequity, it is precisely the younger retiree who is most likely to have a second job. Did these older men serve their country any less? Were their sacrifices any less noble? Do they deserve diminished praise because they served at an earlier time? I think not.

My own bill, S. 377, was designed to restore full recomputation, to replace the CPI system of calculating military retired pay raises. It was argued the costs were too high—and they were high. But this is a clear indication of the debt we owe these military retirees. It should argue all the more for a swift resolution of the retiree problem. We must not allow these men to bear this inequity any longer. The compromise proposed by Senator HARTKE in his amendment is an imminently fair resolution to that problem. He tempers the cost of the one-time recomputation by applying it to the older retiree only. In this way, those younger men who are capable of holding a second job can do so without posing at the same time a full burden upon the retirement system. As a temporary compromise, Senator HARTKE's amendment will provide satisfactory equity for the time being.

But eventually, we must move toward permanent equalization of military retired pay. I feel recomputation provides a tested way to achieve that equalization but there are others. I would urge the chairman of the Armed Services Committee to appoint a subcommittee to fully investigate the problem of equalization of military retired pay and to come up with concrete recommendations on how best to resolve this chronic problem.

Mr. President, the Senate is well aware of my longstanding concern that recomputation be restored. Some have argued that a compromise such as we have before us does not go far enough—that we should not therefore support such a measure. It, in my opinion, does not go far enough, but to vote against this amendment would be to condemn thousands of retirees to continued discrimination. I strongly urge Senators to support the amendment.

Mr. THURMOND. Mr. President, I strongly favor the recomputation amendment offered by the distinguished Senator from Indiana but shall withhold my vote upon the merits of the matter, as I would be personally affected by the adoption of the amendment.

Mr. HARTKE. Mr. President, I yield back all the time that has not expired.

The PRESIDING OFFICER (Mr. CHILES). All time on the amendment has now expired.

Mr. STENNIS. Mr. President, under the circumstances, I think it would be well if we could have a short quorum call, and then I will be recognized to make that motion.

Mr. President, I ask unanimous consent that the membership may be notified by having a very short quorum call and then I will ask that the call be rescinded. Then I will make a motion to table.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STENNIS. Mr. President, what is the pending business before the Senate?

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

Mr. STENNIS. Mr. President, all time having been exhausted, I move that the amendment of the Senator from Indiana be tabled.

The PRESIDING OFFICER. The question recurs on the motion to table. Those in favor signify by saying "Aye."

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Texas (Mr. BENTSEN), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that if present and voting; the Senator from Georgia (Mr. GAMBRELL) would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) would each vote "nay."

The result was announced—yeas 17, nays 71, as follows:

[No. 325 Leg.]

YEAS—17

Bennett	Fulbright	Saxbe
Buckley	Goldwater	Scott
Burdick	Kennedy	Stennis
Dole	Mansfield	Taft
Ervin	McGee	Weicker
Fannin	Packwood	

NAYS—71

Aiken	Cannon	Griffin
Allen	Case	Gurney
Allott	Chiles	Hansen
Anderson	Cook	Hart
Bayh	Cooper	Hartke
Beall	Cotton	Hatfield
Bellmon	Cranston	Hollings
Bible	Curtis	Hruska
Brock	Dominick	Hughes
Byrd, Harry F., Jr.	Eagleton	Humphrey
Byrd, Robert C.	Eastland	Inouye
	Gravel	Jackson

Javits	Muskie	Sparkman
Jordan, Idaho	Nelson	Spong
Long	Pastore	Stafford
Magnuson	Pearson	Stevens
Mathias	Pell	Stevenson
McClellan	Percy	Symington
McGovern	Proxmire	Talmadge
McIntyre	Randolph	Thurmond
Metcalf	Ribicoff	Tower
Mondale	Roth	Tunney
Montoya	Schweiker	Williams
Moss	Smith	Young

ANSWERED "PRESENT"—1

Fong

NOT VOTING—10

Baker	Church	Miller
Bentsen	Gambrell	Mundt
Boggs	Harris	
Brooke	Jordan, N.C.	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. HUMPHREY). The question now recurs on amendment proposed by the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. GOLDWATER (when his name called). Present.

Mr. THURMOND (when his name was called). Mr. President, for the reasons I have already stated, I announce present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that if present and voting; the Senator from Georgia (Mr. GAMRELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) would each vote "yea."

The result was announced—yeas 82, nays 4, as follows:

[No. 326 Leg.]

YEAS—82

Aiken	Cranston	Jackson
Allen	Curtis	Javits
Allott	Dole	Jordan, Idaho
Anderson	Dominick	Kennedy
Bayh	Eagleton	Long
Beall	Eastland	Magnuson
Bellmon	Ervin	Mathias
Bennett	Fannin	McClellan
Bible	Gravel	McGee
Brock	Griffin	McGovern
Burdick	Gurney	McIntyre
Byrd, Harry F., Jr.	Hansen	Metcalf
	Hart	Mondale
Byrd, Robert C.	Hartke	Montoya
Cannon	Hatfield	Moss
Case	Hollings	Muskie
Chiles	Hruska	Nelson
Cook	Hughes	Packwood
Cooper	Humphrey	Pastore
Cotton	Inouye	Pearson
Pell	Scott	Taft
Percy	Smith	Talmadge
Proxmire	Sparkman	Tower
Randolph	Spong	Tunney
Ribicoff	Stafford	Weicker
Roth	Stevens	Williams
Saxbe	Stevenson	Young
Schweiker	Symington	

NAYS—4

Buckley	Mansfield
Fulbright	Stennis

ANSWERED "PRESENT"—3

Fong	Goldwater	Thurmond

NOT VOTING—10

Baker	Church	Miller
Bentsen	Gambrell	Mundt
Boggs	Harris	
Brooke	Jordan, N.C.	

So Mr. HARTKE's amendment was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARTKE and Mr. GRIFFIN moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES) 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 Commerce:

To the Congress of the United States:

I transmit herewith the 1971 Annual Report on the administration of the Radiation Control for Health and Safety Act of 1968 (Public Law 90–602), as prepared by the Secretary of Health, Education, and Welfare.

RICHARD NIXON.

THE WHITE HOUSE, *August 1, 1972.*

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 1, 1972, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 208) authorizing the President to proclaim the third Sunday in October 1972 as "National Shut-In Day."

EQUAL EXPORT OPPORTUNITY ACT

The PRESIDING OFFICER. Under the previous order, the unfinished business will now be temporarily laid aside and the Chair now lays before the Senate S. 3726, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3726) to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. MONDALE. Mr. President, I yield 1 minute to the Senator from Montana.

WHITE EARTH RESERVATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 920, S. 1217.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 1217) to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported with an amendment, on page 1, line 4, after the word "United", strike out "States in the" and insert "States, except all minerals including oil and gas, in the submarginal".

Mr. ALLOTT. Mr. President, I have only a couple of remarks in regard to this bill. This is the second of the so-called "submarginal lands" bills on which hearings were held by the Interior and Insular Affairs Committee, of which I am the ranking minority member. Each bill is for only one tribe.

There are, however, a total of 19 tribes who have been trying for 33 years to obtain legislation donating the "submarginal lands" located near their reservations to them.

The minority members of the committee could not support the first of the two bills, S. 722, and our reasons are set out in the minority views filed in Report No. 92–822 on that bill, last May.

Those minority views show that at least 139 bills have been submitted, including bills in every Congress since 1939, for the purpose of transferring some, or all, of these "'submarginal lands" to these tribes.

As explained in our previous minority views—pages 23–25—and in the floor consideration of S. 722, the list of lands which fall in the same category as the land which would be donated by S. 1217, including land near 20 reservations. Congress, in 1956, did make a transfer of some submarginal lands and other lands to the Seminole Indians, but Congress believed the purpose and the surrounding circumstances clearly took the situation out of the category of the remaining 19. That previous discussion pointed out two other instances which might be argued to be a precedent and explains why they were not, and could not be, considered a precedent for these 19 tribes. Thus, no tribe, prior to this Congress, had been given a preference over the others and, of course, it does not appear at this point that the other body intends to move ahead with S. 722. Our minority views delineate the reasons for the failure of

Congress to act on the requests of the 19 tribes and concludes that if Congress is now going to act on behalf of some tribes, then the requests of all the tribes should be considered at the same time.

We believed that the committee had acted in March 1971 to bring this result about, but the full and complete report from the Comptroller General updating his 1962 report in regard to all of the lands sought by all of the tribes, as the committee directed, was not issued. This was allegedly because the Comptroller General was not willing, or able, to do it even though he made the basic 1962 report in 6 months and he had had 14 months to accomplish only an updating of it, from the time the committee ordered it in March 1971, until the time it acted on S. 722, in May 1972. It has now been 16 months.

To try to assure consideration of the requests of the other tribes, after we learned, in May 1972 of the failure of the Comptroller General, all of the minority members of the committee introduced an omnibus bill for all 19 tribes. That bill is S. 3688.

The committee report on S. 1217, before the Senate today, we believe, is misleading in two particular respects. First, that report indicates the committee in March 1971 voted to defer action on the bills for only the two tribes until a request was made to the Comptroller General for an updating of his 1962 report. That statement is inaccurate because the committee did not vote to wait until the request was made but, rather, to defer until the entire updated report was received. There is no question about this as there is no question that the updated report has never been received. The Indians of the other tribes are entitled to know this.

Second, the committee report says the Comptroller General's report of 1962 and his separate report only on this bill, S. 1217, made "no objections" to the transfer of the lands to the Indians.

The 1962 report made many recommendations for different ways of proceeding. The 1971 report makes three other recommendations for substantial amendments to S. 1217. The three recommended amendments can be seen in the sixth paragraph of the GAO report set forth on page 9 of the committee report. One is an amendment to assure that adverse environmental consequences do not result and the Congress should know this.

GAO, as may be seen on page 10 of the committee report, also advised the committee, in effect, that the offset provision in S. 1217 should be removed for the reason it has been ruled to be of no value by the Indian Claims Commission.

The committee accepted none of the GAO recommendations in its 1962 and 1971 reports, but the language of the committee report implies endorsement by the GAO of the bill as introduced and reported. We believe the Congress should be properly advised.

Among other things, failure to provide the true picture could reflect adversely on the other tribes when their requests are considered. Hopefully, those tribes will not be required to wait another 33 years before the committee acts to consider all of their requests.

Mr. MONDALE. Mr. President, I support S. 1217, a bill to transfer the beneficial interest in federally owned submarginal lands within the White Earth Reservation to the Minnesota Chippewa Tribe.

First, I should like to express my gratitude for the great leadership of the chairman of the Senate Interior Committee (Mr. JACKSON) in bringing this measure to the Senate floor.

The lands that would be affected by this bill—approximately 28,700 acres—were originally owned by the Minnesota Chippewa Tribe, but under the allotment acts they passed from Indian ownership. In the 1930's the land was acquired by the Federal Government, with the expectation that it would subsequently be made available for tribal use. This expectation has remained unfulfilled as a result of limitations under the present Federal ownership.

The White Earth Reservation Council adopted a provisional economic development plan on December 2, 1961, which included the use of submarginal and tribal lands. Approval and endorsement of the plan was given by tribal officers in March of 1962, succeeded by the Department of the Interior in August of that year.

This development program would provide employment for reservation inhabitants; it would improve living standards with better housing, health, and welfare facilities; and it would permit more effective utilization of natural resources to afford greater economic growth.

Within the reservation land area there exists a considerable potential for industrial and recreational development. Yet the tribe is hindered under the limitations imposed by revocable permits. As a result, the improvements necessary to make full use of the submarginal land are greatly impaired. Tribal plans for campground development, tourist trade, lakeshore leasing, road construction, as well as individual home construction are limited in each case because of the year-to-year revocable permits.

In 1967, I first introduced legislation to restore the submarginal lands to the Minnesota Chippewa Tribe. Approval of this measure today, would achieve this objective, lift the revokable permit restrictions, and in effect untie the hands of the tribe in implementing the much-needed development plan.

I urge that the Senate swiftly approve S. 1217.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–967), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The basic purpose of this legislation is to transfer 28,700 acres of federally owned submarginal land on the White Earth Reservation in Mahnomen and Becker Counties, Minnesota, to the Minnesota Chippewa Tribe, with the title to be held in trust by the United States. It also provides protection to any person who may have a vested interest in the land. The bill contains a provision that directs the Indian Claims Commission to determine the extent to which the value of the beneficial interest conveyed should or should not be set off against any claim against the United States determined by the Commission, and all mineral interests in the land are reserved to the United States.

BACKGROUND

The lands involved were acquired during the middle 1930's under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief acts. At the White Earth Reservation the purchase price was $175,664. This land represents a small part of the submarginal land program undertaken by the Federal Government for the benefit of Indians.

In Circular No. 1, issued on June 7, 1934, by the Federal Emergency Relief Administration, to govern the acquisition of submarginal lands, it is stated that the land acquisition program of the Federal Government would be of three major types, the third type being "Demonstration Indian land projects," which would include lands to be purchased primarily for the benefit of Indians. The general objectives of the programs were (1) social and economic advancement of the groups involved, and (2) various conservation activities.

The Indian people at the White Earth Reservation have utilized the land for many years in accordance with the intent of the legislation authorizing its acquisition. They have developed specific social and economic development plans for its further use and believe that beneficial title should be conveyed to them to bring their plans to reality.

S. 1217 was considered in executive session before the full committee on March 31, 1971. The committee agreed that further action on the bill be deferred, pending a request that the Comptroller General of the United States complete an updating of a 1962 General Accounting Office report relating to Indian submarginal lands.

COMPTROLLER GENERAL'S REPORT

The chairman of the committee, in a letter dated April 1, 1971, requested the General Accounting Office to provide the committee an updated version of the GAO's 1962 review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs.

The information on federally owned submarginal land on the White Earth Reservation in Minnesota proposed to be held in trust for the Minnesota Chippewa Tribe was transmitted to the committee by the Comptroller General in a report dated October 27, 1971. The Conclusion of this report follows:

If beneficial interest in the submarginal land on the White Earth Reservation is conveyed to the tribe, the revenues now being collected by the Government, except for that portion the Bureau would charge to cover its administrative costs, would accrue to the tribe. Such revenues, in addition to those the tribe already receives through subpermits, could help tribe members advance their social and economic standing, provided they are invested in planning, establishing, and operating enterprises which would employ Indians and have reasonable chances of success.

Neither the original 1962 General Accounting Office report nor the updated version dated October 27, 1971, posed objections to the submarginal lands being transferred to the White Earth Reservation.

NATIONAL COUNCIL ON INDIAN OPPORTUNITY

In May 1971, the Cabinet-level National Council on Indian Opportunity, which is chaired by Vice President Agnew, released

its report entitled "Indian Submarginal Lands: An Unresolved Problem." The conclusion of this report states in part:

Whereas many of the wrongs Native Americans have suffered from broken promises in the past are irredeemable, the issue of submarginal lands presents a unique opportunity. For here, the promise has not been broken—it simply has not been kept. And the opportunity remains to fulfill the promise by simple legislative action.

While for most of the population, the terrors and deprivation of the Great Depression have long since been overcome, the economic situation on many of the reservations has changed relatively little in the more than 30 years since the Land Program was conceived and undertaken. On some of the reservations whose submarginal land parcels are the subject of this report, the unemployment rate remains at more than sixty per cent of the adult labor force.

An examination of the legislative history and course of administration of this program can lead to but one conclusion: the land was purchased with special funds to be consolidated with other tribal land holdings, and held in trust for the tribes. . . .

Thus, the fulfillment of this promise made long ago requires passage of legislation delivering trust title to the submarginal lands to the respective tribes for whom they were purchased, for use in accord with land use plans which have been legislatively approved. . . .

The aforementioned report has been made a part of the permanent files of the Committee.

EXECUTIVE COMMUNICATION

The Department of the Interior executive communication to the Congress dated March 1, 1971, transmitting proposal legislation to convey beneficial interest in the submarginal land to the Minnesota Chippewa Tribe states in part:

The records disclose a complete understanding between the Federal Agencies involved in the acquisition and administration of submarginal lands on or near Indian reservations. It was that the lands were being selected for acquisition in connection with demonstration Indian projects; that they were needed by the Indians; that they would be utilized by the Indians in connection with the use of Indian-owned lands; and that proper recommendations would be made at the appropriate time for the enactment of legislation to add these lands permanently to Indian reservations.

LEGISLATIVE PRECEDENTS

On three occasions in the past, Congress has enacted legislation which transferred title to submarginal lands to Indian groups as follows:

(1) The act of August 13, 1949 (63 Stat. 604), transferred trust title to 457,530 acres of submarginal land and 154,502 acres of public domain lands to several Pueblos and Canoncito Navajo of New Mexico. No provision in the Act to provide for set-off against any claim against the United States Government determined by the Indian Claims Commission. The act provided for the transfer of income ($8,174.62) derived from the submarginal lands to the Indians;

(2) The act of August 2, 1956 (70 Stat. 941), transferred trust title to 78,372 acres of submarginal lands to the Jemez and Zia Pueblos of New Mexico. No jurisdiction in the act to determine set-offs by the Indian Claims Commission; and

(3) The act on July 20, 1956 (70 Stat. 581) transferred trust title of 27,000 acres of submarginal lands to the Seminole Indians of Florida. No jurisdiction in the Act to consider set-offs by the Indian Claims Commission.

COST

No additional expenditure of Federal funds will result from the enactment of S. 1217.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States, except all minerals including oil and gas, in the submarginal lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the benefit of the Minnesota Chippewa Tribe, White Earth Reservation, are hereby declared to be held by the United States in trust for said tribe, and the lands shall be a part of the reservation heretofore established for the tribe.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

EQUAL EXPORT OPPORTUNITY ACT

The Senate resumed the consideration of the bill (S. 3726) to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes.

Mr. MONDALE. Mr. President, what is the agreement on controlled time?

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senator from Nebraska (Mr. CURTIS) will be recognized to offer his amendment, on which debate is limited to 1 hour, to be equally divided between and controlled by the Senator from Nebraska (Mr. CURTIS) and the senior Senator from Minnesota (Mr. MONDALE).

The Senator from Nebraska is now recognized.

AMENDMENT NO. 1371

Mr. CURTIS. Mr. President, I have amendment No. 1371 at the desk, which I offer at this time and ask to have read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment (No. 1371).

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendments offered by Mr. CURTIS (for himself, Mr. BELLMON, Mr. DOMINICK, Mr. DOLE, Mr. HANSEN, Mr. HRUSKA, Mr. MCGEE, Mr. MILLER, Mr. TALMADGE, Mr. TOWER, and Mr. YOUNG) are as follows:

On page 2, line 18, after "SEC. 104." insert "(a)".

On page 4, between lines 17 and 18, insert the following:

"(b)(1) Section 4(e) of such Act is amended to read as follows:

"'(e) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.'

"(2) Any rule, regulation, proclamation, or order issued after July 1, 1972, under section 4 of the Export Administration Act of 1969, exercising any authority conferred by such section with respect to any agricultural commodity, including fats and oils or animal hides or skins, shall cease to be effective upon the date of enactment of this Act."

Mr. CURTIS. Mr. President, I ask unanimous consent that the distinguished Senator from Oregon (Mr. HATFIELD) be listed as a cosponsor of the amendment.

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

Mr. CURTIS. Mr. President, I yield myself 4 minutes.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. CURTIS. I yield.

Mr. MAGNUSON. Will the Senator let me be a cosponsor of the amendment?

Mr. CURTIS. Mr. President, I ask unanimous consent to have the Senator from Washington included as a cosponsor.

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

Mr. CURTIS. And the distinguished Senator from New Mexico (Mr. MONTOYA).

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

Mr. CURTIS. Mr. President, I yield myself 4 minutes.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, about the middle of July the Secretary of Commerce issued an order restricting and controlling and regulating the export of cattle hides from this country. Those of us who offer this amendment believe that that is very detrimental to the farmers and ranchers of the country and that it will curtail markets and cause an adverse effect on the price of a steer that may run as much as $7 a head.

We had a similar program—Mr. President, may we have order?

The PRESIDING OFFICER (Mr. HUMPHREY). The Senate will be in order. Senators will take their seats or hold their conferences in the cloakroom.

The Senator from Nebraska may proceed.

Mr. CURTIS. Mr. President, I spoke at length yesterday on this matter, and set forth in some detail the reasons for it.

In 1966 a similar order was issued. It proved a failure. At that time the price of shoes went up and the price of cattle went down.

The present order is somewhat similar, but it is different. It calls for a complicated system of rationing and the issuing of tickets for export.

The testimony taken by the Committee on Agriculture and Forestry indicates that there will be a black market in export tickets, and this was not denied by any other witness.

I am in sympathy with the problem of the tanners and the shoe manufacturers who find themselves undersold in the American market by foreign manufacturers. But they have applied the wrong remedy. Mr. Robert Anderson, president of the Parsons Tanning Co., said this:

> It is our opinion that export controls will result in strengthening the tanning and shoe industries of the United States for it will be a great equalizer. Raw material costs to foreign nations will be higher thereby reducing their labor cost advantage. American tanning and shoe manufacturers will have lower raw material costs offsetting their high labor cost.

Now, is that not something? Because they are paying higher costs, they want to use the power of government to force down the farmers' price to offset their costs.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. CURTIS. I yield myself 2 additional minutes.

I proceeded to ask Mr. Anderson this question:

> Senator CURTIS. Are Japanese buying hides in this country cheaper than you can buy them?
>
> Mr. ANDERSON. No. They pay a premium for all hides.

So the foreigners have no advantage in buying hides.

Mr. President, here is what this amendment would do: It provides that hereafter authority of this kind with respect to an agricultural commodity, including fats, oils, animal hides, and skins, shall not be issued without the approval of the Secretary of Agriculture. And section 2 of my amendment does away with the order issued last July.

Mr. President, I reserve the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. CURTIS. I yield the distinguished Senator 3 minutes.

Mr. DOMINICK. Mr. President, I just wanted, as a cosponsor of this amendment, to congratulate the Senator from Nebraska for having introduced it.

Obviously, the cattle industry is of great importance in our State.

Mr. President, as a cosponsor of amendment No. 1371, introduced by Senator CURTIS to the Export Administration Act, I wish to commend my colleague CARL CURTIS for his excellent analysis of the crisis facing the Western cattle producers as a result of the unfortunate decision on July 15, 1972, by the Secretary of Commerce. At that time, the Commerce Department announced that it would take action to impose limitations on the export of cattle hides. Three days of hearings have been held by the Senate Agriculture and Forestry Committee and the action by the Secretary of Commerce has been submitted to close scrutiny by that committee.

This amendment would require that the Secretary of Commerce obtain the prior approval of the Secretary of Agriculture before exercising authority to limit exports on agricultural commodities, including animal hides and skins. Such prior approval by the Secretary of Agriculture is not to be given during any period when the supply of such item exceeds the domestic requirements. This amendment would be retroactively effective to July 1, thereby reversing the July 15 decision of the Commerce Department.

Mr. President, the cattle industry is of enormous importance to the State of Colorado. Colorado ranks 11th nationally with 3,716,000 cattle and calves on Colorado farms and ranches. The value of such cattle on January 1, 1972, was estimated at $762 million.

Mr. President, this amendment merely requires that the Secretary of Commerce be required to go to the expert—the Department of Agriculture—and obtain from that expert the necessary information regarding the agricultural industry before charting a proposed course of action regarding export limitations.

There seems to be little question that a cattle hide at today's prices is worth approximately $17, and that each hide contains enough leather for 20 pair of men's shoes or 40 pair of women's and children's shoes. At $25 per pair, we can conclude that the leather in a pair of men's shoes represents about 3½ percent of the retail price. The reduction in the price of the hide would not reduce the retail price of a pair of shoes.

The action of the Commerce Department would have little effect on the consumer, but the consequences on the cattleman will be significant insofar as the sale of cattle hides is concerned.

Hide producers from Western States depend almost entirely upon overseas markets as an outlet for their hides. According to Mr. Roy W. Lennartson of Western States Meat Packers Association, the 11 Western States of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California produce 22 percent of the total U.S. hide production and no major tanneries are located in the West. The large leather users claim that Western hides are not suitable for their requirements. Because of this and high cost of shipping, Western hide producers had to develop other markets. Most Western hides are exported to markets in the Far East. The limitation on hide exports will have little effect on anyone except the cattle producer. It will destroy markets that have taken years to develop.

The action by the Commerce Department was not justified on the basis of present facts. These facts would have been available through the Department of Agriculture and, for this reason, the amendment before the Senate must be enacted.

Mr. DOLE. Mr. President, as a cosponsor of the amendment offered by the Senator from Nebraska (Mr. CURTIS) I should like to emphasize the need for the Secretary of Agriculture to have the approval of imposition of export control on agricultural commodities as outlined in the amendment.

During the hearings conducted by the Senate Agriculture and Forestry Committee last week and cited by Senator CURTIS yesterday in presenting his amendment, it was obvious that the Secretary of Agriculture did not have the option to approve the Secretary of Commerce's decision to impose the restriction on hide exports.

If he had this authority, Secretary Butz would recognize that our producers do not receive $32 per hide as was indicated in the testimony; but closer to $18 or $20, and this is twice as much as he had been paid for some time.

Hide prices are not excessive, nor is the price of cattle or beef. Our farmers are entitled to a fair price for their animals and a fair return on their investment. Recently, cattle prices reached an all-time high. I say justly so, and they should be higher. For according to USDA figures, our farmers are still receiving only 75 percent of the income received by nonfarm workers.

Now, when cattle prices have attained the same level as 20 years ago, some have urged actions to lower cattle prices; but this is not the solution to the consumer's problems. The restrictions proposed to control hide exports will not lower the price of shoes materially. The increases for other components in a pair of shoes and costs of labor will maintain shoe prices at nearly the present levels, and blaming farmers for the price of cattle hides and for increased shoe prices is totally unfair.

Mr. President, in addition, I ask unanimous consent that a letter from Mr. Kalo Hineman, president of the Kansas Livestock Association be inserted in the RECORD. Mr. Hineman outlines the farmers' objections to this hide export control very well and his letter will be helpful in considering this amendment.

Senators who cosponsored this amendment have filled the record with the facts, clarifying this misconception.

I ask all other Senators to join in supporting this amendment, which will assure farmers adequate protection in the administration of the Export Administration Act.

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

KANSAS LIVESTOCK ASSOCIATION,
Topeka, Kans., July 28, 1972.

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

DEAR SENATOR DOLE: Most cattlemen realize that beef is, as Secretary of Agriculture Butz has pointed out many times, a demand-oriented product. The supply of beef cannot be adjusted overnight. Therefore . . . beef operates well in a fluctuating supply and demand market.

Cattle hides are also demand-oriented. The supply of hides depends on the number of cattle slaughtered for beef. Obviously, this supply is also unable to be adjusted quickly.

People don't consume leather. While fashion trends will increase the demand for leather products to a certain degree, generally Americans are not buying huge quantities of leather. With increased numbers of hides from greater beef production, there has had to be a reliance on foreign countries for trade. Hide buyers, packers and exporters in the seventeen western states, because of the branding laws and customs, have been unable to compete in the domestic hide market.

They have had to promote and hustle to establish world markets for thinner, branded hides. This they have done remarkably well.

If a sudden shift in the world hide situation (Argentina's decision to keep cattle for breeding) has caused greater competition among tanners, it doesn't change the fact that these western exporters still have no export market. As producers, we are glad that hide buyers have developed this market. While the price of hides is very small in comparison to the entire animal, hide prices do have an effect on the cattle market.

The Commerce Department's decision to grant 43% tickets to packers all over the country is, in our opinion, very unfair. Assuming that the plan is workable, which we doubt, western hide buyers will have more than half of their hides ineligible for export. On the other hand, eastern hide handlers, who have had the domestic market to themselves, suddenly will find themselves with an automatic advantage of exporting 43% of their hides. For the market to continue as it has, western hide people will have to pay eastern hide people for these tickets. The result can only depress our western hide price and, in turn, our western cattle price.

We do not pretend to be experts at the manipulation of commerce. Yet, if—as Secretary Peterson admitted—the effect on shoe prices will be minute at best, there seems to be little reason to go ahead with this awkward, discriminatory plan. We urge a new solution.

Sincerely yours,

KALO A. HINEMAN,
President, Kansas Livestock Association.

Mr. McINTYRE. Mr. President, will the Senator from Minnesota yield me 6 minutes?

Mr. MONDALE. I yield 6 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, as a member of the committee which reported the bill before us, and more particularly as a spokesman for my many constituents whose livelihood is directly affected by the provisions of this bill, I wish to speak in opposition to the pending amendment. My views on this amendment apply, with equal force and reason, to any similar amendment which may be proposed later.

The basic issue behind this amendment stems from the action of the Secretary of Commerce, early in July, to exercise his authority under the Export Administration Act to regulate the export of cattlehides. The Secretary acted only after the longest possible study, consideration, and, in my opinion, undue delay imposed as a concession to the Secretary of Agriculture.

In the period of time since last August 15, almost a year ago, when price controls were imposed on most sectors of the economy, the price of cattlehides has soared. Cattlehide prices have risen, depending on the type and grade involved, by some 100 percent to 200 percent. The impact of this dramatic price increase has been felt in the first instance by the tanning industry and then by the shoe manufacturing industry. It is about to be felt in full force by the consuming public.

I should point out, Mr. President, that at the time that cattlehide prices were doubling and tripling the tanning industry and the shoe industry were subjected to unusually rigorous regulation by the Price Commission. In the case of the shoe industry, shoe manufacturers were singled out for practically unique hardship by the Price Commission in that that industry has been prohibited from earning its normal profit on costs. The Price Commission has pointed out that this severe regulation was made necessary by the soaring cost of cattlehides.

While this action by the Price Commission seems to me to be lacking in reason, and possibly unjustified in terms of the Economic Stabilization Act, nevertheless it places pressures upon the shoe and tanning industries which make it impossible for those industries to continue in business if the hide market situation should get worse. Thus, in the past few months, many shoe manufacturers and tanners were forced to begin planning to close down their factories.

The State of New Hampshire has seen too many shoe plants close down before. In this case, it is just inconceivable to me that a Secretary of Commerce could sit by and watch this situation get out of hand. Months ago, I and other Members of the Senate urged the Secretary to move swiftly to impose export controls on hides. Now that he has finally acted, it would be the height of irresponsibility for Congress to make his job even more difficult.

The Secretary acted because the cattlehide situation met the statutory criteria. There exists today an abnormal foreign demand for hides—caused by the curtailment of supplies for the world hide market from Argentina. This demand has created inflationary pressures and domestic shortages. Prices have skyrocketed and domestic buyers are unable to fill their needs, at any price. I understand, for example, that Japanese buyers have placed standing orders for hides at 2 cents per pound higher than the domestic market regardless of the market level. So a domestic shortage clearly exists.

It has been suggested today that these controls are unfair to the economic interests of the cattle industry. Nothing could be further from the truth. The system of controls imposed by the Department of Commerce bends over backwards to be fair to the cattle interests. For one thing, export levels are set at the level of 1971 exports and 1971 was the best year in history for hide exports. Hide prices are now up at levels which cattlemen for decades would have believed to be unreasonably high, or even impossibly high.

The income from the sale of hides and meat has been felt. Last Friday the Government released the quarterly personal income figures for States and regions. The greatest positive improvement in personal income was felt in the Rocky Mountain and Southwest regions of the country. The report states:

> The large income gains in the Rocky Mountain and Southwest regions primarily reflect large increases in farm proprietors' income associated with soaring livestock prices . . . (Dept. of Commerce, BEA 72-47, July 28, 1972)

Mr. President, at the same time that soaring livestock prices were resulting in large income gains for the cattle interests, shoe workers in New Hampshire were losing their jobs.

I am not opposed to higher incomes for cattle producers, but I do not believe that these gains should be achieved at the cost of jobs for shoe and leather workers. The export controls which have been placed on cattle hides are very generous to the cattle interests; they are temporary, they are flexible, and they represent a balancing of the various equities involved. Mr. President, I urge the Senate to reject any amendment which seeks to further restrict the ability of the Department of Commerce to impose controls on commodities which are in short supply.

Mr. JAVITS. Mr. President, will the Senator yield me 30 seconds?

Mr. MONDALE. I yield.

Mr. JAVITS. Mr. President, it is always refreshing to hear the voice of the consumer and the voice of the worker spoken in these protectionist issues. It is refreshing to me, and I believe it is refreshing to many in this country. I congratulate the Senator from New Hampshire, who has spoken from the position of deep analysis which coincides with the analyses of the administration. I should like to identify myself with the Senator's position and express the hope that the Senate will reject the amendment.

Mr. McINTYRE. I thank the Senator from New York.

Mr. MONDALE. Mr. President, I yield 4 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I intend to vote against the amendment to the Export Administration Act of 1969 offered by Senator CURTIS. His amendment, if adopted, as the Senator from New Hampshire has pointed out, would seriously harm the leather and shoe industries of our country by invalidating the export controls on cattle hides which the administration imposed on July 15 after the most careful study.

Indeed, the administration clearly resisted the imposition of export controls on hides, and I and a number of my colleagues, over a period of several months, directed a steady stream of letters to the President and the Secretary of Commerce citing the accelerating cost of cattlehides and urging that action be taken under the Export Administration Act to control their export. Secretary Peterson, in announcing the export controls on July 15, underlined the administration's reluctance to impose these controls when he described the elaborate study process which preceded their imposition. Secretary Peterson noted that the administration:

> Launched the most comprehensive kind of intensive survey of supply and demand outlook for hides—both domestic and international. Under the Secretary's statutory authority, we got the facts from packers, farmers, exporters, and shoe manufacturers on their inventories and their expectations of short-term demand. We got the latest estimates we could get of cattle slaughter and hide production.

Only then did the administration act to impose controls, and only after the facts uncovered made the need for action overwhelmingly clear.

What were these facts which mandated the administration's action? They included the following:

First, hide prices are at record highs with the composite prices running in the 27 cents to 29 cents per pound range for the 2 months prior to the imposition of Secretary Peterson's orders.

Second, a Commerce Department survey projected a demand for an additional 638,000 hides for current use for the period March through December 1972 over a comparable period for 1971.

Third, for the last 5 months of 1972, domestic shoe production is projected to increase 7.3 percent over the comparable period for 1971.

Fourth, a Commerce Department survey projects, in the absence of controls, an increase in the export of cattlehides of 576,000 hides for the period March through December 1972 over a comparable period of 1971.

Fifth, Argentina's and Brazil's exports accounted for 26.2 percent of total world exports in 1969, 20.7 percent in 1970, and an estimated 10.2 percent in 1971—but these sources have been terminated.

Sixth, between March 1971 and March 1972, domestic cattlehide and leather inventories have decreased 1,002,000 hide equivalents.

Seventh, in spite of projected production increases in hides, the projected demands for hides for the period March through December 1972 could be expected to exceed supplies by 1,521,000.

These facts, as Secretary Peterson recognized, portray precisely the kind of situation envisioned when the Export Control Act was adopted. I was privileged to serve as chairman of the subcommittee which drew up that act, and I was one of its principal sponsors. The statutory language triggers controls when they are necessary "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand." There is no doubt in my mind that the present hide situation fits these criteria.

Now, slightly over 2 weeks after Secretary Peterson acted to control hide exports, and even before the ticket system of controls begins operation on September 1, the Senate is asked to overrule Secretary Peterson's actions and turn its back on the serious plight of the shoe industry in our country. Such hasty action would be unfair and unwise.

There is evidence that our domestic shoe industry, after a period of decline, will experience an increase in shoe production. But this hopeful trend simply cannot survive an uncontrolled rise in cattlehide prices. Hides are the major cost of producing leather and a principal cost of making shoes. The hide price increases that have occurred so far are expected to affect the retail cost of American-made shoes in varying degrees, according to size and construction. Specifically, the cost of women's shoes will probably rise $1 to $2, men's shoes will cost $2 to $4 more, and women's boots may be as much as $4 to $6 more expensive.

The precarious competitive position of our domestic shoe industry is gravely endangered by such increases. In my own State of Maine, between 1968 and June of 1972, employment in Maine's leather footwear industry declined from 26,900 employees to 18,500. During 1971 and 1972, 13 shoe firms in Maine employing over 3,000 people have closed. This pattern is not unique to Maine. We must not allow the situation to deteriorate further through uncontrolled increases in cattlehide prices.

I would have hoped that export controls on hides would not have been necessary. I believe we should pursue, as vigorously as possible, free-trade conditions. However, we cannot be blind to reality and ignore the plight of a vital American industry. When market conditions warrant, and Secretary Peterson has pledged to monitor the situation closely in the coming months, the controls can be lifted. In the interval, in a period of serious hide scarcity and dramatically rising hide prices, Secretary Peterson's necessary action deserves support. I urge my colleagues to adopt this wise course of action and vote against the amendment offered by the distinguished Senator from Nebraska.

Mr. MONDALE. Mr. President, I yield 3 minutes to the distinguished Senator from New Hampshire.

Mr. COTTON. Mr. President, for many years, many of us have been struggling with the Secretaries of Commerce of this and the last three administrations, and with other officials of these administrations, first, to save our textiles and, second, to save our shoe industry. I have rehearsed on this floor, on other occasions, the fact that mill after mill, and factory after factory, has closed in my State of New Hampshire as well as in adjoining States.

At last, we have received some action in insisting upon voluntary quotas and, if necessary, other quotas to protect our shoe workers and save our shoe industry. As a matter of fact, I have voted on several occasions, in other years, with my good friends from Nebraska and from other States, to help them save and promote the meat production industry and sales. I never want to be parochial in my attitude, but I cannot find myself greatly alarmed, even though I respect and admire my dear friend from Nebraska, for his spirited attempt to protect the export of hides. I hold in my hand today's copy of the Wall Street Journal and I note on page 28 that 1 year ago the price of hides was 15 cents a pound and today it is 33 cents a pound. It went up 1 cent a pound right after the Secretary of Commerce issued his order.

I believe that the Secretary of Commerce can be depended on not to do anything seriously to injure our friends in the West. He has not done so yet because the price of hides has not gone down but has gone up. It would absolutely vitiate this protection we have, to make it subject to the Secretary of Agriculture, because it would be the old story of putting the fox in charge of protecting the chicken coop.

I am compelled, Mr. President, to vote against this amendment offered by my good friend from Nebraska.

Mr. MONDALE. Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Tennessee is recognized for 2 minutes.

Mr. BROCK. Mr. President, I rise in opposition to the amendment to exempt cattlehides from the Export Administration Act of 1969.

The purpose of this amendment is to nullify the action taken by the Secretary of Commerce on July 12 to control export of cattlehides to cut inflationary pressures on prices of shoes and other leather goods. The action taken by the Secretary was both necessary and fair to all concerned.

In face of the soaring hide prices and shortage of cattlehides, the Secretary had no other alternative than to act in a vigorous manner. Since August 15, 1971, the start of phase I of the President's economic program, hide prices have increased almost 100 percent. This fantastic inflation in hides means that retailed shoe prices must go up at least $1 to $2 a pair and the end is not in sight. These increases will be borne by the American consumer. In addition, there is a deepening shortage of cattlehides which is crippling our domestic leather and shoe industries. In spite of projected production increases in cattlehides, projected demand for hides for the period March–December 1972 could be expected to exceed supply by 1,521,000 hides.

This dire situation has been brought about by the activity of foreign hide buyers who are increasing their demand for U.S. hide production, thereby driving prices up and draining hide supplies. Since 1967 hide exports have increased from 11,900,000 to 16,000,000 in 1971.

In the same period, exports as percent of domestic hide production climbed from 33.2 percent to 42.6 percent. The Department of Commerce survey projected increases in export of cattlehides of 576,000 hides for the period March through December 1972 over a comparable period in 1971 if controls were not instigated.

The shortage of hides in this country can be attributable to several factors, the principle one being that the major hide exporting nations with exception of the United States have placed embargos on exportation. For example, Argentina and Brazil who exported 26.2 percent of the world's supply of cattlehides in 1969 have placed a total embargo on exports. The policy of both of these countries is to build tannery and shoe industries to become major shoe exporters.

It seems grossly unfair to ask the American worker and consumer to bear the brunt of the restrictive policies of these countries.

Although hide production in this country is expected to increase for the remainder of 1972, absent controls, it would not be expected to meet domestic demands.

Thus, the Secretary of Commerce was faced with a critical situation. Countries normally buying in South America are converging on the U.S. market. Foreign buyers have the great advantage of currency revaluation which has made their money worth more. Prices of leather goods and shoes were soaring. Factories were threatened with curtailment or shutdown from sheer lack of supply.

That would have meant more unemployment. The action taken by the Secretary of Commerce was long overdue.

The Secretary's program should prove to be a fair and effective one. Rather than impose conventional export controls as was done in 1966, the Secretary is utilizing an export ticket system in hopes of preventing windfall profits to go to exporters of foreign producers. Under the regulations, export tickets will be issued to cattlehide producers in an amount equal to last year's export levels. The effect of this approach will be to reserve for hard-pressed domestic buyers and industries the additional cattlehides which it is anticipated will be available for sale to people who export hides. Under the ticket system benefits of higher foreign hide prices should accrue to the American consumers and cattle producers—not to foreign purchasers and exporters.

Under this program the consumer will enjoy stable prices for leather goods, the workers in the leather goods industry will have their jobs preserved, and the cattle producers will receive the benefit of any increase in prices on the foreign export market.

Mr. CURTIS. Mr. President, how much time remains to each side?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Nebraska has 20 minutes remaining and the Senator from Minnesota has 12 minutes remaining.

Mr. MONDALE. Mr. President, I yield 4 minutes to the Senator from North Dakota (Mr. YOUNG).

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 4 minutes.

Mr. YOUNG. Mr. President, the cattle industry is in a unique situation. Controls on imports have been lifted so that they now have to compete with the rest of the world on the meat that they produce. Now controls are being placed on exports. One of the few commodities we can produce and sell to the rest of the world are cattle hides. But the cattle producer is in a bind both ways.

Mr. President, I have a great deal of sympathy for those here today who express concern about losing an industry in the United States. The textile industry has been hurt badly during the past few years. I voted to help them. The shoe industry, no doubt, is being hurt. But even if they got the cattle hides for nothing, they would still have about the same trouble, because the cattle hide represents only a small percentage of the cost of a pair of shoes.

There are many other industries in this country which are getting hurt and where we are exporting jobs. It is hard to buy a camera today in the United States where most of the components are not made in foreign countries. It is hard to buy clothing of any kind where the cloth is not made in some foreign country. The same thing is true of bicycles and motorcycles. We cannot even buy barbed wire any more made in the United States. We stopped making barbed wire except for military purposes. We are, of course, importing more and more automobiles. Many other industries are getting hurt badly by excessive imports.

Thus, Mr. President, I feel that we are facing a serious situation when we are exporting jobs and importing all our requirements.

The answer is not to destroy an industry in this country that needs help, or to injure it, which would result from limiting exports.

My gosh, at this time, we should be concerned about producing more commodities for export to earn more money which will place us in a better position with regard to our balance of payments.

Mr. President, the recently announced limitation on the export of cattle hides was a most unfortunate blow to the American livestock producer and to the economy in general.

The Secretary of Commerce made a questionable interpretation of his authority under the Export Administration Act when he ordered these limitations. I feel that it is absolutely necessary for the Congress to spell out that authority clearly so that further problems of this type will be avoided.

We are all concerned over the inflation that has plagued our economy. Controlling inflation must be our No. 1 domestic economic goal. While I recognize this need, I am deeply disturbed that two of the most publicized moves taken in recent weeks to help control inflation will have a direct, adverse impact on a segment of the economy that has not fully shared in the great advances in the general level of economic activity. I am speaking of course, of the American farmer and rancher.

The lifting of meat import quotas a few weeks ago will force livestock producers to compete with additional quantities of lower quality, lower priced meat produced in foreign countries under lower cost conditions. The hide export limitation, on the other hand, prevents producers from taking full advantage of an export market that is badly needed.

Last week, the Senate Committee on Agriculture and Forestry held hearings on this action. During these sessions, it was repeatedly demonstrated that the limitation would have little, if any, effect on the rate of inflation in this country. It will, however, have a serious adverse impact on our balance-of-payments problem.

This problem has become one of the most difficult economic problems ever to confront this Nation. Every possible effort is being made to expand American exports in an effort to bring relief from these difficulties. The record is clear, Mr. President, that market development efforts on hides have been successful. The record is equally clear that export limitations on them are damaging to that market. Limitations were placed on hide exports in 1966. While those limitations did not halt the rise in shoe prices as they were supposed to, they did very effectively reduce the level of hide exports. In fact, it took 3 years to regain the level of hide exports we had in 1966.

This action is going to lose markets for the United States. Some of these markets will be lost for a few months or a few years, depending on how long the limitations are in effect. Others will be lost for good. A major effect of this move will be to force foreign purchasers of American hides to look for synthetics or substitutes for leather. Invariably, once a manufacturer goes to cheaper substitutes or synthetics, he rarely goes back to the better quality, natural product.

To argue that this move will protect the consumer from further increases in the price of shoes and other leader products is to ignore the experience of 1966. Despite the export limitation at that time and the consequent drop in hide exports and prices, shoe prices in this country continued to rise.

It is easy to understand why this happened then and will, in all probability, happen again. The U.S. Department of Agriculture estimates that less than 5 percent of the cost of a pair of men's oxford shoes goes to pay for the rawhide used.

Mr. President, I strongly support the effort to remove this unwise limitation. It will not remove the threat of rising leather product prices. It will result in reduced income for livestock producers. It will adversely affect our balance-of-payments situation.

Mr. CURTIS. Mr. President, will the Senator from North Dakota yield for an observation?

Mr. YOUNG. I am glad to yield.

Mr. CURTIS. The testimony is that out of the average cattle hide they can make 20 pairs of men's shoes. Of course, women's shoes with just the sole, the heel, and some straps, maybe twice that many—and certainly with children's shoes. So the hide is only about 5 percent of the cost of a pair of shoes; is that not correct?

Mr. YOUNG. That is correct. In referring to testimony, in many cases, the higher priced shoes are much less than that, down to 1½ percent.

Mr. CURTIS. I thank the Senator from North Dakota.

Mr. President, I yield 4 minutes to the Senator from Oklahoma (Mr. BELLMON).

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Oklahoma is recognized for 4 minutes.

Mr. BELLMON. Mr. President, I thank my distinguished colleague from Nebraska for yielding me this time. I am very proud to be a cosponsor of his amendment. It is very much needed. I believe that those who oppose it probably do not fully understand the impact of this action by the Secretary of Commerce.

In the long range, this amendment is very much in the best interests of the consumer. As one who is in the cattle producing business, I can testify that the price of cattle hides in recent years has been slowing down. A substantial amount of the cattle hides produced in this country are not even recovered.

There was a time when the renderers of the country would come around to the ranches and the farms and pick up animals that had died, to recover the hides as well as the fats, oils, and the proteins in the carcasses. But over the past several years, the price of hides has been so low that the animals have been allowed to decompose on the farms and ranches, and that potential source of leather has been lost.

Mr. President, I would also like to point out that at the present time we are involved in a presidential campaign. One

of the big issues that has been raised is farm parity. Farm parity with interest has gone up recently from 73 percent to 75 percent. I challenge any Member of the Senate to point to any other industry that can operate when it receives only three-fourths of the amount of income it is entitled to have.

The situation in the cattle industry is a little better. Cattle parity is something like 93 percent. But here we have an action by the Government, by the Secretary of Commerce, which is taken for the devout purpose of forcing down the price of hides which constitutes a very substantial amount of the income of the farmer when the price of the product is only 93 percent of what it should be.

To me it is totally inconsistent for our Government, a part of the Government, to complain about low farm parity and on the other hand to take action that tends to keep the price from rising to a fair level.

I feel that the Curtis amendment is needed and that it will help to bring equity to the farm income. We have to make available an adequate supply of this essential material.

The testimony on this matter before the Committee on Agriculture and Forestry points out that Mr. Letson, from the Department of Commerce, had some misinformation upon which his decision was based. The testimony from the Secretary of Agriculture showed that we expected about 1,560,000 more cattle to come to market during the balance of the year than during 1971. The testimony was that the increased demand for domestic hides was far less than that amount.

It appears we will be faced with a surplus and not a shortage of hides. The witness was totally mistaken.

Mr. President, I express my support for the Curtis amendment and urge its adoption.

Mr. CURTIS. Mr. President, I yield 3 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. HUGHES. I am pleased to join with Senator CURTIS on this amendment, which would correct a serious injustice done to cattle producers as well as a dangerous reversal in our historic policy of encouraging agricultural exports.

In principle, and as the law now declares, export controls should be used only in cases of an excess drain of critical materials or when there is a serious inflationary impact.

The facts now available to us do not justify this extreme step.

Exports of cattle hides are up only 2 percent this year compared with the first 6 months of 1971.

Domestic demand has dropped along with declining shoe production.

And domestic cattle production is up, with 900,000 more cattle than last year expected to be slaughtered in the next 6 months.

Shoe prices have been going up, as have all prices, but rising cattle hide prices are not solely to blame. In fact, shoe prices have risen only as much as the general consumer price level. Yet, the current export controls will make cattlemen bear the entire burden for these increases, when hides account for 75 cents to $1.50 in the $20-to-$40 cost of a pair of shoes.

Already cattle producers have been placed in double jeopardy by this administration—first by the suspension of meat import quotas and now by the restrictions on exports of hides.

I think it is time we stopped making our food producers pay for the failure of the administration's economic policy to halt inflation or to correct our balance-of-payments deficits.

The 50,000 cattlemen in Iowa should not be further penalized by policies which deny them the right to sell at a fair price what they have worked so hard to produce. Yet, if history is any guide, they will suffer. In 1966, when such controls were last imposed, livestock prices plummeted but shoe prices actually increased. Some of my constituents now estimate that these export controls will knock $4 or $5 off the price of every steer sold to the packinghouse.

In fairness to our cattlemen, while still doing justice for our consumers, I believe that this amendment should be speedily approved.

I am pleased to join with the Senator from Nebraska in an amendment which would correct what I believe is a serious injustice being done to the cattle producers as well as a dangerous reversal in our historic policy of encouraging agricultural exports.

I rise as a Senator with a record in the Senate of supporting the problems of the American worker and American consumer. And in every instance I believe the record will show that I am willing to support measures that do not deprive a quite seriously affected segment of our economy in order to bring about an element of relief. There are better ways of doing that.

I rise in support of the 50,000 beef producers of the State of Iowa who for years have struggled and have been going down in numbers as a result of the economic pressures on the American farmers and the American beef producers along with an ever-increasing rise in the price of food for the American table with the American dollar being able to buy less than the previous year.

The facts now available to us do not justify this extreme step. The export of cattle hides are up only 2 percent this year compared with the first 6 months of 1971. Domestic demand has dropped along with declining shoe production.

The domestic cattle production is up, as has been stated here.

I believe, Mr. President, that we are taking the wrong approach. Those of us who are willing to support the problems of the workers in the factories and who have continued to express that support in the Senate do not believe that the method to take in supporting them is to deprive an ever-increasing number of farmers from the rural sections of the country of a fair income.

This is precisely the step that has been taken already. The cattle farmers have been placed in double jeopardy, first by the restriction on meat export quotas and next with respect to the reduction in hides.

I think it is time that we stop this practice.

I strongly urge passage of the amendment of the Senator from Nebraska.

Mr. McGEE. Mr. President, will the Senator yield me 2 minutes?

Mr. CURTIS. Mr. President, I yield 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 2 minutes.

Mr. McGEE. Mr. President, as a sponsor of amendment No. 1371 to the Export Administration Act (S. 3726), I want to join with my distinguished colleague, the Senator from Nebraska (Mr. CURTIS), in urging passage of this proposal.

The recent action by the Secretary of Commerce in imposing a ceiling on hide exports has resulted in a grave disservice to the American cattleman. The reasons given by the Secretary of Commerce for taking this action range from the alleged inflationary pressures stemming from a recent increase in prices for hides over the 1953–70 composite average, to an alleged estimated shortage of such hides in meeting the domestic supply demand.

However, I would like to refer to testimony offered the Senate Committee on Agriculture and Forestry last week by Mr. C. W. McMillan, executive vice president of the American National Cattlemen's Association.

Mr. McMillan stated that:

> The domestic beef cattle industry is tired of having to "pay the bill" under the threat of U.S. tanners and shoe manufacturers that they must raise shoe prices "if something isn't done to restrict the exportation of U.S. cattlehides."
>
> The 1972 action of the Commerce Department, although not identical to 1966, closely parallels it.
>
> In 1966, shoe manufacturers threatened to raise shoe prices unless something was done to force down the price of domestic cattlehides.
>
> An export embargo was placed on them, prices fell, reflecting approximately $4 per head drop in domestic cattle prices and the shoe manufacturers proceeded to raise the price of shoes anyway. U.S. cattlemen paid the bill and the U.S. shoe manufacturers pocketed the profits.
>
> Although the 1972 action of the Commerce Department still permits hides to be exported, there has been so much confusion and concern about the complex ticket or certificate method, meat packers cannot adequately plan their cattle buying programs and take into account by-product values. This completely disrupts marketing patterns of beef cattle.

Mr. President, I believe Mr. McMillan's concerns are well founded. It appears that this administration's response to complaints of inflationary pressures on the economy is to find a scapegoat. High meat prices in the supermarket resulted in the administration placing the door wide open to foreign meat imports. Now we see the American meat producer again being made the scapegoat, because U.S. tanners and shoe manufacturers claim they will have to raise shoe prices "if something is not done to restrict the exportation of U.S. cattlehides."

Once again, the administration is wide

of the mark in searching out the real culprit for this Nation's economic woes. It is not the American cattleman. Mr. McMillan also testified that:

It is the earnest hope of the American National Cattlemen's Association that the restriction on hide exports will be lifted. Were it not for the price levels that have prevailed for hides in recent weeks, the by-product drop of meat packers would be much lower. If that by-product drop declines substantially, the meat packer must adjust his margin by paying less for cattle or selling carcass beef for more.

If carcass beef prices increase, this means that consumers will have to pay more for beef in the retail meat counter. If meat packers pay less for cattle, it could place cattlemen in a "loss" position. As a practical matter, both of these things will probably happen.

A serious effect of restricting hide exports is the matter of U.S. balance of payments. It seems inconceivable that the Administration has opened the flood gates to more meat imports while restricting hide exports. Both of these actions are detrimental to the beef cattle industry but together they compound the very serious balance-of-payments problem.

Mr. President, it is, indeed, apparent that the Department of Commerce did not realistically assess the situation before they took action to limit the exportation of cattlehides. If they had, we would not be spending the time today to rectify the inequity of this action.

We have been fighting this battle and trying to protect those who are on this economic ladder against mistakes and misjudgment in inflationary tendencies that take place all the way down the line until it reaches the consumer.

Invariably, we still fail to convince the consumer when the cattleman has a good case in point. The cattleman receives the prices now that he was receiving in 1952. Yet, he is asked to live in a really inflated world in which it costs a great deal more to live.

There was an attempt made to restrict the export of meat products. This socked the meat producer of this country where it hurts. We now have a proposal to bar the exports of cattle hides.

Once more they are delivering the body blow to the very group that is the least at fault in this economic chain of events.

My petition is that we point the finger at some of the economic factors that are to blame.

Whatever else, the cattlemen of this country, the producers of agricultural products of the country have not been the ones who have been adding to the prices of the products or skimming off the top, whatever it may be.

I would hope that the Senate supports the amendment of the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. MONDALE. Mr. President, yesterday I spoke briefly in favor of the amendment offered by the Senator from Nebraska. In my remarks I made reference to the fact that the last time we imposed restrictions on the import of cattle hides, the price of the hides to farmers and hide producers dropped disastrously. At the same time I noted that the prices of American shoes went up. This shows that export quotas on hides, while sure to hurt thep roducers, will not necessarily help our consumers.

There is not a close relationship between the cost of the hides and the price that the consumer is paying for shoes, because the cost of the hides is a very small proportion of the cost of the shoes. Something like 3 or 4 percent at the most

Since yesterday, Mr. President, I have had a chance to check the 1966 records. The Bureau of Labor Statistics indices are very clear on the point I made. Quotas were imposed in March 1966 and were in force until October of that year. Largely as a result of quotas, hide prices tumbled 46 percent from May 1966 to May 1967. During that same 1-year period, however, as I said yesterday, men's and boys' shoe prices showed an increase of 1 percent.

So, if it is thought that forcing down hide prices to farmers with the export quotas is going to have a beneficial effect on the American consumer, the 1966 case shows that it probably will do no such thing.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Mr. President, I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 1 additional minute.

Mr. MONDALE. Mr. President, the fact is that cattlehides have very little to do with shoe prices because they are such a small proportion of the cost. They have practically nothing to do with corresponding shoe prices. The only thing quotas will do is deliver a disastrous reduction in farm income at the very time when the American farmer most needs an income boost.

Mr. President, I am hopeful that the amendment, which is a very modest one, which has been offered by the Senator from Nebraska, will be agreed to.

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

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. CURTIS. How much time do the opponents have remaining?

The PRESIDING OFFICER. 12 minutes.

Mr. CURTIS. Mr. President, I yield 3 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I think it is important that we get a few facts straight. I have supported the distinguished Senator from New Hampshire on every bill that I recall he has introduced to protect American industry. I have been pretty consistent in that respect. But I think we should know and understand it is one thing to talk about protecting American industry and American jobs, which I favor, and it is another thing to talk about protecting the consumers, by opposing this amendment.

Mr. President, if we are interested in cheap shoes, send all the hides abroad because the lower wages paid by the Japanese, or other foreign countries will insure you can buy cheaper shoes in America if they are made abroad. Let us not get into any charade around here and say that we are concerned about the consumer by saying we want a ban on the export of American cattle hides. It does not stand up.

It is important that we do something to see that American job holders all prosper because they undergird this great economy of ours and make it possible for all of us to live better. That is what I want to do and it should be what the Senate wants to do, and if I may predict, it is what the Senate will do.

The reason it is important not to let this bill pass without the Curtis amendment attached to it is that we are concerned primarily in this country with two products that come from the ranges, the farms, and ranches of America engaged in the production of cattle. No. 1 is meat and No. 2 is leather. If we want to concern ourselves with both of these major continuing interests what we must do now is to see that we help support the reasonable price of meat by assuring that the price paid for hides will be as much as the market will bear in order to help make it possible for the price of meat to be as low as the market itself will permit it to be.

In the long run the best interests of all consumers will be served by all actions which encourage the production of adequate supplies of beef in the United States. A profitable operation gives this incentive. The Curtis amendment helps assure that the impact of demand will contribute to the best interests of those who wear the shoes and eat the meat—all Americans.

It is on this point I think it makes sense that the very realistic amendment proposed by the Senator from Nebraska carry in order that the price of hides will support the continued production of meat and beef so that Americans tomorrow and next year can be assured there will be adequate supplies, not only of leather but of meat, reasonably priced at the same time. That is what we are talking about, and it is what my colleague from Wyoming was talking about when he said we have been trying for a long time to help out an industry that is important.

I hope this amendment is agreed to.

Mr. McINTYRE. Mr. President, will the Senator yield to me for 2 minutes?

Mr. MONDALE. I yield 2 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, with the passage of the Equalization and Stabilization Act domestic sales of hides were under controls; the export of hides for sale abroad were not under control.

The world situation with respect to the demand for hides was made extremely critical in the past year by the embargo by Argentina, a country that is one of the great suppliers of hides, prohibiting the export of hides from Argentina. In this situation the world price of hides has soared.

The price was very appetizing to our friends from cattle-producing areas and

they continued to sell them at high prices.

In the Economic and Stabilization Act, I believe that the manager of the bill voted with me to insert into the Stabilization Act the words "domestic shortages." This would be a trigger under which the Secretary of Commerce could act to prevent the sale or exportation uncontrolled. Am I correct?

Mr. MONDALE. Mr. President, I yield myself 1 minute to respond to the Senator.

The Senator from New Hampshire will remember that this very issue came up in the Committee on Banking, Housing, and Urban Affairs. At the time we were dealing with the President's Economic Stabilization Act. I vigorously opposed an amendment which was offered, which was designed to impose restrictions on the export of cattle hides. My point of view was sustained in the Committee on Banking, Housing, and Urban Affairs.

Mr. McINTYRE. Does the Senator not recall that he agreed to provide in those situations where the Secretary of Commerce could act, where he could figure into action, the words "domestic shortages"?

Mr. MONDALE. I do not remember that.

Mr. McINTYRE. It is in the bill.

Mr. MONDALE. I recall the issue on cattle hides.

Mr. McINTYRE. It is in the bill. That is what occurred. After long and laborious efforts the Secretary of Commerce under this administration acted, and this amendment this evening by the Senator from Nebraska seeks to void and nullify the action of the Secretary of Commerce in bringing some measure of relief to the tanners, shoe manufacturers, and I say to the consumers of America.

Mr. MONDALE. Mr. President, I think the record will show that the Commerce Department acted under the terms of the Export Administration Act and not under economic control legislation. I think there is grave doubt they have legal authority to do as they did because the specific language of the Export Administration Act under which they have acted provides there must be very substantial evidence of serious inflation resulting from the failure to impose restrictions on export of cattle hides before action may be taken. I do not think there is evidence to justify that finding.

Mr. McINTYRE. It is my understanding that on some hides, and I am not an expert on hides, the prices have increased 100 to 200 percent. Does the Senator deny that? Does the Senator feel this is untrue?

Mr. CURTIS. I would like to answer that question. The price of hides is down to 14 cents. As a result, as was pointed out by the distinguished Senator from Oklahoma (Mr. BELLMON) many dead cattle were not even skinned, because it was not worth it. They could not get anybody to come out and pick them up. The fact it is doubled does not mean anything. In a pair of shoes only 5 cents is related to cattle hides.

This is clearly intended to be an imposition on agriculture and to beat down their prices because you are faced with higher labor costs and other costs than are foreign competitors. That is an unfair restriction.

Mr. McINTYRE. I understand the Senator stated the price of hides in the last year has risen 200 percent.

Mr. CURTIS. Not 200 percent; it has gone up about 100 percent, but it is still far below parity.

I would like to correct the RECORD. There is no shortage of hides. We have been exporting hides for 15 years. This is the greatest meat consuming country in the world, and you cannot get meat without producing some hides. Last week the second largest slaughterer did not sell a single hide.

Mr. MONDALE. Mr. President, I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise to cite what I remember and recall as an experience in the previous administration. My good friend, Secretary Freeman, imposed quotas on hides; export controls. What happened? The price of hides went down. What else happened? The price of men's and boys' shoes, which use a lot of leather, practically stayed the same. Then, what happened? It was not very good for the farmer, it was not very good for the consumers; it did not help our export business; and it did not help domestic sales. It just does not work. When reference is made to women's shoes, there is little leather in them; most of them are a fabricated, synthetic product, and the price of those shoes is not affected by hides any more than cereals are affected by the price of wheat.

Mr. McGEE. Mr. President, on July 15, the U.S. Department of Commerce announced it would take action which would limit the exportation of cattlehides to last year's level.

The reason given for this action is the recent increase in the prices of cattlehides over their 1953–70 composite average. The Commerce Department asserts it is taking this action in order to check the "inflationary" impact these price rises are allegedly having on the domestic shoe and other leather industries.

However, cattle producers and hide sellers are opposed to this arbitrary action which they fear will adversely affect the prices they receive for hides and live cattle.

As a result, I have introduced amendment No. 1373 to the Export Administration Act (S. 3726) which would prohibit the Secretary of Commerce from limiting the exportation of cattlehides from this country. In addition, the order which accompanied the July 15 announcement by the Commerce Department would cease to be effective under the Export Administration Act renewal—the legislation which is presently before this body.

The reasons for the introduction of this amendment are many. The benefits to farmers and consumers of higher prices for hides on the world market far outweigh the minimal benefits to anyone else. Farmers and ranchers in this country get the direct benefits of higher prices for hides; while housewives are the indirect beneficiaries, since they avoid paying higher prices for beef when hides and other byproducts can be sold for good prices.

It was not so long ago that, in my own State of Wyoming, a rancher was lucky if he could get $2 for a big steer hide—let alone, find a hide buyer.

It seems that most of the shoes being produced in this country were being made out of ersatz leather and paper.

Then, quite unexpectedly, the American cattle producer discovered there was a demand for his cattlehides. Foreign shoe manufacturers began bidding up the prices on American cattlehides, because they could be obtained at such a bargain. An overseas market developed. As a consequence, according to official figures, last year alone saw more than 15.5 million cattlehides exported from this country, which brought the American livestockman a bonus of $125.8 million.

According to statistics compiled by the National Farmers Union, some 20 to 25 pairs of shoes can be made from one hide. The value of green hide in one pair of shoes is only $1. If the price of a hide should drop a quarter, then the price of leather in a pair of shoes should go down about 25 cents. Yet, not many of us expect that the retail price of $15 for a pair of shoes would be shaved to $14.75, because of lower hide prices. This makes the argument by the Secretary of Commerce, that cattlehide prices are having an inflationary impact on the domestic shoe and other leather industries, specious at best.

In his testimony to the Senate Committee on Agriculture and Forestry on the question of the Commerce Department order, William N. Letson, General Counsel for the Department stated:

> The question of whether, and how, to introduce controls proved to be one of the most difficult questions which the department has faced in a long time. This was particularly so, since we all strongly believe in free and open markets. However, facing the facts—the seriously inflated prices, the domestic shortage of hides, and the abnormal foreign demand—and bearing the responsibility which Congress placed in our hands under the Export Administration Act, we concluded that we should act.

However, American Meat Institute feels that proper interpretation of the current hide situation is this:

First, the June 1972, hide exports were released last Friday. These figures showed that 1,317,000 pieces were exported compared to 1,235,000 exported in June of 1971. Hide exports for the first 6 months of 1972 were 8,073,000 pieces as compared to 7,848,000 pieces for the first 6 months of 1971. This means the 6-month exports for 1972 are only 2 percent greater than for the first 6 months of 1971. This hardly represents an abnormal foreign demand causing an excessive drain on a scarce raw material—hides—which is one reason the Commerce Department gave to back their July 15 action.

Second, through May of this year, figures show that shoe production is down 1½ percent this year as compared to last year. Yet the Commerce Department projected an increase in domestic shoe production requiring 638,000 more hides. Some of the testimony delivered to the

Agriculture and Forestry Committee last week by the tanners indicated they expect leather shoe production to be down this year, not up.

Third, industry analysts now are expecting commercial cattle slaughter for July through December of this year to total about 19 million head, which is 900,000 more than last year. This forecast is supported by the USDA estimate of 1,566,000 more cattle on feed this July 1 than last year. Thus, the slaughter estimate used by the Department of Commerce appears to be very much on the conservative side.

Fourth, the calculated shortage presented by the Commerce Department in support of its export program included a figure of 1,002,000 hides needed to replace inventories. However, there is no such thing as a minimum inventory, which has been violated as the Commerce Department officials claimed.

Fifth, hence, instead of an imbalance of 1,521,000 hides to be rectified by controls, we see the possibility of a surplus developing that could wreak havoc with the hide market and seriously depress cattle prices if the controls are not discontinued. I believe this to be a key issue, and it could very well be what the Commerce Department had in mind when it issued the order. This is certainly in line with other administration action which resulted in lifting the quotas on the importation of foreign meat and the urging of beef producers in other countries to flood the American market with foreign beef.

It is apparent from these discrepancies between the Department of Commerce figures and estimates and those of the Department of Agriculture that perhaps someone is purposely giving us an inaccurate picture of the cattlehide situation in this country. I hardly suspect the Department of Agriculture experts are the ones who are off the mark in their projections.

In conclusion, Mr. President, it is inconceivable to me that the Department of Agriculture would begin regulating a raw product such as cattlehides—a product which was virtually worthless just a few years ago—at a time when the livestock industry is just beginning to regain some signs of economic stability. It is also inconceivable to me that at a time when this Nation faces serious balance-of-payments problems that the Commerce Department would limit exports of a product which can only result in strengthening our balance-of-trade problems.

In light of these facts, I urge my colleagues to support my amendment to the Export Administration Act.

Mr. ALLOTT. Mr. President, will the Senator yield me 1 minute?

Mr. MONDALE. I am glad to yield 1 minute to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I want to bring out one point that I think has not been emphasized here. This does not hurt just our cattle raisers and our cattlefeeders. It also hurts our processors.

I have a letter in my files in which a man points out to me and gives the specific economics of where the actual profit is taken at his packing plant in Colorado Springs. He points out that it comes not from selling the meat—and he sells mainly to one of the retail grocers—but his profit comes out of the sale of hides, liver, and the other byproducts of the cow.

I think it is fair to say that, with respect to the amount of leather used in shoes, we cannot leave the hides sitting around this country with no place to sell them when we have a market for them abroad. We have done this to the American farmer for a long time, and it is about time that we stop.

Mr. TOWER. Mr. President, I support the amendment of the Senator from Nebraska. I do not believe that the recently imposed controls on cattlehide exports will be of any significant assistance to the consumer of leather products, and yet it will serve to interfere with our trade relations, with our international earnings, and with our farm earnings.

We are fortunate in this country to have a very active cattlehide export industry in this country. They have managed to open markets for our hides around the world, hides which we simply could not consume totally at home. Hide is not a great cost factor to the shoe production process, so that even restricting all of the U.S. hides to the domestic market would not make shoes so much of a bargain that shoe purchases among lower income consumers would be materially increased. We need this export market in order to make the best economic use of this cattle byproduct, and I cannot see any economic justification for closing off normal international supply-demand forces in this market.

Our farmers and ranchers also receive a portion of their already too low income from the sale of cattlehides. These are presently worth perhaps $16 to $17 per hide. If cattlehide prices have been moving upward due to increased domestic and international demand, who is to say that the farmer does not deserve to receive some of this financial benefit of being in the right business at the right time? Why limit the further potential of real demand forces to place an economically justified price on this particular cattle byproduct, particularly when there is only a minor effect on consumer prices?

I urge my colleagues to vote aye on this important amendment.

Mr. PEARSON. Mr. President, once again an attempt is being made to restrict the export of cattle hides from this country. We went through this exercise for 8 months in 1966 and the Congress finally had to legislate an end to the controls. Today, the Senator from Nebraska (Mr. CURTIS) offers an amendment to S. 3726 to prevent the introduction of controls on the export of hides. I am a cosponsor of that amendment and urge its acceptance.

Mr. President, neither the theory behind this attempt to halt excessive price rises in leather goods nor the method the administration proposes to use in regulating the export of hides are sound. I shall address my remarks to both theory and method.

Theoretically, the proposed controls are to be imposed, because cost increases in the shoe industry are so excessive that the economic damage to cattle raisers, the damage to our balance of trade and the high administrative cost of the complex controls are worth the price. I submit that this is not the case.

Price increases in the shoe industry have not been excessive. The American Meat Institute points out that the increase in the price of footwear has only matched the general consumer's price index. This represents an increase of 3 percent in the last year. And it must be pointed out that the price of leather contributes to only 5 percent of the cost of shoes.

Second, shoe industry demands for leather have not increased. Instead, this year's shoe production is down 1.5 percent. Finally, according to USDA estimates, hide production is increasing in this country. Therefore, with falling demand, rising hide prices may well be checked by the forces of increasing domestic supply and reduced demand.

Putting aside all of the arguments concerning the supply-and-demand situation, the method of controlling the export of hides is incredibly complex and costly to administer. It could well lead to a black market in these so-called export tickets.

It would seem clear, Mr. President, that this well-intended effort to hold down the cost of footwear misses its mark. The facts of the case simply do not bear out the position of those who favor controlling exports of cattle hides. I urge the Senate to adopt the amendment of the distinguished Senator from Nebraska (Mr. CURTIS) and myself.

Mr. THURMOND. Mr. President, we are now considering amendment No. 1371 to S. 3726, which would prohibit the Department of Commerce from setting export controls on agricultural commodities including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture.

The Department of Commerce has placed export controls on hides under authority granted by the Export Administration Act of 1969, which says exports may be controlled to prevent the excessive drain of raw materials or to reduce the serious inflationary impact of abnormal foreign demand. There is no evidence that exporting hides is having either effect.

In reality, Mr. President, hide exports have helped the economy of the United States. The purchase of hides by foreign nations has added favorably to our balance of trade. The foreign demand for hides has provided an additional market for the financially unstable livestock industry.

Demands for export controls have come from shoe manufacturers who want to reduce hide prices by limiting foreign sales and flooding the domestic market. They say that hides are scarce on the domestic markets and are so expensive that the price of shoes will have to be raised. Yet, testimony before the Committee on Agriculture and Forestry disputed these claims. Hide dealers said they had no shortage of hides and some

even testified of surpluses which were difficult to sell.

Testimony also revealed that the amount of leather in an average pair of shoes, costs about 80 cents. This figure is so insignificant it hardly figures in the cost of one pair of shoes. If the price of hides were cut so drastically that the amount of leather in a pair of shoes costs only 10 cents, there would still be no savings to pass on to consumers. The only group which benefits from export controls on hides are shoe manufacturers who save a few pennies on each pair of shoes.

Mr. President, I urge my colleagues to support this amendment, and give agriculture a representative voice before export controls are placed on their products.

Mr. KENNEDY. Mr. President, I oppose the pending amendment because I believe the President should have broad authority to deal with specific international economic crises, free of restrictions designed to benefit special interest groups in particular cases.

The present amendment is a case in point. During the past several months, many American shoe and leather companies have been crippled by a serious shortage of hide supplies. Domestic manufacturers, especially those in Massachusetts and other New England States, have faced a dwindling hide supply and rapidly increasing prices. As a result, American consumers in all parts of the country have been confronted with spiraling prices on shoes and leather products.

In large part, the current crisis is the result of unusual international economic circumstances. A drastic cutback in exports of hides from Argentina resulted in substantial increases in the cost of hides on the world market and a severe cutback in the supply of hides for domestic manufacturers in the United States, as many U.S. hide producers turned to international markets to reap the windfall benefits of the soaring world prices. Shoe and leather industries in New England—already facing severe cutbacks in production, higher prices for other raw materials, and intense foreign competition—suddenly found themselves confronting yet another crisis because of the difficulty in obtaining hide supplies at reasonable prices.

Earlier this month, in a move that was widely approved by many groups and concerned citizens, the administration acted to alleviate the heavy burden of the crisis by imposing specific controls on hide exports, under the authority of the Export Control Act. I supported that action as a necessary step under the circumstances, and I oppose the present amendment as an unfortunate attempt to deny to the administration the effective remedy it has already invoked.

The facts of the current situation are as clear as they are distressing. In my own State of Massachusetts, the shoe industry continues to decline as a result of increased imports of foreign-made shoes. In 1967, we had 189 shoe factories in the Commonwealth. Today we have only 122. The raw statistic that 67 shoe factories have closed over the past 5 years alone is dramatic evidence in itself of the plight of the shoe industry in New England—a shocking 35-percent decline in 5 years. But it does not even begin to indicate the hardship and economic dislocation suffered by the 11,500 workers in Massachusetts who lost their jobs when these factories shut their gates.

In 1967, six shoe factories closed in Massachusetts; 15 in 1968, 15 in 1969, 16 in 1970, and 14 in 1971. The slide is continuing today. This year, the Hammond Shoe Co. in Worcester was forced out of business, and 200 more workers lost their jobs. In 1969, when the B. F. Goodrich Co. closed its doors in Watertown, Mass., more than 3,000 workers were left without jobs at a single stroke.

We cannot measure in these figures the human misery for the thousands of shoe workers and their families who have been affected by these closings—many of them are elderly citizens, who have spent long and productive lives in the shoe factories, only to lose their jobs at a time when they can least afford it. We cannot measure the number of additional shoe companies which will be forced to close if vigorous action is not taken to resolve this latest crisis for the industry—the crisis caused by the shortage of hides.

In recent years, the shoe industry has begun to make effective steps toward progress and modernization. But we cannot look forward to the revitalization of this threatened industry in Massachusetts as long as shoe and leather manufacturers continue to be exposed to the sort of serious problem posed by the shortage of raw materials like hides.

The situation in the leather industries is a critical one for domestic manufacturers and consumers alike. The administration has chosen export controls as the remedy for the crisis, and it came at a time none too soon. Indeed, estimates ranged from $1 to $4 on the increased price for a pair of shoes if action had not been taken immediately to assure an adequate domestic hide supply. Undoubtedly, many additional plants would have been forced to close, and many additional workers would have lost their jobs.

In closing, let me say that I am pleased to have been able to work with representatives of industry and Government officials in an effort to find a fair solution to the present situation.

On March 9, I met with representatives of the Tanners' Council of America to discuss the hide crisis. Following that meeting, I contacted a number of other members of the New England congressional delegation, asking them to join with me in urging the administration to take immediate steps to aid our stricken industry in facing this new threat. Subsequently, on March 15, we sent a joint letter to the President, urging him to take appropriate action, including the possibility of export controls.

Then, in a letter of June 30, I expressed my grave concern to Under Secretary of Commerce James T. Lynn, emphasizing the need for immediate remedial action by the Department of Commerce.

Finally, Mr. President, on July 18, the administration recognized the need and acted effectively to meet it. The pending amendment would jeopardize all the progress we have made, and I urge that it be defeated.

Mr. President, I ask unanimous consent that the text of the letters I have mentioned may be printed in the RECORD.

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

MARCH 16, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, recent events in Argentina have resulted in a catastrophic increase in the price of cattlehides. In the first eleven months of 1971, Argentine hides exports declined by more than three and one-half million. As a result, the purchasing countries have almost uniformly turned to the U.S. as a source for cattlehides. Exports of hides from the U.S. in the last several months have left the American leather and shoe industries with less than 50% of the supply needed. Hide prices have increaserd 80% since the wage-price freeze was imposed, affecting not only American, but Western European leather industries as well. We join together to request that your attention be given to this urgent situation and ask that the administration take immediate steps at the highest level to avoid further economic chaos.

Direct action by the Administration is needed to stabilize the world market in hide prices, to reduce the drastic inflationary prices in shoes for the American consumer, and to prevent the already crippled shoe industry from further devastation due to a lack of supply.

Price stabilization is one of the major goals of Phase II economic policy, and we believe that the problem of soaring prices in the leather and shoe industries deserve immediate attention. If prompt action is not taken for these industries throughout the world, we will have dealt the final blow to our own shoe manufacturers and tanning companies. During this period of hide supply shortage, we urge your action to guarantee to the American consumer that he will have the shoes and leather products he needs at a price he can afford.

We have joined together to direct your attention to this crisis. We urge the Administration to explore all possibilities of action, including use of the Export Administration Act of 1969 and other remedial trade measures available to the Government.

Sincerely,

Edward M. Kennedy, Edward W. Brooke, Margaret Chase Smith, Edmund S. Muskie, Thomas J. McIntyre, Abraham Ribicoff, John O. Pastore, Clairborne Pell.

Robert F. Drinan, Harold D. Donohue, F. Bradford Morse, Michael J. Harrington, Thomas P. O'Neill, Jr., Louise Day Hicks, Margaret M. Heckler, James A. Burke.

Hastings Keith, Silvio O. Conte, Edward P. Boland, Peter N. Kyros, William D. Hathaway, John S. Monagan, Fernand J. St Germain, Robert O. Tiernan.

JUNE 30, 1972.

Hon. JAMES T. LYNN,
Under Secretary of Commerce, Department of Commerce, Washington, D.C.

DEAR MR. LYNN: I am writing to you regarding the urgent situation in the shoe and leather industries in my state as a result of the shortage of hides. As you know, I asked the members of the New England delegation to join me in a request to the President for immediate action to avoid further economic chaos in these threatened industries. Our re-

sponse indicated that the Department of Commerce was analyzing conditions to determine whether export controls were warranted.

During your discussion with Congressional representatives on April 17, you indicated that the Department of Commerce was conducting a field investigation to determine the cause of the spiralling costs of cattlehides, since current information did not suggest an increase in exports was the cause of the shortage. Since that time, the shoe and leather companies have continued to experience a hide shortage and a crippling increase in hide costs. I am told that two large tanneries in Massachusetts have announced they will close if action is not taken immediately.

Because this situation in the shoe industry is crucial, I am asking again that the Department of Commerce take immediate action to assist these companies. I would appreciate any information which the field investigating team has gathered to date which suggests the cause of the hide shortage, and your suggestions for remedial action. I feel that the shoe and leather industries, as well as the American consumer cannot tolerate any further delay.

Thank you for your attention to this.

Sincerely,

EDWARD M. KENNEDY.

SENATOR RANDOLPH SUPPORTS CONTROLS ON EXPORT OF CATTLEHIDES

Mr. RANDOLPH. Mr. President, I am in opposition to the pending amendment to limit the jurisdiction of the Secretary of Commerce to impose controls on the export of cattlehides. As Senators know, this amendment is offered to counteract the action announced on July 15 by the Secretary of Commerce. Having watched the cattlehide situation closely, I believe that the Secretary was fully justified by the facts which his Department so carefully and conscientiously gathered over a period of 3 months. Without doubt, the controls imposed on the exports of cattlehides were required by the dire circumstances which confronted domestic users, including the tanning industry. The manner in which this authority was exercised by the Secretary was aimed at avoiding the kind of situation which arose in 1966 when export controls were last imposed. Rather than being criticized, it is my belief that Secretary Peterson deserves to be commended for his diligence in trying, to the best of his ability, to protect the interest of cattlehide producers and the consumer, while at the same time meeting his responsibilities under the short supply provisions of the Export Administration Act.

I think it is important to review the facts which confronted the Secretary:

Hide prices had reached record high with the composite price running in the 29-cent range—more than double the historic average of 14 cents per pound. To be sure, there is nothing sacrosanct about 14 cents. We must bear in mind, however, that the price has gone up more than 100 percent in less than a year, a rise which surely can be labeled inflationary.

The Commerce Department projects demand for an additional 638,000 hides for current use for the period March through December 1972 over the same period last year. At the same time that cattlehide reexports are expected to increase by 576,000 hides over exports for the comparable period in 1971.

Argentina's and Brazil's exports amounted to 26.2 percent of total world exports in 1969, 20.7 percent in 1970, and an estimated 10.2 percent in 1971. Now these sources have been terminated and it is my understanding that there is little prospect for change in the situation.

Between March 1971 and March 1972, domestic cattle hide and leather inventories have decreased 1,002,000 hide equivalents.

Cattle slaughter is projected by Department of Agriculture to yield 695,000 additional hides during March through December 1972 over comparable period in 1971. It is expected that in 1973 cattle slaughter in the United States will increase about 1,300,000 over 1972.

Estimated production increases will not cover projected demand for hides for the period March-December 1972. Demand is expected to exceed supply—and I emphasize this point—by 1,521,000.

It is my belief that these facts of record high prices; increased domestic demand for cattle hides; low levels of cattle hide and leather inventories; increased exports of hides over the past few years, and estimated record levels in the remainder of this year; and hide demand in excess of supplies meet the statutory criteria for short supply export controls. Without export controls, the result would be continued and increased inflationary pressures on domestic users and consumers.

Senators have referred to the 1966 export control program for cattle hides, which had several unfortunate results. Export quotas were announced that were far below previous years' levels: 1,800,000 hides below the comparable 7-month period for 1965. A two-price system developed in world markets and the benefits of the higher foreign prices accrued to foreigners and exporters. In addition, the reduced export quotas greatly distorted foreign markets. The situation regarding this new export control program is substantially different.

Quotas for the remainder of 1972 are set at 1971 levels for comparable period; and 1971 levels were at record highs. By establishing such a level, disruption of foreign markets will be minimized. Further, the export ticket system will assure that benefits of higher foreign hide prices will go to the American consumers and cattle producers rather than foreign purchasers and exporters.

The action taken by the Secretary benefits American workers and American industry by insuring a stable supply of hides for the tanning domestic shoe industries. It will protect against further sharp increases in the cost of shoes to the American consumer, and because of the ticket system used to administer these export controls, the producer of hides will share in any difference between world and domestic price markets. The short supply provisions of the Export Control Act were designed to meet circumstances such as prevailed in the cattle hide situation over these past few months, and it would be unwise for the Congress to exempt from these controls one particular segment of our economy.

Mr. President, I think Senators should be aware that the Secretary's decision to limit the export of hides has impact on many communities throughout our country where the major source of employment is a leather or tanning operation. Very frankly, it was this aspect of the cattle hide question that brought the complex issues into focus for me.

In West Virginia, we have five tanning plants or firms which depend on a continuing and stable supply of cattlehides. For one of our communities, Parsons in Tucker County, the Parsons Tanning Co., is the largest employer in the area. Approximately one-hundred and fifty persons are employed in the tanning plant, with a total payroll of nearly $70,000 per month.

Recently, this county lost its most important source of employment with the closing of a woolen mill and the loss of over 300 jobs. Now there are some areas where the loss of 300 or 400 or 500 jobs might have little impact on the economy. In such areas, those persons who are out of work might be quickly absorbed into the existing labor market—although I am not aware of many parts of our Nation which can take the loss of this large number of jobs. I know, however, with complete certainty that Parsons and Tucker County, W. Va., cannot sustain such a high loss of employment. Tucker County has a population of less than 7,500 people, while Parsons has approximately 1,500 residents. Without any real knowledge of the basic economy of this area, one can readily visualize the impact of losing 500 jobs—and that is just the situation which was existing in this area of West Virginia. Clearly, the continued maintenance of the tanning industry employment is critical to the economy of this community.

However, because of the skyrocketing cattlehide prices, the Parsons Tanning Co. announced its closing in May of this year.

This company requires approximately 20,000 hides per month for its full operation. As of last September, this company—as other firms—was paying slightly less than 13 cents per pound for hides, with the average hide costing $6.66. As Senators know, that price was driven to a high of nearly 30 cents per pound, at the time of Secretary Peterson's decision to impose controls. The average cost of a hide was $18.58. For the Parsons Tanning Co., I am advised that the break-even point is in the range of 18 cents a pound. Thus, it is quite apparent that this company could not stay in operation without some indication of relief from spiraling prices and some action to provide a stable supply of hides.

Mr. President, over a period of several weeks my able colleague (Mr. ROBERT C. BYRD) and I worked with local officials, citizens, and representatives of the Parsons Tanning Co. in an effort to find some solution to this perplexing problem. And we did explore many avenues, from Government loans to possible reduction in the prices of tanning agents which are sold from Government stockpiles. None of these possibilities gave any hope for relief. We worked constantly with officials of the Department of Commerce. Senator BYRD and I very definitely arrived at the conclusion that only feasible and timely course of action which might

provide the opportunity for this company to remain in operation and continue to employ 150 persons was the imposition of export controls.

Once the imposition of export controls was announced, officials of the Parsons Tanning Co. very quickly made a decision to reopen this plant and to go to full operation as quickly as possible, possibly by the middle of August. The pending amendment could cause that decision to be reversed.

Mr. President, this is the story of Parsons, W. Va. It is a set of facts which must be told here in the Senate, before a vote is taken on the pending amendment. While there are many facets to the problems of cattlehide prices and supplies, I think that this information on this one company and community clearly indicates that Secretary Peterson took an action which will aid people and help to preserve jobs. And it was a reasonable and carefully drawn action to alleviate any adverse impact which might develop on another sector of our economy. It is my hope that the pending amendment will be defeated. I shall vote against it.

IN SUPPORT OF THE AMENDMENT

Mr. HANSEN. Mr. President, I support the efforts to rescind the restrictions placed on cattlehide exports on June 15, by the Secretary of Commerce.

I am opposed to the action taken by the Secretary under the Export Control Act to place a ceiling on the number of cattle hides which may be exported from the United States. I respect the Secretary for his diligence in meeting his responsibilities, and I would never suggest that he should do less. But after reviewing his action of July 25, 1972, I believe that the action taken is without justification and misses the mark.

The Secretary stated:

Our main concern must be shoe prices for the American consumer and there was no relief in sight.

I do not share this view to the exclusion of other considerations. If low priced shoes were our only objective it could logically be argued that we should export all our cattlehides, buying relatively cheaper imports which reflect the great differential in wages paid American shoe employees and their foreign counterparts.

When the Secretary states that—

Our main concern must be shoe prices for the American consumer.

I suggest that a prime concern of this administration and the American consumer has been meat prices for the American consumer and this major concern appears to have been conveniently overlooked in the Secretary's decision.

To insure that the total picture is reviewed and analyzed before decisions of this type are made, I have joined with the Senator from Nebraska (Mr. CURTIS) in sponsoring an amendment to the extension of the Export Administration Act of 1969 which would require the approval of the Secretary of Agriculture before any action is taken by the Secretary of Commerce to restrict the exportation of an agricultural commodity.

Hopefully, this requirement would prevent the recurrence of the situation we face today. Action has been taken to depress the price of cattlehides in this country. Cattlehides are an important byproduct of the meatpacking industry. A depression in cattlehide values can result in a readjustment of margin by the meatpacker by raising the prices on carcass beef and the American consumer paying more for the beef products consumed in his daily diet. Or the meatpacker might pay less to the cattle producer resulting in loss to the cattle industry. This effectively means that the cattle producer and his employees are being required to take a loss in order to protect the profits of the shoe industry and its employees. The inequity of the situation is obvious.

Not only is the restrictive action on hide exports of concern because of its potential effect on meat prices to the American consumer and its impact on the cattle industry, but the Congress and the administration should be equally concerned that this administrative action will result in increasing the deficit which the United States is presently experiencing in its balance of trade. Recently the import quotas on beef were rescinded. This action will result in a currency flow from the United States to pay for imported beef. Now we are being told that a ceiling will be placed on the export of cattle hides, an important byproduct, which will result in a decrease in the flow of currency to the United States in exchange for cattle hides. This situation makes little sense in light of the importance which is attached to the question of U.S. balance of payments.

In summary, these recent actions appear to have been taken without regard for overall strategy and total impact. I believe that the Curtis amendment to the extension of the Export Administration Act of 1969 would remedy this situation and hope that Senators will join with me in supporting this amendment.

I do not wish to be misunderstood. I, too, am concerned over shoe prices and jobs for American workers in the shoe industry. I have stated this position many times on the Senate floor. But the problem is caused by the high price of American labor versus the cheap cost of labor in foreign countries. This is the problem to which the Secretary of Commerce should address himself rather than taking action which can increase food costs to the American consumer, penalize one American industry to protect another, and increase the deficit in the American balance of payments.

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

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

The PRESIDING OFFICER. All remaining time on the amendment of the Senator from Nebraska has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BEALL (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Iowa (Mr. MILLER). If he were present and voting, he would vote "yea." I have already cast my vote as "nay." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that if present and voting; the Senator from Georgia (Mr. GAMBRELL) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

The pair of the Senator from Iowa (Mr. MILLER) has been previously announced.

The result was announced—yeas 52, nays 35, as follows:

[No. 327 Leg.]

YEAS—52

Allen	Fannin	McGee
Allott	Fong	Metcalf
Anderson	Fulbright	Mondale
Bayh	Gravel	Montoya
Bellmon	Gurney	Moss
Bennett	Hansen	Pearson
Bible	Hartke	Percy
Boggs	Hatfield	Sparkman
Buckley	Hollings	Stennis
Burdick	Hruska	Stevens
Cannon	Hughes	Stevenson
Chiles	Humphrey	Talmadge
Cranston	Inouye	Thurmond
Curtis	Jackson	Tower
Dole	Jordan, Idaho	Tunney
Dominick	Long	Young
Eastland	Magnuson	
Ervin	Mansfield	

NAYS—35

Aiken	Javits	Ribicoff
Brock	Kennedy	Roth
Byrd, Harry F., Jr.	Mathias	Saxbe
	McClellan	Schweiker
Byrd, Robert C.	McIntyre	Scott
Case	Muskie	Smith
Cook	Nelson	Spong
Cooper	Packwood	Stafford
Cotton	Pastore	Symington
Eagleton	Pell	Taft
Griffin	Proxmire	Weicker
Hart	Randolph	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Beall, against.

NOT VOTING—11

Baker	Gambrell	McGovern
Bentsen	Goldwater	Miller
Brooke	Harris	Mundt
Church	Jordan, N.C.	

So Mr. CURTIS' amendment was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MONDALE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONDALE. Mr. President, I send to the desk an amendment and ask unanimous consent that its reading be dispensed with.

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

Mr. MONDALE. It is a nominal amendment, but I yield 10 minutes to the Senator from Arkansas.

Mr. MONDALE's amendment is as follows:

On page 7, after line 3, insert a new section as follows:

"SEC. 108. The provisions of this title take effect as of the close of July 31, 1972."

Mr. FULBRIGHT. Mr. President, I wish to make a brief statement for the record concerning Foreign Relations Committee amendments to title II of the pending bill, S. 3726. As Members know, the bill was referred on a sequential basis to the Foreign Relations Committee for a 30-day period. Owing to the recess for the political convention, action had to be taken in a rather hasty manner between July 19 and July 24 and the results of that action, although generally made explicit in the committee report on S. 3726, may call for further clarification.

Because of a family illness I was not able to be present either at the Foreign Relations Committee hearing on July 19 or at the executive session the following day when the bill was ordered reported with amendments. These later were presented as a compromise between what the administration wanted—namely, virtually no change at all in title II—and what many of us believe to be in the best interests of the Senate and of our constitutional system. Therefore, after reviewing the record, I want to emphasize my understanding of this compromise. This is all the more necessary because of the excellent letter I received on July 20 from the distinguished senior Senator from North Carolina. Senator ERVIN made a number of extremely important and valid observations about the issues at stake in S. 3726, and I ask unanimous consent that his letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., July 20, 1972.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR BILL: I wish to express by support for those members of the Committee on Foreign Relations who during consideration of S. 3726 by the Committee, have insisted that the Executive director of the Council on International Economic Policy be accountable to the Congress. Under the provisions of S. 3726, the Council would be authorized by Congress and funded by Congress. It is imperative that Congress be kept informed by the executive director of the operations of this Council, and of the use of the many millions of dollars which Congress would appropriate to it. To my mind, it is certainly within the prerogatives of Congress, indeed, it is the duty of Congress, to require a proper accounting.

I was greatly disturbed at the report I received that at the hearings held yesterday by the Committee on these proposals, Mr. Carlucci, Associate Director of the Office of Management and Budget, expressed concern over any attempt to require the executive director of the Council to "testify on a regular basis" or under any formal arrangement of accountability. Mr. Carlucci was further quoted as stating that the executive director would "not normally be available because of the nature of his position." Mr. Carlucci appears to be suggesting an even greater expansion of executive privilege, and it is just such an expansion of the concept of executive privilege which we in Congress must resist.

This executive practice has traditionally been a personal privilege accorded the President to protect confidential communications between him and his personal advisers. It is only very recently that the claim of the privilege has been expanded. We are all familiar with the White House refusals to release information or to allow the appearance of witnesses based on the supposed "principle that members of the President's *immediate staff* not appear and testify before Congressional committees". Now, as evidenced by Mr. Carlucci's statements, the privilege is to be extended to the entire Executive Office staff. The practical implication is that executive privilege is no longer the President's personal privilege, but can be claimed by any employee of the White House or Executive Office by virtue of their position even if no personal communication with the President is involved.

The Subcommittee on Separation of Powers, of which I am Chairman, has already done an extensive study of the use, or misuse, of executive privilege. The Senate is greatly indebted to you, Bill, for your contributions in this area. Most of those who have studied this problem are alarmed at the trend toward expanded use of executive privilege. This trend is inimical to our system of separation of powers and, if permitted to continue, will succeed in completely insulating the Executive branch from any effective system of public accountability. At some point we in the Legislative branch must assert our prerogatives and reinstate the division of responsibility upon which our democracy is based.

Requiring the confirmation of the executive director reinforces the Senate's position on accessibility. However, confirmation cannot be the sole criteria for determining an individual's availability for questioning by Congress. Even if the executive director were not confirmed by the Senate, he still should be accountable by the very nature of his position. In no sense is the executive director of the Council only a personal advisor to the President. He is unmistakably an integral part of the decision-making process and Congress must be kept informed of that process and have some input into it. Effective legislative oversight cannot be realized on the basis of information obtained from those who simply implement policy and have nothing to do with how those policy decisions are made. We must avoid the continued concentration of governmental power in a few individuals who are immune from congressional and public scrutiny.

I shall support any amendment by the Committee which would explicitly require that the executive director be confirmed by the Senate and that Congress be kept fully and currently informed of the activities of the Council as a means of ensuring our legislative prerogatives. I would hesitate to leave the matter on an informal basis, as suggested by the Administration, or to the spirit of comity since it has been proven that too often such means are not effective.

With kindest wishes,
Sincerely yours,

SAM J. ERVIN, JR.,
Chairman, Subcommittee on Separation of Powers.

Mr. FULBRIGHT. Mr. President, I shall read only the last paragraph, simply for the information of the Senate at this time, of Senator ERVIN's letter. He says:

I shall support any amendment by the Committee which would explicitly require that the executive director be confirmed by the Senate and that Congress be kept fully and currently informed of the activities of the Council as a means of ensuring our legislative prerogatives. I would hesitate to leave the matter on an informal basis, as suggested by the Administration, or to the spirit of comity since it has been proven that too often such means are not effective.

It is clear from our committee report on the bill that the senior Senator from New York in effect has temporarily set aside, without prejudging the merits of the issue, the question of whether Senate confirmation should be required for the position of Executive Director of the Council on International Economic Policy. On the other side of the coin, his amendments limit both the statutory basis for the Council and for the Executive Director's position to the single fiscal year 1973. Moreover, they require the latter official to keep the appropriate committees of the Congress "fully and currently informed regarding the activities of the Council."

I make no secret of the fact that I believe Senate confirmation of such an important official is necessary; the arguments of Senator ERVIN on this point to my mind are compelling. However, the Foreign Relations Committee in my absence accepted an intended compromise position and I feel I should abide by that decision. But I also think it essential to quote here the final paragraph of our committee report on S. 3726, as follows:

Finally, it should be stressed that a number of members wished the report to make it clear that the Foreign Relations Committee intends to examine the whole subject matter of title II closely during fiscal year 1973. In effect, the executive branch is being given something less than a year of grace in order to enable the committee, and the Congress as a whole, an opportunity to observe the workings of this arrangement. Specifically, the question of Senate confirmation of the Council's Executive Director is open to reconsideration next year, and the committee in the interim intends to have every assurance that the Executive Director will be personally available to the appropriate enumerated committees of the Congress for exchanges of views and information.

In short, the proof of the pudding is the eating. We will have the needed answers to our questions well before this time next year. And it is obvious there are indeed questions.

Along with the Senator from North Carolina, I have been disturbed by the nature of the committee testimony presented on behalf of the administration by Mr. Carlucci, Associate Director of the Office of Management and Budget. In particular, I find entirely unpersuasive Mr. Carlucci's efforts to depict the Council's Executive Director as merely a staff man—almost just a scrivener—while insisting that his relationship to the President is so important and confidential that he should not normally be available to testify before the Congress.

In fact, Mr. Carlucci's own testimony in our committee hearing record amply refutes such a position. On page 29 of the printed hearings the distinguished senior Senator from Illinois inquired about the number of times the Council

had met during its 18 months of existence, saying, and I quote:

If there are frequent meetings then it would suggest that the Council really runs the policy. If the meetings are infrequent, I would judge the staff may run it.

On the following two pages Mr. Carlucci states that the Council has only met three times and that many decisions are discussed at the "Senior Review Group level"; he also submits material showing that the Council's Executive Director serves as Chairman of the Senior Review Group. This in itself is sufficient evidence as to the importance of the Executive Director's position and of his accessibility to the Congress.

Now I trust that the legislative history makes it absolutely clear that the committee amendment is designed to insure that the Executive Director will testify upon request in the regular way before the congressional committees named in section 208(a) of the bill. It is also my belief that this history precludes any possible attempt by the administration to place our relationship with the Council's Executive Director on a basis resembling in any way our past relations—or lack of them—with Mr. Kissinger.

With this understanding, Mr. President, I shall not raise the issue of Senate confirmation or oppose favorable action on S. 3726 at this time.

Mr. MONDALE. I yield myself 1 minute.

Mr. President, the amendment I sent to the desk is in the nature of a technical amendment which the Department of Commerce has asked for because the Export Administration Act expires today. It is an amendment that simply makes title I of this bill, S. 3726, retroactive to the expiration of the Export Administration Act on August 1.

I yield back the remainder of my time and ask for adoption of the amendment.

Mr. BENNETT. Mr. President, I agree with the manager of the bill. The amendment should be adopted.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. MONDALE. Mr. President, as I understand it, the only remaining amendments are those to be offered by the distinguished Senator from Indiana. I am hopeful that we can accept them. At least, at this point no one has asked for the yeas and nays, but they might.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE COUNCIL ON INTERNATIONAL ECONOMIC POLICY

Mr. ROTH. Mr. President, I am particularly pleased to support title II of the Export Administration Act which will give statutory basis to the President's Council on International Economic Policy. I commend the distinguished junior Senator from Tennessee for his initiative in this matter.

The United States has entered an especially critical period in our economic relations with other countries. While domestic economic indicators have shown substantial improvement in the past few months, our balance-of-payments position continues to be in serious disequilibrium.

There are many reasons, of course, why foreign economic relationships do not respond as readily to Government policies as the domestic economy does. The international economy is affected by the policies of many countries, and the effect of our policies in this area are subject to being canceled out by the retaliatory or dilatory measures of other governments. Moreover, it takes a long time for the actions we take to show up measurably in our balance-of-payments position. For example, the full effect of the Smithsonian Agreement of last December realining the par values of the major free world currencies may not be felt for still another year. Finally, there is a paucity of data on many aspects of international trade and capital movements, and even where relatively reliable data is available, its policy implications may be disputed. The current debate on the effects of foreign direct investment by multinationals is a case in point.

In spite of these complexities, the United States has been slower to provide policy coordination in the foreign economic field than in almost any other major policy area. While the National Security Council was established years ago to provide policy coordination for the defense and foreign policy fields, the NSC tended to neglect foreign economic policy. Instead, the responsibility for our foreign economic policies was scattered among some 60 different government agencies and departments.

It was the recognition of this situation that caused the President to create a Council on International Economic Policy within the Executive Office in January of last year. It is now time to give this experiment statutory authority. When we must deal with many foreign countries, it is helpful to at least have a policy coordinating center in our own Government apparatus.

We now have tangible evidence of what such a Council can do. The first Executive Director, Mr. Peter G. Peterson, now our Secretary of Commerce, provided the Council, the President, and Congress a thoughtful statement of personal views on the major issues involved in our international economic policies. Accompanying the Peterson report were useful charts giving a wealth of practical information on our international economic relationships. This kind of information not only helps executive policymakers do their job by providing a common point of reference, but it will also help the Congress in understanding our economic problems.

Title II provides that an annual report of a similar nature will be presented to the Congress. This report will help to provide information and understanding in a policy area where better information and understanding are sorely needed.

Mr. HARTKE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. JAVITS. Mr. President, reserving the right to object—and I hope I shall not object—I want to make this clear. I hope that no assurance is being given to the Senate that we will not have rollcall votes. We may very well have rollcall votes on these amendments or on whatever other amendments the Senator from Indiana has in mind. We are about to deal with very big matters.

Second, I reserve the right to object because, as the amendment is written, it has no pagination whatever. It is not a new title. It seeks to amend an existing title in the bill.

I happen to have studied it, so I understand it, and I am perfectly willing to let it go, if Senators are willing to take a general explanation. But if Senators went up to the desk and read it, it would take the same half-hour that it took me to find out exactly what it does to the bill. I shall not object, because I understand it; but I am simply giving notice to the Senate that in order to understand it, one has to listen carefully to Senator HARTKE and myself, or anyone else who speaks on it.

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

Mr. HARTKE. I yield.

Mr. SYMINGTON. Would the Senator mind having the amendment read?

Mr. HARTKE. I do not mind having it read.

Mr. President, I withdraw my request that further reading of the amendment be dispensed with, and I ask that the clerk read the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

Title II, Sec. 206(2) line 10, after the words "private industry" add "Such review of policies shall include but not be limited to the impact of the Canadian Automobile Amendment and roll of any trading partner with which we have a substantial trade deficit."

Title II, Sec. 206(3) Add. Such evaluations shall include but not be limited to the impact of international trade on the level, stability, and financial rewards for domestic labor and the impact of the transnational corporation on international trade flows.

Title II, Sec. 206(6)(D) Add. consonant with the concepts of tax equity and the need for domestic investment.

Title II, Sec. 206(6) following F, add a new section:

(G) Preserving the existing diversified industrial base of the United States.

Title II, Sec. 207(a) renumber Sec. 207(a)(3) as Sec. 207(a)(4) and insert Section 207(a)(3) a review of the impact of international voluntary standards, the foreign in-

vestments of U.S. based transnational firms, and the level of foreign wage rates on the level, stability, and financial reward for domestic employment.

Title II, Sec. 208(a) after line 20, insert the following material: the Committee on Finance of the Senate and the Committee on Ways and Means of the House.

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. HUMPHREY) be added as a cosponsor of the amendment.

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

Mr. HARTKE. Mr. President, I have discussed these amendments with the manager of the bill, and I had hoped that we would not have to have a roll-call vote on them, because they do not really do anything, in the final analysis, except require an in-depth study of some provisions matters would otherwise not be covered in the original report.

We have a situation in which our balance-of-payments deficit is in the neighborhood of $10 billion. The entire balance-of-payments deficit this year is already in excess of the total deficit of last year, and there is no hope for correction.

Last year, we had a balance of trade deficit for the first time in our history. This year, the balance of trade deficit probably will be double what it was last year.

We had a balance of trade surplus with Canada and until we entered into the Canadian Automobile Agreement, which has completely destroyed that base and has caused some needless international tensions. I am not asking that these be set aside. I am asking that when we consider what we are going to do about an export program, we ought to give consideration to all the factors that could possibly be involved. So these amendments which were submitted separately are now in a group and deal with section 206 which states:

Such review of policies shall include but not be limited to the impact of the Canadian Automcbile Amendment and the role of any trading partner with which we have a substantial trade deficit.

Mr. President, in 1967, we had a trade surplus with Japan of $500 million. The trade deficit last year with Japan was $3 billion. At the present time, the President intends to meet with Prime Minister Tanaka of Japan, to arrange for some clarification and a discussion of trade issues. I see no reason why the Canadian Automobile Agreement and relations with Japan should not be included in an overall study of this kind. That is one amendment. If the Senator from Minnesota (Mr. MONDALE) has any comment, I would appreciate it.

Mr. MONDALE. The Senator proposes six amendments. Some deal with areas which the council created in the bill. Others deal with matters which the council should include in its report.

Unless there is some objection on the other side of the aisle, I would be inclined to accept these amendments and take them to conference.

Mr. JAVITS. Mr. President, what has been done here in these amendments is to express, in terms of what this particular agency shall study as well as what it shall report, a particular point of view on international trade questions. All of these requirements are slanted that way.

For example, I seriously doubt that it does us any good with respect to Canada to have a specific stake in the bill, that

Such review of policies shall include but not be limited to the impact of the Canadian Automobile Amendment . . .

I doubt that this is desirable. It does not add anything. It goes on to say:

and role of any trading partner with which we have a substantial trade deficit.

If I were running it, I would want to eliminate the reference to Canada.

So far as I know, and I am going on my own recollection, this is the only reference, by name, to any country in the whole bill. So that kind of thing permeates these statements.

Here is another example to show why it troubles me. It speaks of

Such evaluations shall include but not be limited to the impact of international trade on the level, stability, and financial rewards for domestic labor and the impact of the transnational corporation on international trade flows.

It carefully omits any impact of the transnational corporations either on international monetary affairs or on our balance of payments. Yet we all know that if the transnational corporation is to be justified at all, it is going to be justified on the basis of a major shift in the United States economy toward major returns from investments and dividends.

To go on, another section which relates to reports, and so forth, it says,

Preserving the existing diversified industrial base of the United States.

Well, I do not know whether that is the kind of slanting we want, to preserve the buggy whip business, which we would be doing if all we had since 1789 was to preserve existing diversified industrial bases in the United States, or whether it is meant to be taken as a kind of general prefatory statement.

Then we go on with what they require to review and it states:

. . . a review of the impact of international voluntary standards, the foreign investments of U.S. based transnational firms, and the level of foreign wage rates on the level, stability, and financial reward for domestic employment.

Again, we see exactly what this is being slanted for. The theory is that certain jobs are running away to foreign wage earners and it will take bread from the mouths of American workers. However, this is what we find. If my colleague from Minnesota would like to take this, I am not going to stand in the way of it. I have explained it to the Senate. I think we can work it out in conference. I am confident that we can. So that it coincides with the general thrust of the bill. I express my confidence by not standing in the way of the Senator's taking the amendments.

I understand the last amendment—to wit, something about notice to the Committee on Finance of the Senate and to the Committee on Ways and Means. It has been accepted. So that it may be that the Senator, perhaps, just wants to eliminate it. But I am willing to go along with the Senator from Minnesota.

Mr. BROCK. Mr. President, may I just say that I do not really like accepting this amendment because I think the essence of the amendment is to cast this new group in a protectionist light. I think that flies in the face of what we are trying to do here. As one of the principal authors of this particular section, we were trying to create a Council of Advisers to the President and to Congress which would deal with the problem of our balance of payments in a positive, creative, and constructive way, and would address itself to those problems in terms of the real world and not in terms of erecting new barriers or penalizing the multinational corporations or the transnational corporations, however we want to describe them.

If in any way this amendment were to be interpreted as trying to place this group in a protectionist light, in the light of impinging on free trade, it would be terribly detrimental to the thrust and objective of this particular piece of legislation.

For myself, I simply cannot say that the amendment is something that is harmless or could be ironed out in conference. I do not believe that it can. It is detrimental to what we are trying to accomplish with this particular bill. I do not think the bill goes far enough in setting up a counterpart to a council of advisers concerning an international base. But this is a step in the right direction. Here we are, though, giving it a split personality right from the start. I do not think that that is right.

Mr. AIKEN. Mr. President, I want the RECORD to show that I am not in favor of adopting this amendment which has been proposed by the Senator from Indiana. I think, too, that it is an extremely far-reaching amendment. We have had only 10 minutes time to study it. The amendment was not printed. I do not know why. But I am always suspicious of last minute amendments that are not printed.

As I listened to the very short explanation given by the Senator from Indiana and the Senator from New York, it appeared to me that this amendment opens up the opportunity for almost unlimited monkey business on the part of the United States and international industries in relations with other countries.

I think it is just shocking that we should be expected to vote on a measure like this without even knowing what it is. We do not even have a copy of the amendment now. I think we should have a yea-and-nay vote on it so that each of us will go on record as to whether we approve of this method of legislating.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I seldom disagree with my distinguished colleague from Vermont (Mr. AIKEN), but this is a matter that has been brewing for a long time. I have served in Congress under five Presidents. We feared that this time would come. We saw it coming in the 1950's but no one would listen to us, whether it was President Eisenhower, President Kennedy,

President Johnson, and now President Nixon.

The trouble is that we have been playing Santa Claus for too long. We are in trouble in this country. Now we talk about our balance of trade. The fact still remains that our markets today are being saturated by goods that are being produced in Japan.

Mr. President, the people in my State are being put out of work. No matter what one picks up today, whether it is in brazen letters, small letters, or obscure letters, it says "Made in Japan." Not too long ago my sister-in-law wanted to buy a television set. I took her to a friend of mine who was a dealer. He had Zenith, RCA, Admiral, and all makes of sets. I said, "Which one do you recommend?" He said, "It does not make any difference. They are all made in Japan."

That is what it comes down to. Our people are out of work.

The American market has always been an attractive market because we have had workers here. However, the American consumer is a consumer only as long as he has a job. The amendment says that "It shall be our policy." That is a little complicated. However, I think we ought to put the council on notice that we are concerned. I do not know whether Canada should be left out or whether Japan should be put in. I do not know. However, I do know that we are buying a lot more than we are selling. The international market is a two-way street. And it has not been that. Our international policy on trade has been a foreign program.

It is time that we took politics out of foreign trade and put economic concepts into it.

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

The PRESIDING OFFICER. The Senator from Vermont has 1 minute remaining.

Mr. PASTORE. Mr. President, I did not even get to the crescendo.

Mr. AIKEN. Mr. President, the Senator is correct. This trouble has been brewing a long time. However, if it has been brewing a long time, why is it that we were not permitted to know about this proposal, especially those of us who are on the committee, until about 15 minutes ago. And we are now expected to vote on a measure which admittedly, according to the Senator from Indiana and the Senator from New York, is a very large proposal, in less than 15 minutes time?

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator from Indiana has 6 minutes remaining.

Mr. HARTKE. Mr. President, I thank the Senator from Rhode Island for his comments.

Let me answer the Senator from Vermont. There is nothing mandatory in this provision, I assure the Senator. Not a word is mandatory. This states very clearly that there are certain problems that we would like to have people examine. That is all.

I talked to the distinguished Senator with regard to this measure. I did not feel that these proposals were controversial. I will grant the Senator that certain people are worried about our ultimate goal. I do not mind telling the Senator what my ultimate goal is. My ultimate goal is to get a favorable balance of trade and a favorable balance of payments for our Government. I am interested in that. I know that what we are doing now is not getting the job done.

I do not criticize anybody. But people are being thrown out of work. And people are getting jobs overseas.

There are tax subsidies to transnational firms that amount to almost $4 billion. If the Senator wants me to offer a real amendment, I could offer an appropriate one. I could offer one to cut out the tax subsidies being given to the corporations who are being given tax credits.

That is a $4 billion gift from the taxpayers. These big corporations—and God bless them, I do not blame them for it—do it for their own protection. However, they should not do it at the expense of the taxpayer.

The Hartke amendments do not address themselves to that. They say that we should have an honest report. And when the report leads to a discussion of jobs and tax benefits and tax equity we will vote for appropriate legislation. Ultimately, this body will make that decision. There should be debate on international voluntary standards, the level of foreign wage rates and the level, stability, and financial reward for domestic employment.

Let me say to the Senator from New York that if he wants monetary reform, I will accept that. I think there is a great need for monetary reform.

I am willing to sponsor such a provision tonight, if the Senator wants me to. However, this is not mandatory. It strictly calls for a complete in-depth study.

I will say that if there is any fear on the part of anyone, it comes out of a guilty conscience.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. HARTKE. Mr. President, time is still running. I yield to the Senator for a question.

Mr. JAVITS. Mr. President, I ask the Senator from Indiana whose concept of tax equity he is talking about. Is it the concept of the Council, the concept of the President, or the concept of the Senate?

Mr. HARTKE. It is the concept of the people appointed by the Council. It is the Council that ultimately does the examination. This Council does not pass laws. They can only recommend to Congress.

I am not going to be appointed to the Council. If I had my way I would have Congress appoint the Council.

I reported to the chairman of the Finance Committee that I am tired of having reports to Congress based solely on executive facts and figures.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. HARTKE. I yield.

Mr. BENNETT. Mr. President, the Senator says that this is not mandatory, that it is entirely voluntary. Can the Commission ignore the requirements put in the bill if it chooses to do so?

Mr. HARTKE. I say that they shall study the matters and report on them.

Mr. BENNETT. Then it is mandatory. They study and make a report on it.

Mr. HARTKE. The study is mandatory, the conclusions are not.

Mr. MONDALE. Mr. President, I think I am identified as one who is in favor of a reasonable trade policy. But I am not afraid of these amendments. They relate only to certain areas which the Council should study and problems which they should include in their report. I think people may be raising an issue where none exists.

Mr. HARTKE. Mr. President, I did not ask for a rollcall vote. I did not anticipate it. I had discussed the Hartke amendment with the manager of the bill and expected to encounter no controversy on this floor. I appreciate the kind words of the manager of the bill and his generous support.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Oklahoma (Mr. HARRIS), are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that if present and voting; the Senator from Georgia (Mr. GAMBRELL) would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Iowa (Mr MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Iowa (Mr. MILLER) would each vote "Nay."

The result was announced—yeas 52, nays 35, as follows:

[No. 328 Leg.]

YEAS—52

Allen	Eastland	Long
Bayh	Ervin	Magnuson
Beall	Fulbright	Mansfield
Bible	Gravel	McClellan
Burdick	Griffin	McGee
Byrd, Harry F., Jr.	Hart	McGovern
Byrd, Robert C.	Hartke	McIntyre
Cannon	Hollings	Metcalf
Case	Hughes	Mondale
Chiles	Humphrey	Montoya
Cranston	Inouye	Moss
Eagleton	Jackson	Muskie
	Kennedy	Nelson

Pastore	Schweiker	Talmadge
Pell	Spong	Tunney
Proxmire	Stennis	Williams
Randolph	Stevenson	Young
Ribicoff	Symington	

NAYS—35

Aiken	Dominick	Roth
Allott	Fannin	Saxbe
Anderson	Fong	Scott
Bellmon	Gurney	Smith
Bennett	Hansen	Sparkman
Boggs	Hatfield	Stafford
Brock	Hruska	Stevens
Buckley	Javits	Taft
Cook	Jordan, Idaho	Thurmond
Cooper	Mathias	Tower
Curtis	Packwood	Weicker
Dole	Percy	

NOT VOTING—12

Baker	Cotton	Jordan, N.C.
Bentsen	Gambrell	Miller
Brooke	Goldwater	Mundt
Church	Harris	Pearson

So Mr. HARTKE's amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARTKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MONDALE. Mr. President, I believe we are ready for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) is absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Massachusetts (Mr. BROOKE) would each vote "yea."

Also, the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The result was announced—yeas 81, nays 3, as follows:

[No. 329 Leg.]

YEAS—81

Allen	Gravel	Nelson
Allott	Griffin	Packwood
Anderson	Gurney	Pastore
Bayh	Hansen	Pell
Beall	Hart	Percy
Bellmon	Hartke	Proxmire
Bennett	Hatfield	Randolph
Bible	Hollings	Ribicoff
Boggs	Hruska	Roth
Buckley	Hughes	Schweiker
Burdick	Humphrey	Scott
Byrd, Harry F., Jr.	Inouye	Smith
Byrd, Robert C.	Jackson	Sparkman
Cannon	Javits	Spong
Case	Jordan, Idaho	Stafford
Chiles	Kennedy	Stennis
Cook	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mansfield	Symington
Dole	Mathias	Talmadge
Dominick	McClellan	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Ervin	Metcalf	Weicker
Fannin	Mondale	Williams
Fong	Montoya	Young
Fulbright	Moss	
	Muskie	

NAYS—3

Aiken	Cooper	McIntyre

NOT VOTING—15

Baker	Cotton	Miller
Bentsen	Gambrell	Mundt
Brock	Goldwater	Pearson
Brooke	Harris	Saxbe
Church	Jordan, N.C.	Taft

So the bill (S. 3726) was passed, as follows:

S. 3726

An act to extend and amend the Export Administration Act of 1969 to afford more equal export opportunity, to establish a Council on International Economic Policy, and for other purposes

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

TITLE I—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

SEC. 101. This title may be cited as the "Equal Export Opportunity Act".

SEC. 102. Section 2(3) of the Export Administration Act of 1969 is amended by inserting before the period at the end thereof a comma and the following: "particularly when export restrictions applied by the United States are more extensive than export restrictions imposed by countries with which the United States has defense treaty commitments".

SEC. 103. Section 3 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular articles, materials, or supplies, including technical data or other information, to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and qualified experts from private industry."

SEC. 104. (a) Section 4(b) of the Export Administration Act of 1969 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established under section 5(c), shall undertake an investigation to determine which articles, materials, and supplies, including technical data and other information, should no longer be subject to export control because of their significance to the national security of the United States. Notwithstanding the provisions of paragraph (1), the President shall remove unilateral export controls on the export from the United States of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, except that any such control may remain in effect if the President determines that adequate evidence has been presented to him demonstrating that the absence of such a control would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the special report required by paragraph (4).

"(3) In conducting the investigation referred to in paragraph (2) and in taking the action required under such paragraph, the Secretary of Commerce shall give priority to those controls which apply to articles, materials, and supplies, including technical data and other information, for which there are significant potential export markets.

"(4) Not later than nine months after the date of enactment of the Equal Export Opportunity Act, the Secretary of Commerce shall submit to the President and to the Congress a special report of actions taken under paragraphs (2) and (3). Such report shall contain—

"(A) a list of any articles, materials, and supplies, including technical data and other information, which are subject under this Act to export controls greater than those imposed by nations with which the United States has defense treaty commitments, and the reasons for such greater controls; and

"(B) a list of any procedures applicable to export licensing in the United States which may be or are claimed to be more burdensome than similar procedures utilized in nations with which the United States has defense treaty commitments, and the reasons for retaining such procedures in their present form.".

(b) (1) Section 4(e) of such Act is amended to read as follows:

"(e) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act."

(2) Any rule, regulation, proclamation, or order issued after July 1, 1972, under section 4 of the Export Administration Act of 1969, exercising any authority conferred by such section with respect to any agricultural commodity, including fats and oils or animal hides or skins, shall cease to be effective upon the date of enactment of this Act.

SEC. 105. Section 5 of the Export Administration Act of 1969 is amended by adding at the end thereof the following:

"(c) (1) Upon written request by representatives of a substantial segment of any industry which produces articles, materials and supplies, including technical data and other information, which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such articles, materials, and supplies, including technical data and other information, which he determines is difficult to evaluate because of questions concerning technical

matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government. No person serving on any such committee who is representative of industry shall serve on such committee for more than two consecutive years.

"(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committee shall be consulted with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to any articles, materials, or supplies, including technical data or other information, and including those whose export is subject to multilateral controls undertaken with nations with which the United States has defense treaty commitments, for which the committees have expertise. Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b)(2) of this Act. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

"(3) Any member of any such committee who is not an officer or employee of the United States shall be entitled to receive compensation at not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, during such time as he is engaged in the performance of his duties as a member. Each member may be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with his duties as a member.

"(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee."

SEC. 106. Section 14 of the Export Administration Act of 1969 is amended by striking out "August 1, 1972" and inserting in lieu thereof "June 30, 1974".

SEC. 107. Nothing in this title shall be construed to require the release or publication of information which is classified pursuant to Executive order or to affect the confidentiality safeguards provided in section 7(c) of the Export Administration Act of 1969.

SEC. 108. The provisions of this title take effect as of the close of July 31, 1972.

TITLE II—COUNCIL ON INTERNATIONAL ECONOMIC POLICY

SHORT TITLE

SEC. 201. This title may be cited as the "International Economic Policy Act of 1972".

STATEMENT OF PURPOSES

SEC. 202. It is the purpose of this title to provide for closer Federal interagency coordination in the development of a more rational and orderly international economic policy for the United States.

FINDINGS AND POLICY

SEC. 203. The Congress finds that there are many activities undertaken by various departments, agencies, and instrumentalities of the Federal Government which, in the aggregate, constitute the domestic and international economic policy of the United States. The Congress further finds that the objectives of the United States with respect to a sound and purposeful international economic policy can be better accomplished through the closer coordination of (1) domestic and foreign economic activity, and (2) in particular, that economic behavior which, taken together, constitute United States international economic policy. Therefore this Act establishes a Council on International Economic Policy which will provide for—

(A) a clear top level focus for the full range of international economic issues; deal with international economic policies including trade, investment, balance of payments, nad finance as a coherent whole;

(B) consistency between domestic and foreign economic policy; and

(C) close coordination with basic foreign policy objectives.

The Congress intends that the Council shall be provided with the opportunity to (i) investigate problems with respect to the coordination, implementation, and long-range development of international economic policy, and (ii) make appropriate findings and recommendations for the purpose of assisting in the development of a rational and orderly international economic policy for the United States.

CREATION OF COUNCIL ON INTERNATIONAL ECONOMIC POLICY

SEC. 204. There is created in the Executive Office of the President a Council on International Economic Policy (hereinafter referred to in this title as the "Council").

MEMBERSHIP

SEC. 205. The Council shall be composed of the following members and such additional members as the President may designate:

(1) The President.
(2) The Secretary of State.
(3) The Secretary of the Treasury.
(4) The Secretary of Defense.
(5) The Secretary of Agriculture.
(6) The Secretary of Commerce.
(7) The Secretary of Labor.
(8) The Director of the Office of Management and Budget.
(9) The Chairman of Council of Economic Advisers.
(10) The Special Representative for Trade Negotiations:

The President shall be the Chairman of the Council and shall preside over the meetings of the Council; in his absence he may designate a member of the Council to preside in his place.

DUTIES OF THE COUNCIL

SEC. 206. Subject to the direction of the President, and in addition to performing such other functions as he may direct, it shall be the duty of the Council to—

(1) assist and advise the President in the preparation of the International Economic Report required under section 207;

(2) review the activities and the policies of the United States Government which indirectly or directly relate to international economics and, for the purpose of making recommendations to the President in connection therewith, consider with some degree of specificity the substance and scope of the international economic policy of the United States, which consideration shall include examination of the economic activities of (A) the various agencies, departments, and instrumentalities of the Federal Government, (B) the several States, and (C) private industry. Such review of policies shall include but not be limited to the impact of the Canadian Automobile Amendments and roll of any trading partner with which we have a substantial trade deficit;

(3) collect, analyze, and evaluate authoritative information, current and prospective, concerning international economic matters. Such evaluations shall include but not be limited to the impact of international trade on the level, stability, and financial rewards for domestic labor and the impact of the transnational corporation on international trade flows;

(4) consider policies and programs for coordinating the activities of all the departments and agencies of the United States with one another for the purpose of accomplishing a more consistent international economic policy, and make recommendations to the President in connection therewith;

(5) continually assess the progress and effectiveness of Federal efforts to carry out a consistent international economic policy; and

(6) make recommendations to the President for domestic and foreign programs which will promote a more consistent international economic policy on the part of the United States and private industry. Recommendations under this paragraph shall include, but shall not be limited to, policy proposals relating to monetary mechanisms, foreign investment, trade, the balance of payments, foreign aid, taxes, international tourism and aviation, and international treaties and agreements relating to all such matters. In addition to other appropriate objectives, such policy proposals should be developed with a view toward—

(A) strengthening the United States competitive position in world trade;

(B) achieving equilibrium in international payment accounts of the United States;

(C) increasing exports of goods and services;

(D) protecting and improving the earnings of foreign investments consonant with the concepts of tax equity and the need for domestic investment;

(E) achieving freedom of movement of people, goods, capital, information, and technology on a reciprocal and worldwide basis;

(F) increasing the real employment and income of workers and consumers on the basis of international economic activity; and

(G) preserving the existing diversified industrial base of the United States.

REPORT

SEC. 207. (a) The President shall transmit to the Congress an annual report on the international economic position of the United States. Such report (hereinafter referred to as the "International Economic Report") shall be submitted not later than sixty days after the beginning of each regular session of the Congress, and shall include—

(1) information and statistics describing characteristics of international economic activity and identifying significant current and foreseeable trends and developments;

(2) a review of the international economic program of the Federal Government and a review of domestic and foreign economic conditions and other significant matters affecting the balance of international payments of the United States and of their effect on the international trade, investment, financial, and monetary position of the United States;

(3) a review of the impact of international voluntary standards, the foreign investments of U. S. based transnational firms, and the level of foreign wage rates on the level, stability, and financial reward for domestic employment; and

(4) a program for carrying out the policy objectives of this title, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the International Economic Report, each of which may include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the purposes and policy objectives set forth in this title.

EXECUTIVE DIRECTOR AND STAFF OF THE COUNCIL

SEC. 208. (a) The staff of the Council shall be headed by an Executive Director who shall be an assistant to the President and direct the Council staff. He shall keep the Committee on Banking, Housing and Urban Affairs of the Senate, the Committee on Banking and Currency of the House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Economic Committee fully and currently informed regarding the activities of the Council.

(b) (1) With the approval of the Council, the Executive Director may appoint and fix the compensation of such staff personnel as he deems necessary. Except as provided in paragraph (2), the staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) With the approval of the Council, the Executive Director may appoint and fix the compensation of one officer at a rate of basic compensation not to exceed the rate provided for level IV of the Federal Executive Salary Schedule, and appoint and fix the compensation of two officers at rates of basic compensation not to exceed the rate provided for level V of the Federal Executive Salary Schedule.

(c) With the approval of the Council, the Executive Director may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for GS–18.

(d) Upon request of the Executive Director, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Council to assist it in carrying out its duties under this title.

SEC. 209. The provisions of this title II shall expire on June 30, 1973, unless extended by legislation enacted by the Congress.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 210. For the purpose of carrying out the provisions of this title, there are authorized to be appropriated not to exceed $1,400,000 for fiscal year 1973.

Mr. SPARKMAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the passage of S. 3726 demonstrates again the skill and leadership of the distinguished Senator from Minnesota (Mr. MONDALE). The ease with which he handles the complexities of the issues of international trade and economic policy cannot be surpassed in the Senate.

I wish also to commend his counterpart on the minority side, the able Senator from Oregon (Mr. PACKWOOD) and the able Senator from Utah (Mr. BENNETT) for their contribution and assistance in expediting the passage of this legislation.

In addition to the Senators from Indiana (Mr. HARTKE) and Nebraska (Mr. CURTIS) we are indebted to the contributions they made by offering their amendments which were agreed to by the full Senate.

To the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. JAVITS), the Senator from Arkansas (Mr. FULBRIGHT), the leadership owes a debt of gratitude for their cooperation and assistance in expediting the passage of this urgently needed legislation.

To the Senate as a whole, I extend my appreciation for Senators' cooperation and assistance in expediting the Senate's business.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

RETIREMENT OF FIREFIGHTERS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 916.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 916) to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations which was to strike out all after the enacting clause, and insert:

That the first sentence of section 8336(c) of title 5, United States Code, is amended by inserting after "United States" the following: "or are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment".

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

The motion was agreed to.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, with amendments:

S. 3755. A bill to amend the Airport and Airway Development Act of 1970 to increase the United States share of allowable projects costs under such Act; to amend the Federal Aviation Act of 1958 to prohibit certain State taxation of persons in air transportation, and for other purposes (Rept. No. 92–1005).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments.

H.R. 12652. An act to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes (Rept No. 92–1006).

By Mr. MCINTYRE, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 3337. A bill to amend the Small Business Investment Act of 1958, and for other purposes (Rept. No. 92–1007).

Mr. MCINTYRE. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably, without amendment, the bill (S. 3337), to amend the Small Business Investment Act of 1958 to provide for the establishment of a Minority Enterprise Small Business Investment program in the Small Business Administration, and I submit a report thereon. I ask unanimous consent that the report be printed.

By Mr. MCINTYRE, from the Committee on Banking, Housing and Urban Affairs, with amendments:

H.R. 15692. An act to amend the Small Business Act to reduce the interest rate of Small Business Administration disaster loans (Rept. No. 92–1008). (Together with supplemental views.)

Mr. MCINTYRE. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably, with amendments, the bill (H.R. 15692), to amend the disaster relief section of the Small Business Act to provide increased Government assistance to disaster relief victims, and for other purposes, and I submit a report thereon. I ask unanimous consent that the report be printed, together with supplemental views.

HEALTH MAINTENANCE ORGANIZATIONS—FINANCE COMMITTEE CONSIDERATION OF S. 3327 AND DISCHARGE OF COMMITTEE

Mr. LONG. Mr. President, on July 21, the Committee on Labor and Public Welfare reported S. 3327 to the Senate; and pursuant to the request of the Committee on Finance, the bill was re-referred to the Committee on Finance. Our direct jurisdictional concern involved provisions which would have earmarked certain Federal tax collections for the purpose of financing health maintenance organizations and their operation. I am pleased that the bill as reported by the Committee on Labor and Public Welfare deleted these tax features. Their deletion largely eliminated the direct jurisdictional problems we had with the bill.

Nonetheless, the bill as reported still includes provisions which affect the legislative responsibilities of the Finance Committee. Although they seem to be apparently relatively unimportant in relation to the principal purposes of the bill, these features are significant enough that I should express them for the record.

First, the bill appears to impress upon the medicare and medicaid programs, which are within the Finance Committee jurisdiction, standards of health-care which may dilute the quality of care we have meticulously worked out over the years and insisted upon in the health-care programs under the Social Security Act.

Second, the bill seems to create a program of care through health maintenance organizations for poor people whose health needs today presumably are provided for under the medicaid program. But it offers no rules for coordinating with medicaid, a program under Finance Committee jurisdiction.

And third, the bill places the Federal Government in the position of guaranteeing the principal and interest on tax-exempt State and local bonds which may be issued for the purpose of financing health maintenance organizations. The Treasury Department has voiced strong opposition to this feature—which again, involves a matter within the Finance Committee's jurisdiction.

I ask unanimous consent that a memorandum outlining these concerns, together with a copy of a letter from the General Counsel of the Treasury Department describing the Treasury objections to the bill, be printed at this point in the RECORD.

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

S. 3327—HEALTH MAINTENANCE ORGANIZATION DEVELOPMENT ACT

BACKGROUND

On March 13, 1972, Senator Kennedy's Health Maintenance Organization bill, S. 3327, was referred to the Labor Committee under a unanimous consent agreement providing that the bill was to be referred to Finance when reported, if the Finance Committee so desired. On May 19, 1972, the Finance Committee agreed that they would like to review S. 3327 and a letter to that effect was sent to the Chairman of the Labor Committee. The bill was reported out on July 21, 1972, and referred to the Finance Committee.

DESCRIPTION OF BILL

S. 3327 deals primarily with establishing a massive program of grants and loans for the planning, development and initial operation of Health Maintenance Organizations. A separate title of the bill establishes an independent Quality Health Care Commission, responsible for setting Federal standards and norms for health care. Other titles of the bill deal with medical malpractice and the establishment of a National Institute of Health Care Delivery.

MATTERS OF PARTICULAR CONCERN TO THE FINANCE COMMITTEE

1. With respect to Medicare and Medicaid, the Committee has spent years developing detailed legislation relating to the quality of health care—including peer review—and standards for health facilities. Senator Kennedy's Independent Commission on Quality Health Care would establish standards and norms the effect of which could be to override all other Federal quality of care and review requirements, including those established or proposed under the Social Security health care programs.

2. The bill also authorizes $700 million which the Secretary of Health, Education and Welfare can use to pay all or part of HMO premium charges for people who he determines are unable to pay such costs. In effect, the Secretary would be purchasing health insurance for the poor (as he defines "poor") in HMO's through this mechanism, with unknown implications for the Medicaid program.

3. The bill also contains a provision amending the National Labor Relations Act to define as an "unfair labor practice" an employer's refusal to offer his employees, in any collective bargaining over health insurance, the option of choosing an HMO. In effect, employers who provide health benefits are required to offer an HMO option where an HMO exists in an area. This could affect the future course of national health insurance, a matter within this Committee's jurisdiction.

4. The bill includes a mechanism for Federal guarantees of both principal and interest of loans to HMO's by non-Federal lenders, including State and local governments whose bonds produce tax-free interest. The Treasury Department has advised the Committee that it is strongly opposed to this feature.

The Department's opposition to Federal guarantees of tax-exempt obligation is based on four fundamental problems raised by such guarantees: (1) the guarantee of tax-exempts is an inefficient subsidy since the Federal tax revenue loss exceeds the interest savings of the borrower from tax-exempt interest, (2) the guarantee of tax-exempts disproportionately benefits investors in high Federal income tax brackets, (3) such guaranteed obligations heighten the competition for the limited amount of such funds available to State and local borrowers from high tax bracket investors and raise the cost of financing other local projects for which direct Federal credit aid is not provided, and (4) such guarantees conflict with Federal debt management policy by creating a class of securities (tax exempt) which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

THE GENERAL COUNSEL
OF THE TREASURY,
Washington, D.C., July 26, 1972.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 3327, the "Health Maintenance Organization and Resources Development Act of 1972."

The bill would add a new title XI to the Public Health Service Act. New section 1141, as proposed to be added by S. 3327, would authorize the Secretary of Health, Education and Welfare to guarantee the payment of principal and interest to non-Federal lenders making loans to private health maintenance organizations (HMO's) and to health service organizations (HSO's) to assist them in meeting the cost of construction projects for ambulatory care facilities and transportation services for the provision of health services to their enrollees; to meet their initial development costs; or to pay for a portion of their initial operating costs in excess of gross revenues. This section would also authorize the Secretary to guarantee loans to assist university health centers in the development of area health education and service centers, and to provide working capital for the operation of such centers as well as to subsidize the difference between income and operating expenditures.

Under existing law, the interest income from most obligations issued by State and local public bodies is exempt from Federal income taxation. Since the bill would not alter the tax status of the proposed guaranteed obligations, the guarantee authority would result in Federal guarantees of tax-exempt obligations. The Treasury is strongly opposed to Federal guarantees of tax-exempt obligations.

The Department's opposition to Federal guarantees of tax-exempt obligations is based on four fundamental problems raised by such guarantees: (1) the guarantee of tax-exempts is an inefficient subsidy since the Federal tax revenue loss exceeds the interest savings of the borrower from tax-exempt interest, (2) the guarantee of tax-exempts disproportionately benefits investors in high Federal income tax brackets, (3) such guaranteed obligations heighten the competition for the limited amount of such funds available to State and local borrowers from high tax bracket investors and raise the cost of financing other local projects for which direct Federal credit aid is not provided, and (4) such guarantees conflict with Federal debt management policy by creating a class of securities (tax-exempt) which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

New section 1106 would authorize the Secretary of Health, Education, and Welfare to make loans to any public or private nonprofit HMO to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services to its enrollees. New section 1125 would authorize such loans to any HSO. Sections 1107 and 1126 would authorize loans to such organizations for a portion of their initial operating costs in excess of gross revenues. Such loans would bear interest at the legal rate of interest prevailing with respect to loans which are guaranteed under the bill. The meaning of this interest rate language is not clear.

There would be no requirement under the Federal credit assistance programs proposed in new sections 1106, 1107, 1125, 1126, and 1141, that the borrower demonstrate that credit is not otherwise available under reasonable terms and conditions. Such a requirement is necessary to preclude unnecessary dependence on Federal credit and Federal competition with and duplication of the activities of private lenders.

Proposed sections 1106, 1107, 1125, 1126, 1141, 1143, and 1226 would create revolving funds for programs created under the bill and would authorize moneys to be appropriated to such funds. There would be no requirement for the payment of interest on Federal capital supplied to such funds.

A fundamental purpose of establishing a revolving fund is to provide for the systematic disclosure of the relationship between receipts and expenditures thus facilitating decisions regarding the fees to be charged under the program and the allocation of budget resources. To the extent that all costs, including interest on Federal capital whether obtained from appropriations or borrowing from the Treasury, are not accounted for, this fundamental purpose will not be achieved.

Section 1220 as proposed to be added by S. 3327 would establish a Federal Medical Malpractice Insurance Program to make insurance available to providers of health care to cover liability for medical malpractice arbitration awards. Such insurance would be available at rates adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, rates consistent with the objective of making medical malpractice insurance available at reasonable rates to encourage prospective insureds to purchase such insurance. The need for such subsidized premiums is not clear.

The financial provisions of this section are deficient in several important respects. There would be no requirement that the applicant demonstrate that insurance is not otherwise available on reasonable terms. There would be no limit on the maximum amount of claims which could be paid under any one policy, no deductible requirement to minimize payment of nuisance claims, and no limit on the aggregate Federal liability under the proposal. Consideration of a Federal mal-

practice insurance program should be deferred until completion of the comprehensive study by the Commission on Medical Malpractice.

Section 1143 as proposed to be added by the bill would establish in the Treasury a Health Maintenance Fund which would be available for making grants to HMO's or HSO's serving persons who cannot afford the premiums charged by such organizations. The fund would be credited with 5 percent of the taxes received in the Treasury under chapter 51 of the Internal Revenue Code of 1954 (relating to taxes on distilled spirits, wines, and beer) and under chapter 52 (relating to taxes on tobacco, cigars, cigarettes, and cigarette papers and tubes).

As a general principle of effective budgetary management, budget receipts should not be earmarked for particular purposes but should be available in the general fund of the Treasury for appropriation by the Congress for programs that have the highest current priority. Legislative enactments setting aside certain budgetary receipts for particular expenditure purposes introduce undesirable rigidities into the budget process and thus limit the flexibility of the President and the Congress in determining priorities on the basis of their evaluation of current needs. This could promote unnecessary and inefficient public spending. Particularly in view of the rapidly changing nature of domestic and national security needs, it is essential that decisionmakers have maximum flexibility in the allocation of scarce budgetary resources. The proposed earmarking could result in substantial and unintended variations in the amounts provided the designated purpose, since these amounts would be determined largely by the happenstance of unrelated revenue changes rather than on the basis of program needs and sound budgetary planning.

The Administration has proposed legislation to provide assistance to health maintenance organizations. In view of the foregoing, the Department recommends favorable action on the Administration's proposals in lieu of action on S. 3327.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

SAMUEL R. PIERCE, Jr.,
General Counsel.

Mr. LONG. Mr. President, the Committee on Finance discussed S. 3327 in executive session today and directed me to suggest to the chairman of the Committee on Labor and Public Welfare that the objectionable features of the bill which I have described be eliminated; and if that were done, any jurisdictional questions we may have would be resolved.

I ask unanimous consent that my letter to Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare, be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., August 1, 1972.

Hon. HARRISON A. WILLIAMS, Jr
Chairman, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I very much appreciate your cooperation in having S. 3327, the Health Maintenance Organization Development Act, referred to the Finance Committee, pursuant to the request in my letter to you dated May 19, 1972.

While the specific provision in S. 3327, as introduced, which would have amended the Internal Revenue Code, is not included in the bill as reported out by your Committee, Title VI of the bill, establishing a "Commission on Quality Health Care Assurance," does cause some concern to this Committee.

As you know, the area of standards and norms of health care today is one of considerable uncertainty. The Finance Committee, along with the Committee on Ways and Means, has worked for years to develop means of removing much of that uncertainty with respect to the Medicare and Medicaid programs. H. R. 1 contains many detailed changes in Medicare and Medicaid designed to improve the quality of care provided under those programs through establishment of precise standards and specific utilization and quality review mechanisms. It is not clear from S. 3327 as to whether any norms of care authorized by Title VI would override Medicare and Medicaid requirements.

We would prefer that these ambiguous provisions dealing with the development of standards and norms be deleted because they would duplicate the Medicare and Medicaid standards which today encompass virtually all health care institutions and organizations—including participating health maintenance organizations.

Further, we are concerned over the ambiguity and potential impact of the provision to subsidize HMO premiums for persons whom the Secretary of Health, Education and Welfare defines as "poor". Presumably this would include many persons presently eligible for health care under the Medicaid and Medicare programs. This could have the effect of creating significant inequities among the millions of poor people now eligible for Medicaid and Medicare benefits under the Social Security Act.

In addition, the Treasury Department has advised the Committee of its strong objection to the provisions of the bill which provide for Federal guarantees of principal and interest on loans to HMO's by non-Federal lenders. The Treasury reports that:

"The Department's opposition to Federal guarantees of tax-exempt obligations is based on four fundamental problems raised by such guarantees: (1) the guarantee of tax-exempts is an inefficient subsidy since the Federal tax revenue loss exceeds the interest savings of the borrower from tax-exempt interest, (2) the guarantee of tax-exempts disproportionately benefits investors in high Federal income tax brackets, (3) such guaranteed obligations heighten the competition for the limited amount of such funds available to State and local borrowers from high tax bracket investors and raise the cost of financing other local projects for which direct Federal credit aid is not provided, and (4) such guarantees conflict with Federal debt management policy by creating a class of securities (tax-exempt) which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941."

From the standpoint of the Committee on Finance, your bill would be improved if this guarantee feature were eliminated.

With these matters taken care of, any jurisdictional questions we may have would be resolved.

The Committee has authorized us to move that the Committee on Finance be discharged from further consideration of the bill, and we plan to do so this afternoon.

Thank you for your cooperation.

Sincerely,

RUSSELL B. LONG,
Chairman.
WALLACE F. BENNETT,
Ranking Minority Member.

With these matters taken care of, I believe any jurisdictional questions we may have would be resolved.

The Committee has authorized me to move that we be discharged from further consideration of the bill, and I plan to do so this afternoon.

Thank you for your cooperation.

Sincerely,

Chairman.

Mr. LONG. Mr. President, I hope the Committee on Labor and Public Welfare will agree to modify S. 3327 along the lines suggested. Other than that, the Committee on Finance is not insisting on jurisdiction over the bill. Accordingly, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 3327.

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

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Dixy Lee Ray, of Washington, to be a member of the Atomic Energy Commission.

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

Marshall A. Neill, of Washington, to be a U.S. district judge for the Eastern District of Washington.

TRANSPORTATION SYSTEMS IMPROVEMENT ACT OF 1972—CHANGE OF REFERENCE

Mr. HUMPHREY. Mr. President, I ask unanimous consent that S. 3366, a bill to allow States and localities more flexibility in funding ground transportation improvement in order to better meet the needs of interstate commerce, and for other purposes, be referred to the Committee on Public Works.

I have mentioned this to the chairman of the Finance Committee, to which the bill was originally referred, because other bills related to it are now being considered by the Committee on Public Works.

If there are any provisions relating to highway trust funds that require further consideration of the Finance Committee, the bill can then be rereferred to that committee.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HARRIS:

S. 3864. A bill for the relief of Eleanor R. Isip. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 3865. A bill to provide for unlimited insurance for deposits of public funds in insured banks and other institutions. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MAGNUSON (by request):

S. 3866. A bill to provide for the transfer to the Federal Power Commission of all functions and administrative authority now vested in the Securities and Exchange Commission under the Public Utility Holding

Company Act of 1935. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 3867. A bill to amend the Public Health Service Act to provide for a Public Health and National Health Service Corps Scholarship Training Program. Referred to the Committee on Labor and Public Welfare.

By Mr. DOLE (for himself and Mr. PEARSON):

S. 3868. A bill to provide for the disposition of funds appropriated to pay certain judgments in favor of the Iowa Tribes of Oklahoma and of Kansas and Nebraska. Referred to the Committee on Interior and Insular Affairs.

By Mr. COOK:

S. 3869. A bill to provide for civil and criminal actions to prevent or restrain physical or economic intimidation of individuals engaged in voting or activities related to voting. Referred to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 3870. A bill to clarify the ownership of certain church property located in the Virgin Islands. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON:

S. 3865. A bill to provide for unlimited insurance for deposits of public funds in insured banks and other institutions. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. MAGNUSON. Mr. President, today I am introducing a bill to provide full deposit insurance for public units when they place their funds in insured savings and loan associations or in banks. I introduced a similar bill in 1968 and offered it as an amendment to the Housing Bill that year. During the floor discussion of my amendment, Mr. SPARKMAN, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, recognized the problem and offered to work out a solution. However, it has come to my attention, and I am sure that the chairman of the committee would agree, that the problem cannot be solved administratively.

Basically, this bill provides for 100 percent insurance for public funds placed on deposit in savings and loans and banks. In my State of Washington, and in many other States, public officials cannot place public funds in insured institutions beyond the amount of equal insurance, which is currently limited to $20,000. We all recognized the need for increasing the funds available for home financing. This bill would permit public officials having considerable amounts of public funds under their discretion, to place these funds in savings and loan associations or in banks and be fully protected by insurance either from the FSLIC or the FDIC.

These public funds belong to the thousands of citizens in the given jurisdiction so that even large sums, if multiplied by the $20,000 per account insurance of each individual, would not exceed the basic philosophy of a $20,000 per person limit on the insurance.

Since I originally introduced my bill, there have been several other bills up to and including this year that would accomplish the same purpose. I am informed that a House Subcommittee has favorably reported a bill (H.R. 15656) which contains a section that is identical to the bill which I am introducing today. It is also my understanding that in the next few weeks the Senate Banking, Housing, and Urban Affairs Committee will be holding hearings on banking legislation. I would hope that this committee will consider my bill at that time.

This bill would definitely provide billions of dollars of additional funds for home financing. It would further protect public funds from any possible losses such as those which have occurred in recent years in several States. In summary, this bill is in the public interest, will aid housing, and will fully protect the funds of the Federal, State and local governments which are deposited in these institutions.

By Mr. MAGNUSON (by request):

S. 3866. A bill to provide for the transfer to the Federal Power Commission of all functions and administrative authority now vested in the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, by request, I introduce a bill and I ask unanimous consent that the letter of transmittal and explanation of the bill be printed in the RECORD.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., July 19, 1972.

THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,

SIR: I have the honor to transmit to the Congress a draft of a proposed bill to transfer to the Federal Power Commission those regulatory functions over public utility holding companies which are now exercised by the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79a et seq.].

While the proposed legislation would transfer the special regulatory functions of this Commission under the Public Utility Holding Company Act, it would retain in the Commission, with respect to such public utility holding companies, the type of responsibility which it now exercises with respect to publicly owned corporations generally, e.g., proxy solicitations, insider trading restrictions, and reports to investors. In order to accomplish this purpose, it is necessary to amend the Public Utility Holding Company Act in various ways, due to the existence of special provisions therein on these subjects which duplicate provisions of the Securities Exchange Act of 1934 as amended in 1964 [15 U.S.C. 78a et seq.]. These proposed amendments are described in the Explanatory State of the Draft Bill which is attached.

In connection with this proposed legislation, attention is called to the existence of certain provisions in the Internal Revenue Code relating to the tax impact on changes in corporate structures required by this Commission pursuant to the Public Utility Holding Company Act. If the proposed bill is enacted, technical modifications of those provisions of the Internal Revenue Code will be required. However, such modifications have not been included in the proposed bill, since the Commission does not believe it to be appropriate for it to undertake the drafting of amendments to the Internal Revenue Code. Nevertheless, this matter will have to be taken into account in the consideration of the proposed legislation.

There are two primary reasons for the proposed transfer of functions. First, the principal mission entrusted to the Commission by the Congress through enactment of the Public Utility Holding Company Act was largely accomplished during the first twenty years of the Act's history. This was to eliminate or reorganize the complex, unwieldly and unsound utility holding companies' structures which had been built up during the 1920's and which Congress determined to be contrary to the public interest. The Committee on Independent Regulatory Commissions of the first (1949) Hoover Commission suggested that the Commission's functions under the Act should probably be transferred to the Federal Power Commission once the Securities and Exchange Commission had accomplished the primary mission of the Act. This primary mission was substantially accomplished by the middle 1950's. Thereafter, the Commission's functions under the Act were, for a considerable period, largely with securities issuances and minor acquisitions by those companies which continued as registered holding companies. During that period, the attention of the Commission and of its staff was therefore largely focused on other areas of the Commission's responsibilities, in view of the tremendous growth of the securities markets in general and of the investment company industry in particular during the postwar period. More recently, the Report on Selected Independent Regulatory Agencies by The President's Advisory Council on Executive Reorganization (the "Ash Council Report") dated January 1971 also states that the Commission has achieved its primary goal under the Act to protect the investor in subordinate public utilities from excesses of holding companies, and the regulatory functions under the Public Utility Holding Company Act should be transferred to the Federal Power Agency.

Second, as the Commission has pointed out in testimony before the appropriations committees of Congress, there has recently been a considerable revival of activity and interest in the public utility holding company area, and this appears likely to increase. The nature and motivation of this development is, however, quite different from that which existed in the 1920's. Then, holding company empires were built up primarily as promotional ventures accomplished by the manipulation of corporate structures for the profit of those who engaged in these activities. The current interest is more a response to technological developments in the utility industry, such as the increasing importance of atomic energy in the generation of electricity, and the economies available through the use of very large electric generating plants which have become feasible, particularly when accompanied by transmission facilities capable of transmitting large amounts of power over long distances. The holding company device is viewed by some as one means of facilitating the best use of those technological advances.

The regulatory problems and opportunities which are presented by these developments are therefore quite different from those which existed in the 1930's. While these problems include corporate structure and financial aspects, they are more a matter of industry technology. This Commission in recent years has had a rather limited exposure to these types of problems, while the Federal Power Commission has, of course, been deeply involved in such matters for many years and has been concerning itself recently with the impact of the new technology. For example, Section 30 of the Public Utility Holding Company Act calls essentially for economic studies of developments in the public utility

field and the making of recommendations as to the type and size of geographically and economically integrated public utility systems which can best serve the public interest. The Commission has never been in a position to mount such a study, since during the early years of the Act, it had more important tasks and thereafter it did not have the available resources. The Federal Power Commission, on the other hand, has for some time been making studies relating to interconnections and coordination of electric facilities and national power requirements.

Consequently, it appears that this would be an appropriate time to centralize in one agency Federal responsibilities for public-utility regulation, and that the Federal Power Commission is the appropriate agency for this purpose. Such centralization should produce greater efficiency, economy and coordination of regulatory policy. As pointed out above, the special conditions which led Congress to vest administration of the Public Utility Holding Company Act in this Commission rather than in the Federal Power Commission, i.e., the fact that the problems in the public-utility holding company area were largely corporate and financial rather than economic and technical, have been very substantially modified by the events of the past thirty years.

It is recognized that the transfer of the Holding Company Act to the Federal Power Commission will give that Commission a greater degree of responsibility in the area of corporate finance and perhaps also investor protection than it has heretofore had. This Commission is confident, however, that the Federal Power Commission has or can develop the capacity to assume those responsibilities, particularly if its efforts are adequately funded, and that the transfer should, as mentioned above, promote efficiency and economy in the Federal Government.

The Office of Management and Budget has advised that there is no objection to the submission of this bill from the standpoint of the program of the Administration.

By direction of the Commission.

WILLIAM J. CASEY,
Chairman.

EXPLANATORY STATEMENT OF DRAFT BILL TRANSFERRING FUNCTIONS OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 TO THE FEDERAL POWER COMMISSION

Under the draft Bill, the first 4 sections are self-explanatory and merely relate to the transfer of the Public Utility Holding Company Act functions to the Federal Power Commission (FPC).

Section 5 of the draft Bill substitutes the words "Federal Power Commission" for "Securities and Exchange Commission" in Section 2(a)(6) of the Holding Company Act. As a consequence, any reference in that Act to "Commission" means the Federal Power Commission.

Section 6 of the draft Bill deletes Section 12(e) of the Holding Company Act. Section 12(e) relates to proxy statements. By its deletion the FPC will have no jurisdiction in this area. The Securities and Exchange Commission (the SEC) will have such jurisdiction as is contained in the Securities Exchange Act. Since many of the registered holding companies have their securities listed on a national securities exchange, and since the other companies are within the standards of Section 12(g) of that Act, the SEC will have sole, and the same type of, jurisdiction as to proxy statements as it now has under the Public Utility Holding Company Act.

Section 7 of the draft Bill amends Section 15(e) of the Public Utility Holding Company Act by adding the indicated proviso. This proviso has the effect of requiring persons subject to the Public Utility Holding Company Act to comply with any requirement under any Act administered by the SEC with respect to accounting procedures.

Section 8 of the draft Bill is a technical amendment necessitated by the amendment of Section 17 of the Public Utility Holding Company Act discussed below.

Section 9 of the draft Bill deletes subsections (a) and (b) of Section 17 of the Public Utility Holding Company Act. Those subsections relate to the "6-month insider trading" provision. By the deletion of those subsections, the FPC will have no jurisdiction in this area. The SEC will have sole jurisdiction in this area by reason of Sections 16(a) and 16(b) of the Securities Exchange Act. Those provisions of the Securities Exchange Act are broad enough to cover the same classes of persons as are now encompassed within Sections 17(a) and 17(b) of the Public Utility Holding Company Act.

Section 10 of the draft Bill does two things. First, it deletes the first sentence of subsection 20(d) of the Public Utility Holding Company Act. This sentence authorizes the SEC to permit any information required to be filed under the Public Utility Holding Company Act, the Securities Act of 1933, or the Securities Exchange Act of 1934 to be incorporated by reference in any filing required to be submitted under any of the other two Acts. Secondly, Section 10 of the draft Bill adds a new subsection, (e), to Section 20 of the Public Utility Holding Company Act. This new subsection authorizes the SEC to permit companies subject to the Public Utility Holding Company Act to file with the SEC, in compliance with the requirements of the Securities Act, the Securities Exchange Act or the Trust Indenture Act of 1939, duplicate copies of the information filed with the FPC.

Section 11 of the draft Bill amends Section 21 of the Public Utility Holding Company Act. It is a technical amendment which makes it clear that the jurisdiction of the SEC under the other statutes administered by it will not be affected by the transfer of the administration of the Public Utility Holding Company Act to the FPC.

Section 12 of the draft Bill repeals the last sentence of Section 30 of the Public Utility Holding Company Act, which is obsolete. It directs the Securities and Exchange Commission to make a study of the functions and activities of investment trusts and investment companies and to report the results and its recommendations to the Congress on or before January 4, 1937. Such a report was filed and it served as a basis for the introduction of a bill which became the Investment Company Act of 1940.

Section 13 of the draft Bill amends Section 318 of the Federal Power Act by deleting the words "Securities and Exchange" from that section. As a consequence, so far as there may be any inconsistency between the provisions of the Public Utility Holding Company Act and the Federal Power Act, the provisions of the Public Utility Holding Company Act will prevail.

Section 14 of the draft Bill grants the SEC authorization to retain jurisdiction of any proceeding that may be pending at the effective date of the Act.

Sections 15 and 16 are self-explanatory, and Section 17 provides that the effective date of the Act is 90 days after its enactment.

By Mr. STEVENS:

S. 3867. A bill to amend the Public Health Service Act to provide for a Public Health and National Health Service Corps Scholarship Training Program. Referred to the Committee on Labor and Public Welfare.

Mr. STEVENS. Mr. President, I am today introducing legislation which will improve the ability of the Public Health and National Health Service Corps to recruit young men and women who are training for health service professions. This will be accomplished by providing a scholarship training program for persons training in medical, dental, or other health-related professions.

This program would provide full tuition for all health related academic training as well as a stipend including salary, books, supplies, student medical expenses, and other necessary educational expenses. In return for this scholarship, the individual is required to serve in the Commissioned Corps of the PHS or as a civilian member of the National Health Service Corps for 1 year for each year of academic training received. An incentive, such as that provided in my amendment, is needed to attract young men and women to HEW programs which service areas with a dire need for health services.

Since the Selective Service Act of 1949 provided that service in the Public Health Service Corps would fulfill the draft obligation, the Corps has depended almost exclusively on this provision for recruitment. Approximately 99 percent of the physicians and dentists being recruited into the Corps today are recruited through the use of this draft mechanism. With this dependence on the draft as a recruitment incentive, the voluntary recruitment machinery of the Corps has drastically degenerated. With the trend toward the abolishment of the draft to create an all volunteer army, the Corps is in serious trouble. One of the findings of the 1971 report of the Secretary's Committee To Study the PHS Commissioned Corps states that—

> The recruitment and retention of physicians and dentists will constitute the critical problem following the end of using the draft mechanism, and plans to meet these problems must be developed.

The time to act on this problem is now, before it becomes too critical to correct and before one of our most valued governmental services is lost. By enacting this scholarship program now we will begin to build in the incentives urgently needed to maintain the Corps and will work toward avoiding a last minute personnel manpower crisis when and if we abolish the draft.

But regardless of this motivation, I also believe this is good legislation in its own right for today's situation. It gives the PHS and the National Health Service Corps a strong scholarship recruitment vehicle such as the military has had for years. The Department of Health, Education, and Welfare's programs which provide health care for some of our country's most needy areas through the Public Health Service and National Health Service Corps are, I believe, extremely important to the health system of our Nation. They need and deserve a recruitment program of the highest caliber to attract our citizens who wish to enter the health field, through their ranks, so these important health delivery programs of HEW will be adequately staffed and well operated.

For example, there are 132 counties in the United States which have no physi-

cians. These counties comprise approximately 472,000 people. The national average ratio of doctors to individuals is 166 per 100,000 but in my own State of Alaska the ratio is only 64 per 100,000. Without the assistance of the Public Health and National Health Service Corps this ratio would be even more alarmingly low. There is no question that the Corps provides a necessary service to areas so lacking in health care and that we must do our utmost to see that the corps survives.

My amendment would also discourage individuals from "buying out" of their active duty service obligation. Should an individual decide not to complete the required active duty period, the scholarship would automatically be converted into a loan which must be repaid in full with maximum legal interest. Thus, if the individual carries out this commitment he or she will be doing this country a great service by helping to solve the health manpower shortage problem by serving in Federal programs where we urgently need more health personnel and, if not, the Government will not lose a cent.

I ask unanimous consent that this bill be printed in the RECORD immediately following my remarks.

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

S. 3867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 218 of the Public Health Service Act is amended to read as follows:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 218. (a) The purpose of the Public Health and National Health Service Corps Scholarship Training Program (hereinafter referred to as 'such program') is to obtain trained physicians, dentists, nurses and other health related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry or other health related specialty, as determined by the Secretary;

"(3) be eligible for, and hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section.

"(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, the commencement of a period of obligated service can be deferred for the period of time required to complete internship. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this section except that if such residency is served in a PHS facility or facility of the National Health Service Corps such service shall be counted as satisfying the active duty service obligation under this section.

"(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus interest at the maximum legal prevailing rate. The Secretary shall prescribe rules and regulations with regard to the timing of the repayment of such liability.

"(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"(k) To carry out the purpose of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975."

By Mr. DOLE (for himself and Mr. PEARSON):

S. 3868. A bill to provide for the disposition of funds appropriated to pay certain judgments in favor of the Iowa Tribes of Oklahoma and of Kansas and Nebraska. Referred to the Committee on Interior and Insular Affairs.

Mr. DOLE. Mr. President, on May 7, 1965, the Indian Claims Commission made an award to the Iowa Indian Tribe of Kansas and Nebraska and the Iowa Tribe of Oklahoma. The award was made as payment for certain land which was excluded from the Iowa Reservation established in southeast Nebraska and northeast Kansas by an 1854 treaty and as additional payment for other land sold under the same treaty.

Funds to pay this award were appropriated by Congress on March 21, 1972, and the tribes have since agreed on the division of the funds. I, therefore, introduce legislation to authorize payment of the appropriated sum to the Iowa Tribes.

Mr. President, it is unreasonable that a just claim arising from a formal U.S. treaty adopted nearly 120 years ago should still remain unsatisfied. It would be even more unjust for the Senate to delay any longer the satisfaction of this claim. The Claims Commission has awarded the claim, Congress has appropriated the money, a tribal agreement on distribution of the funds has been reached, and Congress must now pass the authorizing legislation to enable settlement of this claim. I, therefore, encourage my colleagues to act promptly in their consideration of this bill, and bring about prompt payment of this 120-year-old obligation.

The Iowa Tribes of Oklahoma and of Kansas and Nebraska have a membership of approximately 1,740 individuals. The Iowa Reservation of the Kansas and Nebraska Tribe is located in Brown County, Kans., and in Richardson County, Nebr. It covers approximately 1,378 acres, most of which is farmland. Approximately 83 percent of the land is used by Indians and the remainder by non-Indians under lease arrangements.

The tribe is governed by a general council composed of all enrolled members of legal age, and by an executive committee which has broad delegated powers for carrying on the daily business of the tribe.

The primary functions of the tribal government are in matters pertaining to the preparation of claims, prosecution and distribution of claims, preparation of membership rolls, and supervision of the tribal lands.

The tribal government has proposed distribution of the judgment now in question on a per capita basis to currently enrolled members, in accordance with the tribal constitution. They have voted to hold payments distributed to minors in trust for them, and are in the process of establishing a trust fund in a local bank for this purpose. Once completed, the trust proposal will be submitted to the Secretary of the Interior for final approval. I urge the Senate to respect the wishes of the tribe and permit retention of the trust funds in the local Indian community.

There is no controversy surrounding this award. The Claims Commission has adjudged it, the Iowa tribal government has agreed on the distribution scheme, and Congress has appropriated $633,193.77 to satisfy claim docket No. 135. I

am hopeful that this authorization bill can be acted upon promptly so that this obligation owed by the United States to the people of the Iowa Tribes may finally be met.

Mr. PEARSON. Mr. President, I am pleased to join with my colleague, Mr. DOLE, in support of the bill to provide for the disposition of funds appropriated to pay certain judgments in favor of the Iowa Tribes of Kansas, Nebraska, and Oklahoma. Specifically, this bill will authorize the payment of a judgment approved by the Indian Claims Commission on May 7, 1965.

I believe that it is most important to emphasize the noncontroversial nature of this bill. Following the award by the Claims Commission, $633,193.77 was appropriated by Congress on March 21, 1972, to satisfy the claim. In addition, the tribal government has met and agreed on the distribution scheme. Their plan is both equitable and prudent. It proposes a distribution on a per capita basis to currently enrolled members, in accordance with the tribal constitution. Payments to minors are to be paid into trust, subject to the final approval of the Secretary of the Interior.

Mr. President, I am particularly interested in these payments since a large number of the Iowa Tribe currently live in Brown County, Kans. Their contribution to our State has been long recognized and should now be rewarded with an expeditious handling of their legislative claim.

Given the foregoing facts, I believe that it is important that this award, which is payment pursuant to a treaty obligation incurred in 1854, should now receive satisfaction from the U.S. Senate.

By Mr. COOK

S. 3869. A bill to provide for civil and criminal actions to prevent or restrain physical or economic intimidation of individuals engaged in voting or activities related to voting. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, I am sending to the desk for appropriate referral a bill which will provide for criminal and civil actions to prevent or restrain physical or economic intimidation of individuals engaged in voting or activities related to voting.

The bill will make it unlawful for any person acting under color of law or otherwise to intentionally intimidate or interfere with another person's civil voting rights. The bill will also make it unlawful to employ or promote, to demote, to evict, to refuse to sell or purchase goods or services, or to apply economic pressure upon another person in order to intimidate that person in voting or activities related to voting.

Addressing the Young Republic in the Federalist No. 10, a distinguished patriot and statesman, James Madison, attempted to warn the Nation of the vulnerability of a democracy in the absence of competing power centers and interest groups in a community. He was concerned that "men of factious tempers, of local prejudices, or of sinister designs, may be intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people." Mr. Madison recognized the essential nature of pluralism in preserving the rights of men and enforcing the fundamental precepts of a democracy and sought to convince the citizens of its merits.

Unfortunately in the absence of pluralism, circumstances exist that the subjugation of the many by the few, or of the weak by the powerful, or of the unfortunate by the fortunate, to undermine the freedom to exercise the basic civil rights. Witness to these events can be seen in what is referred to as the "company town," a situation which I would suggest be defined as the operation of one large corporate concern within a locality wherein virtually the entire labor force owes its employment and even its very existence to the operation of the particular factory, plant, or mill within that locality.

Although many might tend to think the exodus by large companies to cosmopolitan centers has caused the "company town" to be an anachronism in 1972, there are literally thousands of examples of corporate dominated communities across the country. Numerous are the instances where a company's initiative in a town has transformed a once underprivileged, depressed community into a prosperous region of low unemployment and relatively high per capita income. I applaud these Samaritan achievements however motivated, but the ties that bind may also strangle, and when people go beyond the exercise of permissible authority in operating a mill—corrections are vital.

It is unfortunate, indeed, that one commonality dwarfing all others can lead to abuses of municipal power. This may and has directly resulted in the dominance by a corporate enterprise of all or virtually all aspects of community life, including the exercise of fundamental political rights, which dominance is made possible by such enterprises' "economic muscle." Not uncommon are instances, because of conflicts of interest and intricate webs of economic and financial relationships, of small town tyranny, political dominance of local governmental machinery, and paternalism. More familiar to the "company town" may be the complete breakdown of the pluralistic system and competing power centers against which President Madison cautioned. Complete control is often exercised over jobs, information, taxes, and the political structure leading to widespread fear among the local townsfolk. The dominance may have such deep roots as to even render unions, of which less than one-fourth of the labor force are members, completely helpless in that workers are galvanized into pacificism for fear of reprisals.

I had previously thought it inconceivable that economic dependence of the people could be so awesome and their indenturism so terrifying. The Civil Rights Acts of 1957, 1960, 1964, and 1968, and the Voting Rights Acts of 1965, and the Voting Rights Amendments of 1970 passed overwhelmingly by this body, together with the rights secured by the Constitution were, I thought, capable of effectively protecting the rights of men and women, particularly the civil right of voting. However, I am informed of cases in "company towns" in which employees are preemptorily fired for being of a particular party affiliation and where opposition to management belief is extinguished without delay or scruple. Checks and balances are vital to the function of democracy and certainly the preface of any democracy, particularly American democracy, is the freedom to exercise ones vote. Therefore, I am somewhat more discouraged to see its collapse in "company towns." I think it unconscionable that smalltown citizens should be compelled to purchase affluence at the cost of cherished political and social freedoms. For this reason I introduce the Economic Nonintimidation Voting Activities Act of 1972 as a conscious effort to protect everyones right to vote. I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1)

Mr. COOK. Mr. President, since ratification of the 14th amendment, Congress has had the constitutional authority to determine what legislative action is necessary to afford equal protection to persons who have been deprived of their rights when States fail to protect them. Section 1 of this amendment in part reads:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

Only when States fail to meet their responsibility of protecting rights and privileges must the Federal Government assert the power granted it by the equal protection clause.

To strengthen the capability of the Federal Government in meeting the problem of interference with voting rights, 18 United States Code, 241–242, are the oldest meaningful statutes offering a semblance of voting rights protection. Originally designed to combat the ills of the reconstruction era, section 241 makes it illegal to conspire to injure or intimidate any citizen in the free exercise of any right secured by the Constitution. It has been primarily a vote fraud statute for Federal elections and has remained virtually unchanged for more than a century. Section 242 makes it illegal for anyone acting under color of law to deprive another of rights secured or protected by the Constitution or laws of the United States. Its major use has been in connection with the use of violence by State-local police. It, too, has not been amended to any appreciable degree to keep pace with the times.

Unfortunately, through court interpretations, *Screws* v. *United States* (325 U.S. 91, 101, 107 (1945)), *United States* v. *Johnson* (390 U.S. 563 (1968)), there has been a lack of specificity, and hence a lack of warning to possible defendants

of the kind of conduct prohibited in these two statutes making them impermissibly vague under due process standards. On the face they would seem to be a sovereign remedy for all wrongs, but their generality is an impediment to their potential effectiveness.

Although application of the statutes are too broad, a boost for further action was forthcoming in *United States* v. *Guest* (383 U.S. 745). Commenting on the vague language of section 241, Justice Brennen stated in part:

. . . Since the limitation on the statute's effectiveness derives from Congress' failure to define—with any measure of specificity—the rights encompassed, the remedy is for Congress to write a law without this defect.

Commenting further in his separate opinion in the Guest case Justice Brennen rejected the idea that Congress authority to punish interference with the exercise of the 14th amendment rights was limited to punishing officers or others acting under color of State law. He said:

Rather, Section 5 (Fourteenth Amendment) authorizes Congress to make laws that it concludes are reasonably necessary to protect a right created by and arising under that amendment; and Congress is thus fully empowered to determine that punishment of private conspiracies interfering with the exercise of such a right is necessary to its protection. (383 U.S. at 782).

Pointing out that a majority of the Court members concurred in his landmark decision that Congress could provide for the punishment of private acts constituting interference with 14th amendment rights was sufficient invitation to Congress to pass title I of the Civil Rights Act of 1968 dealing with violent interference with certain federally protected activities. Codified as 18 United States Code 245, it is subsection (b) (1) (A) which delineates voting activities federally protected from interference. By far and above the most comprehensive Federal protection offered to date, this statute reads:

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate, or interfere with—

(1) any such person because he is or has been, or in order to intimidate such person or any other person or class of persons from—

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for exective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

Shall be fined not more than $1,000 or imprisoned not more than one year, or both;

Stiffer penalties are provided in this statute if bodily injury or death results.

Section 245 to title 18, United States Code, added a new section to the criminal code designed to deter and punish interference by force or threat of force with activities protected by Federal law or the Constitution and specifically set forth in the bill. The areas of protected activity include voting to meet the problem of violent interference, for racial or other discriminatory reasons, with a person's free exercise of his civil rights. Originally framed as legislation to prevent racially motivated violent interference in certain protected areas, the bill was a movement toward full enjoyment of equal rights. It is undoubtedly the most extensive and detailed criminal sanction civil rights legislation ever considered and enacted by Congress. However, because this law was designed to safeguard from violent interference in civil rights with the more general purpose of aiding Federal prosecution of violators of constitutional rights, only violent interference is unlawful to the exclusion of such nonviolent interference in civil rights as economic coercion.

My bill will correct this inequity to encompass nonviolent interference which is by no means peculiar to "company towns," although this is where it appears to be most flagrant. Section 245 of title 18, United States Code, postulates activities in which the Federal Government has generic power to protect all persons. I believe that whether it be violent interference, or peaceful interference as in cases of economic coercion, makes no difference. Interference is interference regardless of the form it takes and we as legislators have the responsibility to protect the citizens from those who are the perpetrators. Lawbreakers must be deterred from victimizing the people, but so long as nonviolent interference continues unnoticed and unprotectable, the workings of the criminal process will be inadequate. Section 245 is the furthest evolution in Federal protection of voting activities, but it falls short of providing ample protection.

My bill, on the other hand is the only available alternative to protect against invidious interferences by economic means. It confers injunctive power on the Attorney General to institute an action for preventive relief, including an application for a temporary or permanent injunction, or restraining order in an appropriate U.S. district court for anyone aggrieved by a violation of the bill. The bill also allows any aggrieved person to bring a civil action to an appropriate U.S. district court without regard to the amount in controversy. Although private injunctive relief is available under 42 U.S.C. 1983. This section is worded in the broad vein of 18 U.S.C. 242 and requires a showing of action "under color" of law. Also, 42 U.S.C. 1971 confers injunctive power on the Attorney General, but only to the extent that Federal elections are involved. Therefore, my bill, which will provide for the same criminal sanctions that now appear in 18 U.S.C. 245, and also provide for civil injunctive relief, is necessary to correct the problems faced by economic coercion on all levels—be it local, State, or Federal.

Quoting the Working Papers of the National Commission on Reform of Federal Criminal Laws, established by Congress in Public Law 89-801 relating to the study draft of a new Federal Criminal Code, I attempt to document the need others have seen to provide protection against economic coercion. It states:

Although problems of proof might make prosecutions more difficult regarding economic coercion than in cases where an objective act of force is present, there is in principle no strong argument for totally exempting from the criminal process nonforceful interferences with the interests covered by 18 U.S.C. section 245. They are not totally exempted now, because under 18 U.S.C. section 241 nonforceful conspiracies to deny federal rights can be reached. But the vagueness in section 241 compounds problems of proof, because to save its constitutionality very specific intent on the part of the defendant must be proved.

Mr. President, this should be sufficient confirmation that the means are not currently available to outlaw economic coercion. The language of my bill, on the other hand, leaves no room for vagueness or misinterpretation. In quite specific language it makes actions to apply economic pressure upon another person in voting or activities related to voting unlawful. The language of the bill clearly eliminates the possibility of semantic interpretations by the courts because the actions protected against are spelled out.

At the time the Civil Rights Act of 1968 was debated on the floor of the Senate, there were those opponents who argued that the bill was predicated on the theory that State officials do not have the character or the intelligence to enforce the laws as they existed. Further argument said the bill would centralize the authority in the Federal Government and subjugate the role of the individual States in the field of law enforcement by establishing a Federal police force. I neither advocate a Federal police force, nor do I propose a loss of power by the individual States to prosecute. What I firmly believe, however, is that when local officials either have been unable or unwilling to solve and prosecute crimes or to obtain convictions, even where the facts seemed to warrant, then there is an urgent need for Federal action to compensate for the lack of effective protection and prosecution on the local level. Lawless acts that are distinctly Federal crimes, and interference with civil voting rights is such a crime, must be protected against. There can be no question that this should be an appropriate area of Federal responsibility and vindication for the rights infringed upon should be committed to the Federal courts.

By investing the Federal Government with the authority and responsibility of protecting certain civil rights, we will be providing for a shared responsibility of both the States and the Federal Government. This will insure the necessary deterrent effect of law enforcement in situations where all too often local law enforcement has been unwilling or unable to protect a portion of the population that it is sworn to protect. Consequently, I believe a minimal, but necessary Federal presence in the field of law enforcement is essential. In this way those individuals having suffered economic intimidation in the exercise of their civil right to vote can gain needed relief; either under this act or under the several States statutes that are available.

Mr. President, this "company town" situation I have discussed today is not a problem of yesteryear. It is very much with us today, but remains largely unnoticed. Easily documented are "company towns" in which there is a vicious cycle of ever-deepening dependence of the citizens upon the whims of their

company bosses. In plain and simple language, I believe this to be grossly unjust. The legislation I send to the desk today is an equitable means of assuring the right of all employees to be free of economic retaliation when exercising their basic right to vote.

S. 3869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it shall be unlawful for any person, acting under color of law or otherwise,

(1) by force or threat of force, to willfully injure, intimidate, or interfere with, or to attempt to injure, intimidate, or interfere with another person or class of persons, or

(2) to dismiss from employment, to significantly modify the conditions of employment, to refuse to employ or promote, to demote, to evict, to refuse to sell or purchase goods or services made available to the public, or otherwise to apply economic pressure upon another person or class of persons in order to intimidate that other person or class of persons from or because that other person or class of persons is, or has been

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or any other legally authorized election official, in any primary, special, or general election;

(B) affording another person or class of persons opportunity or protection to participate in any of the activities described in paragraph (A); or

(C) lawfully aiding or encouraging another person or class of persons to participate in the activities described in paragraph (A).

(b) Any person aggrieved by a violation of subsection (a) may bring a civil action in an appropriate United States district court without regard to the amount in controversy. The court may grant as relief, as it deems appropriate, a permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual and punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff. The court may assess court costs and reasonable attorney fees against a non-prevailing plaintiff if it finds the action was brought maliciously or in bad faith.

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by subsection (a), the Attorney General may institute for the United States, or in the name of the United States, an action for equitable relief, including an application for a temporary or permanent injunction, restraining order, or other order, in an appropriate United States district court. An action commenced under this subsection shall not bar actions commenced under subsection (b) of this section.

(d) For purposes of this section, "person" means an individual, firm, corporation, unincorporated association, or other legal entity.

Sec. 2. The district courts of the United States shall have jurisdiction of proceedings instituted under the first section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Sec. 3. Section 245 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"(d) Whoever, whether or not acting under color of law,

(1) by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate, or interfere with another person or class of persons, or

(2) dismisses from employment, significantly modifies the conditions of employment, refuses to employ or promote, demotes, evicts, refuses to sell or purchase goods or services made available to the public, or otherwise applies economic pressure upon another person or class of persons in order to intimidate that other person or class of persons from or because that other person or class of persons is, or has been

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or any legally authorized election official, in any primary, special, or general election;

(B) affording another person or class of persons opportunity or protection to participate in any of the activities described in paragraph (A); or

(C) lawfully aiding or encouraging another person or class of persons to participate in the activities described in paragraph (A),

shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life."

By Mr. BURDICK (by request):

S. 3870. A bill to clarify the ownership of certain church property located in the Virgin Islands. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, under date of July 3, the Honorable Melvin H. Evans, Governor of the Virgin Islands, requested that I introduce legislation to remove a cloud on the title to a 1½-acre tract of land located in St. Thomas, Virgin Islands.

I ask unanimous consent that a copy of the communication received from Governor Evans, together with background material on this problem, be printed in the RECORD following my remarks.

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

THE VIRGIN ISLANDS
OF THE UNITED STATES,
Charlotte Amalie, St. Thomas, July 3, 1972.

Senator QUENTIN N. BURDICK,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BURDICK: It has come to my attention that a reversionary interest in a piece of real estate in the Virgin Islands owned by the Frederick Lutheran Church, a legal description of which is attached, constitutes a cloud on the title of the Church which can only be removed by Federal law which might be similar in language to Private Law 84–450 a copy of which is attached for your convenience.

The property in question, which is known as the Ebenezer Home, consists of an acre, more or less, on which the Church wishes to build 70 units of middle income elderly housing, having an estimated value of two and a half million dollars.

The Chase Manhattan Bank has agreed to finance the project under a Federal guarantee program. In the course of finalizing financing, the existence of a reverter clause in the deed from the Danish Government to the Church has come to light, which constitutes a cloud on the title which must be removed in order to obtain the permanent financing.

The property and a house with accommodations for five elderly ladies were conveyed with the provision that should the house cease to be used as housing for the elderly ladies, the entire property would revert to the Danish Government. The legislative history of Private Law 86–450 will reflect the fact that under the terms of the transfer of the Virgin Islands from the Danish Government to the United States, the United States acquired all right, title and interest in real estate then held by the Government of Denmark.

The reversionary interest, constituting for these reasons the interest of the United States in the real estate in question, requires Congressional action to transfer this interest to the Frederick Lutheran Church before the project can proceed further.

I have reviewed the matter in detail with my Attorney General, Ronald H. Tonkin, who in turn has discussed the details with counsel for your Subcommittee. All of us concur that the only feasible solution is legislative. I, of course, realize that the Congress faces a heavy workload prior to adjournment and apologize for the lateness of this request. As you are aware, housing here, especially for the elderly, is critically short, so I feel that anything we can do to expedite this project is of high priority.

We of the Virgin Islands will be deeply grateful for any assistance you can give us in this connection.

Sincerely,

MELVIN H. EVANS, M.D.,
Governor.

LEGAL DESCRIPTION OF EBENEZER HOME TRACT

ALL of that parcel of land and improvements thereon containing 1.57 acres of land more or less as shown by the St. Thomas Land Survey Protocol "C" Page 128, dated December 29, 1885, and known as Plot No. 9F of Hospitalsplantation No. 9 New Quarter, St. Thomas, Virgin Islands of the United States of America.

[86th Congress, H.R. 11854, July 14, 1960]

PRIVATE LAW 86–450

An act to clarify the ownership of certain church properties located in the Virgin Islands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby conveyed to the Frederick Lutheran Church of Charlotte Amalie, Saint Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to the following tracts of land, and improvements located thereon:

(a) The tract designated as number 7 Norre Gade (including number 34 Kongens Gade), King's Quarter, in the town of Charlotte Amalie, Saint Thomas, Virgin Islands, as described in the surveyor's records for the town of Charlotee Amalie, book I, folio 4, survey of December 15, 1836, consisting of thirteen thousand two hundred and ninety square feet, more or less; and

(b) The tract designated as number 23 Kongens Gade, King's Quarter, in the town of Charlotte Amalie, Saint Thomas, Virgin Islands, as described in the surveyor's records for the town of Charlotte Amalie, book I, folio 52, survey of March 25, 1843, consisting of eight thousand six hundred and thirty-eight square feet, more or less.

SEC. 2. There is hereby conveyed to the Christiansted Lutheran Church of Christiansted, Saint Croix, Virgin Islands, all of the right, title, and interest of the United States in and to the following tracts of land, and improvements located thereon:

(a) The tract designated as number 4 King Street, in the town of Christiansted, Saint Croix, Virgin Islands, as described in the records of the office of the public surveyor, Christiansted, Saint Croix, consisting of twelve thousand and five square feet, more or less; and

(b) The tract designated as number 51 King Street, in the town of Christiansted, Saint Croix, Virgin Islands, as described in the records of the office of the public sur-

veyor, Christiansted, Saint Croix, consisting of six thousand and seventy-three square feet, more or less.

SEC. 3. There is hereby conveyed to the Holy Trinity Lutheran Church of Frederiksted, Saint Croix, Virgin Islands, all of the right, title, and interest of the United States in and to the tract of land, and improvements located thereon, designated as numbers 11, 12, 13, and 14 Hospital Street, and 11, 12, 13, and 14 New Street, in the town of Frederiksted, Saint Croix, Virgin Islands, as described in the records of the office of the public surveyor, Christiansted, Saint Croix, consisting of forty-five thousand one hundred and thirty-four square feet, more or less.

Approved July 14, 1960.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3708

At the request of Mr. SCHWEIKER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 3708, the Fair International Trade Act of 1972, a bill to amend the tariff and trade laws of the United States, and for other purposes.

S. 3841

At the request of Mr. HANSEN, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 3841, to amend the Internal Revenue Code of 1954 to provide for an estate tax charitable deduction in the case of certain charitable remainder trusts.

MILITARY PROCUREMENT AUTHORIZATIONS, 1973—AMENDMENT

AMENDMENT NO. 1384

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

Mr. AIKEN (for himself, Mr. ANDERSON, Mr. ALLEN, Mr. SCOTT, Mr. STENNIS, Mr. SPARKMAN, Mr. GRIFFIN, and Mr. JORDAN of Idaho) submitted an amendment intended to be proposed by them jointly to amendment No. 1349 intended to be proposed by Mr. CRANSTON to the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

DISASTER RELIEF—AMENDMENT

AMENDMENT NO. 1385

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. SCHWEIKER. Mr. President, I introduce an amendment, for myself and the distinguished senior Senator from Pennsylvania (Mr. SCOTT), to H.R. 15692, an act to amend the Small Business Act to reduce the interest rate on Small Business Administration disaster loans.

This amendment would amend the Higher Education Act of 1965 so that private colleges and universities will be eligible for funds to restore or replace academic facilities destroyed or seriously damaged in a major disaster.

Public colleges and universities are eligible for such funds under existing law, but private institutions of higher education are not included. In Pennsylvania during tropical storm Agnes, 17 private colleges suffered flood damages of more than $15 million, while eight public colleges and universities suffered $4 million in flood damages. Thus it was private institutions that suffered considerably more damage, as a group, than the public institutions.

In the city of Wilkes-Barre, which bore some of the heaviest flood damage in the State, two private colleges near the Susquehanna River were devastated by the flood: Wilkes College, with 2,500 full-time students, sustained $10 million in losses to its buildings, books, and equipment. King's College, with 2,000 students, had $4 million in such losses. These colleges, in addition to the students they serve, are two of Wilkes-Barre's major employers. Elsewhere in Pennsylvania, 15 other private colleges suffered losses from the flood of up to $350,000.

Mr. President, private colleges have traditionally been eligible for Federal aid for construction and other purposes in all preceding higher education legislation. Thus, if they can demonstrate a need for disaster relief funds in the wake of tropical storm Agnes or other natural disasters, there is no reason why they should not be fully eligible for these funds.

Mr. President, I ask unanimous consent that the text of this 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. 1385

At the end of the Act, insert the following:

SEC. —. (a) Sections 761(a), 762(a), and 765 of the Higher Education Act of 1965 are each amended by striking out "public."

(b) Section 766 of the Higher Education Act of 1965 is amended to read as follows:

"DEFINITIONS

"SEC. 766. For purposes of this part, the term 'major disaster' means a disaster determined to be a major disaster under section 102(1) of the Disaster Relief Act of 1970."

(c) The amendments made by this section shall take effect on June 24, 1972. Part D of title VII of the Higher Education Act of 1965, as amended by Public Law 92-318, and as further amended by this section, shall apply with respect to any major disaster occurring after June 1, 1972.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT—AMENDMENT

AMENDMENT NO. 1386

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

Mr. CRANSTON. Mr. President, I submit for printing on behalf of myself, Senator MAGNUSON, Senator WILLIAMS, and Senator HART, an amendment to S. 945, the proposed "National No-Fault Motor Vehicle Insurance Act."

I am particularly gratified that the principal sponsors of S. 945, the Senator from Washington, (Mr. MAGNUSON), and the Senator from Michigan (Mr. HART) are cosponsors of this amendment as well as the Senator from New Jersey (Mr. WILLIAMS), who as chairman of the Committee on Labor and Public Welfare has such a direct interest and expertise in the areas to which the amendment is directed. I am also very grateful to the staff of the Commerce Committee for their cooperation in providing technical assistance in the development of this amendment.

This amendment applies to two sections of S. 945—section 109 which deals with incentives to improve programs and services for the provision of rehabilitation services to victims of accidents; and section 110 which deals with incentives to improve programs and services for the provision of emergency medical services to these victims. The basic intent of the provisions in the bill as reported would not be changed by the amendment.

Mr. President, legislation is currently under consideration in the Committee on Labor and Public Welfare dealing specifically with the Federal effort to strengthen programs in the fields of rehabilitation and emergency medical services. Specifically, I refer to H.R. 8395, the "Rehabilitation Act of 1972" now under consideration in the Subcommittee on the Handicapped for which I am serving as acting chairman, and section (3)(d) of S. 3716, which has been ordered reported to the Senate, and S. 3784, the proposed "Emergency Medical Services Systems Development Act of 1972" both of which I authored.

The amendment to S. 945 which I will offer when the bill is taken up will relate programs in these two fields resulting from the provisions of S. 945 to programs authorized under the legislation now being considered in the House and Senate Committee dealing specifically with these substantive areas. The purpose of the amendment is to strengthen the provisions of these sections of S. 945 and to insure that they will be carried out in conference with ongoing Federal programs for vocational rehabilitation and emergency medical services.

I am most impressed with the work of the Committee on Commerce and with the understanding that committee displayed of the needs of accident victims for, first, better hospital emergency rooms, ambulances, and equipment and more and better trained emergency doctors and paramedics, and second, rehabilitation to make possible a return to a sound and healthy personal, family, community, and employment life.

The slaughter on America's highways each day, week, month, and year is a deplorable and tragic fact.

Projections from studies indicate that mortality from accidents alone could be reduced by from 10 to 20 percent by proper medical care at the scene of the accident or en route to an emergency facility.

The Ambulance Association of America has estimated that 25,000 individuals are permanently injured or disabled every year as a result of inappropriate

measures taken by untrained ambulance attendants and rescue workers.

The problem is especially acute in rural and inaccessible communities. The National Academy of Sciences reports that seven out of 10 motor vehicle deaths occur in rural areas and communities with populations of under 2,500. In California, where one-fourth of the land area is 30 minutes or more away from any kind of ambulance service, a 1967 study showed the death rate in auto accidents to be 17 per 100,000 in urban areas, 46.8 in rural areas, and as high as 85.5 in the mountains.

Section 110 and 109 of S. 945 as reported aims to do something about two particularly discomforting aspects of the present situation; namely, the fact that a substantial percentage of the people who die as a result of automobile accidents die of "survivable injuries" and the fact that a substantial percentage of the people who are injured and seriously injured remain disabled—both in terms of the capacity for independent living and to obtain gainful employment—throughout life because they either fail to start a disciplined program or rehabilitation or start too late or because no rehabilitation facilities are available in their community. If the woeful inadequacies of America's emergency medical services system and the underutilization and undercapitalization of America's rehabilitation services system were remedied, we would in a relatively short period of time see a dramatic reduction in the total annual losses due to automobile accidents a development which would mean higher profit margins for commercial insurance underwriters which could be passed on to consumers in the form of lower premiums.

The Committee on Commerce developed and presented in sections 109 and 110 a way to join, first, the interest of the insurer and consumer in the reduction of losses due to automobile accidents with, second, the need of the rehabilitation and emergency medical systems for large amounts of new capital for facilities services, and training.

However, S. 945 as reported from the Commerce Committee applies the provisions of section 109 and 110 to only those States not adopting a State plan for no-fault insurance.

The more States improve their capabilities to provide effective services, the more accident victims will benefit from the results. With today's automobile-oriented population, many citizens do a lot of driving outside of their own States. If they suffer an accident outside of their home State, their chances of full recovery will depend upon the resources of the State where the accident occurs to provide immediate emergency care. Thus, in order to provide a real measure of assurance in this area, a national system applying nationwide standards of quality and comprehensiveness is needed.

Because the highway accident death and disability rate is a national problem due to the high mobility of the population, the amendment proposes that the provisions of section 109 and 110 as they would be revised be applied as minimum standards for acceptable State no-fault motor vehicle insurance plans.

Sections 109 and 110 as reported from committee include a provision requiring each insurer writing qualifying no-fault policies pursuant to the Federal plan to invest 1 percent of the total premiums from the sale of such policies in rehabilitation and emergency medical services facilities. This mandatory investment would have applied to insurers selling no-fault policies only in those States not adopting a plan for no-fault motor vehicle insurance meeting the minimum requirements of S. 945. Estimates are that only a small number of States would fall into this category—thus the funds made available by this provision would be relatively small.

In order to expand the potential base from which investments authorized under sections 109 and 110 can be derived, the amendment would apply such a premium investment policy to both programs under a State plan as well as under a Federal plan. The base is also expanded to include not only premiums from the sale of qualifying no-fault policies but from the sale of mandatory optional coverages as well.

In 1970, the latest date for which figures are available, it was estimated that the total premiums from the sale of automobile insurance totaled $14.8 billion. With inclusion of premiums for mandatory optional coverages, this figure is increased to approximately $18 billion. Thus, at the maximum, under the amendment some $180 million could be made available each year for improving our ability to meet the needs for rehabilitation of those injured in accidents, and the same amount would be made available each year to improve the Nation's ability to provide quick and effective emergency medical services to those injured in accidents. The bill as reported as well as the amendment would authorize these investments until January of 1978.

To assist the insurer in making these investments, and to encourage that the moneys made available as a result of these provisions are used for programs most essential to the development of a State's resources to provide necessary emergency medical services and rehabilitation services, the State Vocational Rehabilitation Agency, and the State Emergency Medical Committee might find it useful to make available to insurers in the State information on community needs in these areas which would conform to the respective plans adopted and which would meet with the approval mechanisms required as explained later in my summary of the amendment's provisions.

In view of the national policy established by the Congress some years ago to the effect that regulation of insurance should be a matter for the States under a delegation of the Federal power to regulate interstate commerce, the amendment also makes the requirement of such investments a matter of discretion on the part of the State insurance regulatory authority rather than making the investments mandatory—for States operating under the Federal plan—as required in the bill as reported from committee. There is reason to believe that a substantial number of States will choose to require these investments.

I would like to point out also, that these investments are not pure philanthropy on the part of the insurance companies. Through improving the Nation's capability of assuring the quickest and most complete recovery of an accident victim, the payouts under policies would be commensurately reduced. The automobile accident rate and the annual highway death toll is a national problem. I believe the insurers recognize this and will see that it is in their own self-interest to support such an investment program in each State and to cooperate in its implementation.

I would like to summarize the provisions of this amendment for the benefit of the Members of this body.

SUMMARY OF AMENDMENT

Section 109(a) as reported provided that the insurer—which term includes self-insurers throughout the amendment—refer each victim of an accident who as a result of his injury will be eligible for basic economic loss—that is, unable to work, attend school, keep house, and so forth—to the State rehabilitation agency or agencies administering the State plan for rehabilitation services under the Vocational Rehabilitation Act. The insurance would then cover the costs as a basic benefit under no-fault automobile insurance of any rehabilitation services which the appropriate agency authorizes. This provision is needed to remedy the fact that the present tort and liability insurance system does not pinpoint responsibility on any one party to get the accident victim started in rehabilitation.

The amendment offered makes clear that these services will be provided in conformance with the approved programs of the State plan for rehabilitation services and will meet all the standards of quality and performance which are prescribed by that plan. The amendment adds language which clarifies that the services and the providers of such services must be approved by and be in conformity with the State plan for rehabilitation services as specified under the Vocational Rehabilitation Act.

Subsection (b) as reported provides that the insurer may, after 30 days notice in writing, make deductions from payments for monthly earnings to which an individual is entitled if the individual refuses without good cause to accept appropriate rehabilitation services. As in the committee bill, an individual is deemed to have good cause to refuse such services if he is a member of a church or religious sect which teaches its members to rely on prayer or spiritual means for treatment and cure of any physical or mental impairment and refuses services on those grounds.

Under the bill as reported from committee, the language was unclear as to the services an individual would be able to refuse, and defined good cause in the statute only as a religious prohibition.

The amendment further clarifies that the requirement to accept rehabilitation services is for those that are "appropri-

ate," and further defines good cause as services which "are inaccessible or inappropriate in terms of sound medical practice and rehabilitation standards which shall take into account as one factor the degree of extreme discomfort involved in the prescribed program of rehabilitation."

Subsection (c) of the amendment revises subsection (d) of section 109 in the reported bill. Subsection (d) required all insurers writing policies under the Federal no-fault plan to invest 1 percent of the total amount of premiums collected each year until January 1, 1978, with up to 50 percent of such investments in grants, loans, or equity investments in the construction or improvement of rehabilitation facilities within the State, provided that such investments were approved in advance by the State rehabilitation agency or agencies, or by the Secretary of Health, Education, and Welfare. The remainder of the investment was to be paid to the State rehabilitation agency or agencies as an ordinary and necessary business expense within the State for the purposes of construction or improvement of rehabilitation facilities, programs, and equipment within the State.

Under the bill as reported from committee, such investments by insurers were required only in States operating under the Federal no-fault plan. In addition, language put emphasis on investments in the construction and improvement of facilities rather than improvement and expansion of services to individuals injured in automobile accidents, or in research, training, and development of new rehabilitation techniques.

In order to broaden the scope and applicability of these provisions, and to insure that such investments are utilized to the greatest benefit of accident victims, the amendment does the following:

First, authorizes the State insurance regulatory authority to require each insurer to make investments of 1 percent of premiums, less premium taxes, collected each year from the sale of both qualifying no-fault policies and mandatory optional coverages within the State. There are two broadening provisions in this amendment. The provision would apply to insurers writing policies under a State plan as well as under the Federal plan—thus all States would be able to participate; and second, the 1 percent would be based on premiums from not only the sale of qualifying no-fault policies, but from the sale of mandatory optional coverages as well.

Second, broadens the purposes to which the first 50 percent of the investments may be directed to include not only construction or improvement of rehabilitation facilities, but also development, expansion, or improvement of services, and research, training, and the development of new rehabilitation techniques; and requires that any such investments must be in conformance with the approved State vocational rehabilitation plan. The same broadening of the purposes to which the investments can be directed under the remaining 50 percent of the investment made by the State vocational rehabilitation agency or agencies is made by the amendment.

The amendment clarifies that such investments may not be used by the State rehabilitation agency as part of its non-Federal share of payments required by the Vocational Rehabilitation Act. The agency is required to submit to the State insurance regulatory authority, and to the Secretary of Health, Education, and Welfare, as well as make available to the public an annual accounting of all grants, loans, or equity investments approved or made by it pursuant to this section.

Section 110 has been substantially changed by the amendment to make its provisions compatible with programs which are being developed for the provision of comprehensive emergency medical services and which will be developed as a result of legislation which is expected to be adopted in both the Senate and House this Congress.

Subsection (a), paragraph (1) directs each insurer selling automobile no-fault policies to assist the State emergency medical committee in the development and maintenance of an effective and adequate emergency medical services system for victims of motor vehicle accidents, and defines the phrase State emergency medical committee to include the insurance regulatory authority, the highway safety authority, and the health authority approved for this purpose by the Secretary of Health, Education, and Welfare—the three governmental groups which must work cooperatively.

Subsection (a) paragraph (2) requires that the State emergency medical committee coordinate investments made under the provisions of the section and insure they are in conformity with the provisions of appropriate Federal and State law.

Subsection (a) paragraph (3) provides that each governmental unit to which funds under the section are made available shall prepare a plan for the provision of comprehensive emergency medical services which must be approved by the Secretary of HEW in accordance with regulations he prescribes. These regulations would tie in with requirements of legislation S. 3716, S. 3784, and H.R. 15859 now being acted upon in the House and Senate committees having jurisdiction over health matters.

Subsection (b) of section 110 as reported by the committee required all insurers writing policies under the Federal no-fault plan to invest 1 percent of the total amount of premiums collected each year until January 1, 1978, in emergency medical and transportation facilities, programs and equipment within the State, with approval of such investments by the State agency administering the State highway safety program.

The amendment makes changes in this provision similar to those made to the parallel provision in section 109, as follows:

First. Authorizes the State insurance regulatory authority to require each insurer to make investments of 1 percent of premiums, less premium taxes, collected each year from the sale of qualifying no-fault policies and mandatory optional coverages within the State. There are two broadening provisions in this amendment. The provision would apply to insurers writing policies under a State plan as well as under the Federal plan—thus all States would be able to participate; and second, the 1 percent would be based on premiums from not only the sale of qualifying no-fault policies but from the sale of mandatory optional coverages as well.

Second. The provision of emergency medical services has in recent years become a matter of great interest to the medical community and to all health care consumers, with the resultant recognition that emergency medical services cannot be provided on a piecemeal basis, but must be part of a program fully planned and coordinated with the participation of all elements of the community. The bills pending before the health committees in each House respond to this need and require a total community effort in the planning and implementation of emergency medical services systems.

Thus the provisions in the amendment covering the purposes to which the first 50 percent of the investments can be directed are amended to require such investments to be in conformance with the plans for the establishment of comprehensive emergency medical services systems required by subsection (a)(3), and to meet the review and approval requirements established by the Secretary of Health, Education, and Welfare. This provision will insure that investments will be in programs or components of programs which meet the standards of quality recommended by medical authorities and will be in conformance with the community needs.

The State Emergency Medical Committee is the designated conduit of the remaining 50 percent of the investment, playing a parallel role to that of the State Vocational Rehabilitation Agency or agencies under section 109. The amendment requires that any distribution of investments made by the State Emergency Medical Committee must also be in conformance with the approved plans of the State or communities and must meet the review and approval requirements approved by the Secretary of HEW for such plans.

Unlike the prohibition included in section 109, as amended, the amendment specifies that investments under section 110 may be applied to the non-Federal share of grants or contracts awarded for emergency medical services systems. This discretion is provided because the bills pending in both the Senate and House committees regarding emergency medical services provide for project grants—with a State share—not formula grants, as currently in the vocational rehabilitation program where States have traditionally been able to meet the non-Federal share requirements.

The State Emergency Medical Committee is required to submit to the State insurance regulatory authority, and to the Secretary of Transportation and the Secretary of Health, Education, and Welfare, as well as make available to the public an annual accounting of all grants, loans, or equity investments ap-

proved or made by it pursuant to this section.

Subsection (c) directs Federal authorities to make their expertise and experience in terms of emergency medical services available to the States. The inclusion, as one Federal program, of the Public Health Services is self-explanatory, as is that of the Department of Transportation, but the subsection also includes the Department of Defense which has developed emergency medical services systems in Indochina for wounded combat soldiers and airmen dramatizing the opportunities available to the civilian community to utilize similar new techniques and developments for these purposes. The translation of these military techniques to civilian programs has great potential as is evidenced by the great success and widespread demand for further implementation of the MAST program.

An important change made by the amendment is the inclusion in the list of provisions with which the State no-fault plan must be consistent, of sections 109 and 110. As reported from committee, the bill directed a State to provide the means to assure the availability of adequate rehabilitation services and to improve the emergency medical response system. The amendment would provide the means for the State to implement this directive.

Although requiring that their programs in this area must be substantively consistent with the provisions of 109 and 110 this amendment would in no way make mandatory the discretionary authority given each State insurance regulatory authority with respect to premium investments.

The amendment deletes section 203(c) from the bill since its provisions are included in section 109 which the amendment makes a requirement of a State plan for no-fault insurance.

I ask unanimous consent, Mr. President, that the full text of the 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. 1386

On page 46, line 3, delete all through line 21 on page 51 and insert in lieu thereof the following:

REHABILITATION SERVICES

SEC. 109. (a) The insurer or self-insurer shall refer each person to whom benefits are paid or expected to be paid for three months or more for net basic economic loss to the State agency or agencies (or delegate agencies designated by such agency or agencies) administering or supervising the administration of the State plan for rehabilitation services approved under the Vocational Rehabilitation Act (29 U.S.C. 35) for the provision of appropriate rehabilitation services. An insured may elect to receive such rehabilitation services, authorized by a State agency operating under the approved State plan for vocational rehabilitation, from any private agency, organization, institution, or individual offering rehabilitation services under the State plan.

(b) If a person who is entitled to benefits of a qualifying no-fault policy or approved self-insurance plan refuses without good cause to accept appropriate rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, the insurer or self-insurer is authorized, after thirty days notice in writing to such person, to make deductions from any payment or payments to which such individual is entitled, until the total of such deductions equals 50 per centum of such individual's benefit or benefits for monthly earnings for any month in which such individual refuses without good cause to accept appropriate rehabilitation services. Any person who refuses to accept appropriate rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause if (1) he is a member or adherent of any church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the teachings of such church or sect, and if he refuses solely because of his adherence to the teachings or tenets of such church, or sect, or (2) if he refuses because the services are inaccessible or inappropriate in terms of sound medical practice and rehabilitation standards which shall take into account as one factor the degree of extreme discomfort involved in the prescribed program of rehabilitation.

(c) The State insurance regulatory authority is authorized to require each insurer writing qualifying no-fault policies within a State to invest until January 1, 1978, one per centum of the total amount of premiums less premium taxes collected each year from the sale of qualifying no-fault policies and mandatory optional coverages within such State. The State insurance regulatory authority shall prescribe regulations which shall set forth the extent to which, for the purposes of this subsection, a self-insurance shall be deemed to be an insurer. Up to 50 per centum of such investment may be in grants, loans, or equity investments in the construction or improvement of rehabilitation facilities, in the development, expansion or improvement of services to victims of accidental harm, and in research, training, and development of new rehabilitation techniques for victims of motor vehicle accidents: *Provided*, That such investments are approved in advance by the State agency or agencies administering or supervising the administration of the State vocational rehabilitation plan, and are in compliance with such approved State plan. The remainder of the required investment shall be paid to such State agency or agencies no later than April 1 of each year, as an ordinary and necessary expense of doing business in the State, and such sums shall be expended by such State agency or agencies for the development, expansion, or improvement of rehabilitation services to handicapped individuals disabled in motor vehicle accidents and on research and development of new rehabilitation techniques and methods. Investments made pursuant to this section may not be used by the State agency for the non-Federal share of payments required by the Vocational Rehabilitation Act. Such State agency or agencies shall submit to the State insurance regulatory authority and to the Secretary of Health, Education, and Welfare and make available to the public an annual accounting of all grants, loans or equity investments approved or made by it pursuant to this subsection. The State insurance regulatory authority shall withdraw the authority to write qualifying no-fault policies from any insurer that fails to make any investments required, or disapprove any self-insurance plan if the self-insurer fails to make investments required.

EMERGENCY MEDICAL SERVICES

SEC. 110. (a)(1) Each insurer writing qualifying no-fault policies within a State and any self-insurer shall assist the State emergency medical committee in the development and maintenance of an effective and adequate emergency medical services system for victims of motor vehicle accidents. As used in this section, the term "State emergency medical committee" means a committee composed of a designee of the State agency administering or supervising the State highway safety program approved under section 402 of title 23, United States Code, of the State Health Authority approved for purposes of this section by the Secretary of Health, Education, and Welfare, and of the State insurance regulatory authority.

(2) Such State emergency medical committee shall coordinate investments made under this section and ensure that such investments are made in conformance with State and Federal laws related to the development and planning of State and area comprehensive emergency medical services systems.

(3) Each governmental unit to which funds are paid pursuant to subsection (b) of this section shall prepare a plan for the provision of a State or area comprehensive emergency medical services system which plan must be approved by the Secretary of Health, Education, and Welfare, in accordance with regulations he shall prescribe before any funds made available under this section can be invested. Such regulations shall include all elements of regulations established by such Secretary to govern Federal grants or contracts for comprehensive emergency medical services systems.

(b) The State insurance regulatory authority is authorized to require each insurer writing qualifying no-fault policies within a State to invest until January 1, 1978, 1 per centum of the total amount of premiums less premium taxes collected each year from the sale of qualifying no-fault policies and mandatory optional coverages within such State. The State insurance regulatory authority shall prescribe regulations which shall set forth the extent to which, for purposes of this subsection, a self-insurer shall be deemed to be an insurer. Up to 50 per centum of such investments may be in grants, loans, or equity investments in emergency medical and transportation facilities and equipment and the operation of emergency medical services programs within such State: *Provided*, That such investments are in conformance with the State or area plans approved pursuant to subsection (a)(3) of this section and are deemed as amendments to such plans and as such are reviewed and approved in accordance with the regulations prescribed by the Secretary of Health, Education, and Welfare. The remainder of the required investments shall be paid to the State emergency medical committee no later than April 1 of each year, as an ordinary and necessary expense of doing business in the State, and shall be distributed by such committee to State or area comprehensive emergency medical services systems developed pursuant to subsection (a)(3) of this section: *Provided*, That such distributions are in conformance with such State or area plans and are deemed as amendments to such plans and as such are reviewed and approved in accordance with the regulations prescribed by the Secretary of Health, Education, and Welfare. Investments made under this section may be applied to the non-Federal share of grants made in support of comprehensive emergency medical services systems. The State emergency medical committee shall submit to the State insurance regulatory authority and the Secretary of Transportation and the Secretary of Health, Education, and Welfare, and make available to the public an annual accounting of all grants, loans, or equity investments approved or made by it pursuant to this subsection. The State insurance regulatory authority shall withdraw the authority to write qualifying no-fault policies from any

insurer that fails to make any investments required, or disapprove any self-insurance plan if the self-insurer fails to make investments required.

(c) The Secretary of Health, Education, and Welfare, in consultation with the Secretary of Transportation and the Secretary of Defense, shall cooperate with States and local governmental units for the purpose of aiding them to solve their emergency medical service system problems, by providing the benefit of relevant experience of the Public Health Service and such departments in services, transportation, communications, training, licensing, construction, and improvement of facilities, equipment, care, treatment, supervision, inspection, and standards.

On page 54, between lines 12 and 13, insert the following and renumber clauses (8) and (9) accordingly:

"(8) section 109 (rehabilitation services):

"(9) section 110 (emergency medical services);"

On page 54, beginning on line 25, strike out all through line 5 on page 55 and renumber clause (4) accordingly.

On page 59, beginning on line 4, strike out all through line 3 on page 60 and reletter subsections (d) and (e) accordingly.

AMENDMENT NO. 1387

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

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (S. 945), the National No-Fault Motor Vehicle Insurance Act of 1972.

NOTICE OF CHANGE IN HEARING DATE ON U.S. MAGISTRATES

Mr. BURDICK. Mr. President, on July 24, 1972, I announced that hearings would be held by the Senate Subcommittee on Improvements in Judicial Machinery relating to the operation of the U.S. magistrates system, including an amendment to the statutory ceiling on magistrates' salaries as proposed by H.R. 7375, on August 3, 1972, in room 1114 and on August 10, 1972, in room 2228 of the New Senate Office Building.

I now wish to amend this announcement to advise that the hearing date of August 10 has been changed to August 11, commencing at 10 a.m., in room 2228, New Senate Office Building.

ADDITIONAL STATEMENTS

TODAY'S CHALLENGES

Mr. STENNIS. Mr. President, the distinguished Senator from Alabama (Mr. ALLEN), gave an address at David Lipscomb College in Nashville, Tenn., on June 3 entitled "Facing Today's Unmet Challenges," in which he gave a very clear analysis of the basic challenges that still face mankind, after centuries of progress.

In remarks to the Senate breakfast group on June 19, Senator ALLEN pursued this subject. He expressed the view that each of us, living as we are in the most exciting era of history, needs a sense of purpose in relation to it. He said that though vast changes have taken place in man's knowledge and abilities, yet basically the world is the same, for the power of God's will and judgment are unchanging.

Senator ALLEN very convincingly pointed out that in several qualities of character of our people, including spirituality, patriotism, and ability to live together in peace and harmony, there has been little improvement in the past 200 years, and he stressed the need for all to do their parts as constructive builders toward a better world. I ask unanimous consent that Senator ALLEN's address of June 3 be printed in the RECORD where it will prove of value to a wide and varied group throughout the Nation. The thoughts reflected in his remarks are further evidence of Senator ALLEN's truly fine contributions to the Senate and to the Nation.

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

FACING TODAY'S UNMET CHALLENGES

Today we live in an age of change. The environment is changing. Our rivers and lakes and oceans and our air are being polluted. There is a flight of the unemployed and the unemployable from the rural areas to the cities and a flight of the more affluent from the cities to the suburbs. We are taking giant strides in science, in medicine, in technology.

Perhaps a decade ago, I heard Dr. Wehrner Von Braun say in a speech that man's store of knowledge doubled in the period 1750 to 1900, a space of 150 years; that it doubled again in the period 1900 to 1950, a period of only 50 years; that it doubled again in the decade 1950 to 1960; and as he looked into the decade of the 60s, he said that it would double again by 1967. I am sure that Dr. Von Braun would be the first to say that his suggestion is an over-simplification to emphasize the fact that we have an explosion of knowledge taking place in the world today.

Yes, there are explosions, or rapid accelerations in other fields. There is an explosion of population. It has been estimated that at the time of the birth of Christ there were 250,000,000 people in the world and that in 1215, at the time of the Magna Charta, the population had risen only to some 350 million because of wars, famines and plagues. By 1776 it had risen to 850 million and double that to one billion, 700 million by 1914. Then it doubled by 1970 to 3 billion, 600 million, and it is estimated that by 2006 it will have doubled again to 7 billion, 200 million.

Yes, there is an explosion of debt, both private and public, for the national debt stands at some $450 billion and private debt at some 1½ trillion dollars.

There has been an explosion in the gross national product from some $55 billion in 1933 to some 1 trillion, 100 billion dollars this year.

There is an explosion in government expenditures, local, state and national. The expenditures of the Federal Government in the year starting July 1 will run well over 250 billion dollars, which is many billions more than the entire gross national product of some 211 billion dollars in 1945 as World War II was coming to a close.

I relate all of these facts to point out that the evidences of change are all about us—men on the moon, live television from the moon and from anywhere on earth, airplanes travelling several times faster than sound, nuclear bombs, polio conquered, heart transplants, change everywhere.

But let's examine things a little closer.

There is an old French proverb to the effect that the more things change, the more they seem to be the same.

And Charles Dickens, writing around 1840 or 1850 in the *Tale of Two Cities* about conditions at the time of the French Revolution, said that:

It was the *Best of Times*—It was the *Worst of Times*

It was the *Age of Wisdom*—It was the *Age of Foolishness*

It was the *Epoch of Belief*—It was the *Epoch of Incredulity*

It was the *Season of Light*—It was the *Season of Darkness*

It was the *Spring of Hope*—It was the *Winter of Despair*

We *had everything before us*—We *had nothing before us*

And Dickens wrote that conditions, as he related that they were some 50 or 60 years before, were the same as they were at the time he wrote *A Tale of Two Cities*. And I submit that our times today can well be described in similar terms, for truly

It is the *Best of Times*—It is the *Worst of Times*

It is the *Age of Wisdom*—It is the *Age of Foolishness*

It is the *Epoch of Belief*—It is the *Epoch of Incredulity*

It is the *Season of Light*—It is the *Season of Darkness*

It is the *Spring of Hope*—It is the *Winter of Despair*

We have *everything before us*—We have *nothing before us*

So, now, as in the past, we can go just as far in life as our abilities, our ambitions and our efforts will take us.

But the explosion of knowledge that we are having illustrates the fact that having reached this milestone in your lives today, you cannot rest on your laurels. In order to keep up, you must continue your studies, by continued college work and by private study, reading and research.

I know that your education thus far has supplied you with many facts, with much knowledge and with wisdom properly to apply that knowledge. I know that you have had instilled within you the desire to learn as well as the ability to study and learn.

I know that your education thus far has helped each of you to find yourself as an individual and that it will help you to lose yourself in interests, causes and ideas larger than you are, and to help you do your part in creating a better world.

You are truly participants in one of the most exciting eras in history, and it is important that you have a sense of purpose in relation to it.

But we were analyzing the premise that perhaps, with all the changes taking place in the world, things haven't changed so much after all.

There is a familiar prayer that goes: "O, God, give us serenity to accept what cannot be changed; courage to change what should be changed; and wisdom to distinguish the one from the other."

God's love hasn't changed; nor have the immortality of the soul; the Gospel message; the reality of Satan, of sin and our susceptibility to sin and the wages of sin; the inevitability of death and the judgment; the need to pray and the power of prayer; the hope and, yes, the availability of salvation. None of these has changed in more than 1900 years. They haven't changed, and they can't change.

Now, let us turn to an examination of the character, of some of the qualities and attributes of our people to see if there are areas in which no advancement, no change for the better, has taken place. Many such areas come to mind, and I will name a few. Others will doubtless occur to you.

First, I would suggest that in the area of spirituality there has been no improvement in the last two centuries. Compared with 200 years ago, there is less reverence, less of a feeling that God is a part of our everyday lives, less of a feeling that God rules and that God cares, less of a feeling that we are accountable to God for our actions on this earth.

Next, I would suggest that in the area of patriotism we are falling behind. Never before have Americans paraded, carrying proudly aloft the flag of our enemies, and never before have citizens publicly declared their wish

for a victory by our enemies over our own country.

In the area of man's ability to live in peace and harmony with his fellow man, there has been no change for the better. This applies to our dealings with our neighbors, with others with whom we come in contact, and to dealings between citizens of this country and foreign nations.

Then, in the area of individual enterprise, self-reliance and resourcefulness—what was once called the pioneer spirit—there has been no change for the better. All too often the feeling is, let the government do it, let the government assume the burden and pay the cost.

In these areas there has been no change for the better in this so-called age of change. But in these areas, change is not only possible, it is highly desirable.

So, it is in these areas that I would challenge you today to make your influence felt as you go through life.

Then, too, throughout the land there is the attitude of permissiveness and a rebellion against authority and against institutions that have helped make America the greatest country in the world. Freedoms are abused and authority is flouted. People set themselves above the law when all are subject to the law, and no one is above the law. Some would tear our country apart and substitute anarchy and chaos for peace and tranquility and for law and order.

I think of the old poem which goes something like this:

BUILDERS

I watched them tearing a building down—
A group of men in a busy town
With a ho-heave-ho and a lusty yell—
They swung a beam and a side wall fell
I asked the foreman, Are these men skilled,
The men you would hire if you had to build?"
He gave a laugh and said, "No, indeed,
Unskilled labor is all I need."
I can easily wreck in a day or two—
What builders have taken years to do
So I thought to myself as I went my way—
"Which of these roles do I try to play?"
"Am I a builder who works with care
Measuring life with the rule and square?"
"Or am I a wrecker who walks the town
Content with the role of tearing down?"

So, let me not only encourage you, but urge you, as you live out your lives, and as you shape and participate in shaping the decisions and conduct of yourselves and of your fellow man, to be *builders* and not *wreckers*. Builders have built this country and made it great. It must not be abandoned to wreckers. Each of us must do our part.

LASSIE

Mrs. SMITH. Mr. President, a recent editorial in the July 25, 1972, issue of the Bangor. Maine Daily News gives the pause for thought—especially parents. Because it does, I ask unanimous consent that it be placed in the RECORD at this point.

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

FCC BOOTS LASSIE

Although Lassie fans are sure to lament the recent FCC ruling, this broadcasting regulatory agency has, in essence, decided that "Wild Kingdom" has more redeeming value as a re-run than the world's most famous canine drama, "Lassie."

In a recent 5-to-1 vote, the FCC refused Lassie's sponsor a waiver of the "prime time access rule" for the coming season. This ruling will prohibit the Campbell Soup Company from running Lassie re-runs this fall.

Though the ruling will protect TV viewers from re-runs to some extent, the decision has broader implications. Since the FCC had previously granted a similar waiver for re-runs of "Wild Kingdom," the Lassie ruling places the FCC smack dab in the middle of a business in which (we think) they have no business—making qualitative judgments about our television programming. The FCC admitted basing their ruling on the relative quality of the two programs.

Now we like Wild Kingdom; it's a good factual presentation. But television's fictional Lassie has been around for 17 years. This canine heroine was bringing honest tears to children's eyes and warming the hearts of American kids long before Wild Kingdom was even a plot. And Wild Kingdom's Dr. Perkins was probably still doing undergraduate work when Lassie first became a movie star.

With Lassie's TV demise, we now have one minority group yet to be heard and one federal regulatory body yet to be investigated.

As FCC Chairman Dean Burch drops his gavel to the podium, we hear him say, "The chair now recognizes testimony from the 'peanut gallery'."

USDA ACTS ON INEQUITIES IN FOOD STAMP PROGRAM

Mr. PERCY. Mr. President, I am pleased that the Department of Agriculture has once again demonstrated its responsiveness to testimony presented before the Select Committee on Nutrition and Human Needs concerning inequities in our food assistance programs.

On June 7 I presided at a hearing of the Select Committee which heard testimony from Dorothy Cain and Dr. Richard Byerly of Des Moines, Iowa.

Dorothy Cain participates in the food stamp program and at the same time is pursuing her education as a WIN recipient under a program sponsored by the Des Moines Area Manpower Council.

Because of changes in regulations designed to achieve nationwide uniformity in eligibility standards and income determination, Dorothy Cain faced a situation in which her food stamp bonus was going to be reduced although her income remained unchanged.

Dorothy Cain was being forced to choose between continuing her education—and thereby becoming a contributing member of her community—or feeding her family by dropping out of the program.

I have received word from Richard Lyng, Assistant Secretary of Agriculture, that as a result of Dorothy Cain's and Dr. Byerly's testimony, an amendment to the food stamp regulations has been published which will eliminate the inequitable provision. Secretary Lyng writes:

We are proposing that the shelter adjustment be calculated on the basis of income remaining after all other allowable deductions instead of our current procedure which uses total income, less mandatory fees such as taxes, as the basis of determining a shelter hardship. We expect this change to have a favorable impact on WIN participants who have high tuition and child care costs but for whom this money may not actually be available.

I trust that the proposed change in the computation of the shelter hardship adjustment will remove the disincentive to Dorothy Cain—and others in a similar position—to continue their education in such way as to become self-sufficient.

I welcome this additional evidence of the close cooperation between the Department of Agriculture and the Select Committee on Nutrition and Human Needs in improving our food assistance programs.

Mr. President, I ask unanimous consent that the text of Secretary Lyng's letter to me be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 26, 1972.

HON. CHARLES PERCY,
U.S. Senate.

DEAR SENATOR PERCY: In response to testimony provided by Mrs. Dorothy Cain and Dr. Richard Byerly at the Senate Select Committee on Nutrition and Human Needs, we have reevaluated our procedures on the handling of income in the Food Stamp Program. We are publishing a proposed rule making in the *Federal Register* for public comment which revises the manner in which the shelter hardship adjustment is computed.

Our regulations were written to consider income from any source in the determination of a family's purchase requirement. Because the income calculation shows how much the family will pay for its stamps, deductions are made for mandatory expenses such as taxes. Deductions are also permitted for such items as excessive shelter, child care and medical costs. Actual tuition costs for students or WIN recipients are additionaly deducted. The net food stamp income after these deductions is designed to be an accurate base from which to determine food stamp purchase price.

While we think it critical that we retain our "income is income" philosophy, we now believe that the technical way in which we calculate some of these adjustments, specifically the shelter hardship deduction, is not equitable. We are proposing that the shelter adjustment be calculated on the basis of income remaining after all other allowable deductions instead of our current procedure which uses total income, less mandatory fees such as taxes, as the basis of determining a shelter hardship. We expect this change to have a favorable impact on WIN participants who have high tuition and child care costs but for whom this money may not actually be available. However, for those households which, under the old regulations were permitted a total disregard of WIN income, we anticipate that there will still be a slight upward revision in their purchase requirement over that under the old program.

In Mrs. Cain's case, the method of calculating her purchase requirement lowers it from $64 to either $40 or $46 since her adjusted income is on the borderline of our tables. As you can see, this is significant difference and one which we feel will prove beneficial to Mrs. Cain.

Your concern and interest in this matter are appreciated. If you have any further questions or comments, please do not hesitate to contact us.

Sincerely,

RICHARD LYNG,
Assistant Secretary.

THE GENOCIDE CONVENTION: A CONTRIBUTION TO WORLD PEACE

Mr. PROXMIRE. Mr. President, I ask you to recall the effective U.S. leader-

ship at the 1945 San Francisco convention which led directly to a strong endorsement of the international promotion of human rights in the U.N. Charter.

The U.S. delegation supported the human rights section in the U.N. Charter because it recognized that unchecked domestic oppression too frequently grows into foreign aggression, as demonstrated by the Axis powers.

It was 27 years ago that the United States led in the worldwide struggle for human rights. Although we can be proud of our leadership at the 1945 San Francisco convention, we must not rest upon our laurels. For 23 years the Senate has refused to take a stand on the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

I believe that we Americans overwhelmingly support international standards of human dignity. We want for other people those freedoms which we cherish.

Nevertheless, cynical voices are raised in objection to the Genocide Convention. They ask: What can it accomplish and why do we need it when our own laws already protect us from the threat of genocide?

Mr. President, my answer to these critics is this: The United States has as its stated foreign policy objective the promotion of peace and freedom. Human rights, including the right to live, and peace are historically interdependent. When the human rights of any people are threatened, peace itself is in jeopardy.

I call upon the Senate to consider the connection between human rights and world peace. I urge the Senate to assume a position of leadership by ratifying the Genocide Convention.

CREDIBILITY OF THE PRESS

Mr. GOLDWATER. Mr. President, it has long been my contention that if anything happens in this country to damage what we call the freedom of the press it will come about through raw partisanship and gross irresponsibility on the part of some segments of the press itself. This is a concept which is seldom heard and which many members of the so-called fourth estate reject as ridiculous. They would have you believe that the only threat to press freedom in this country is raised by political figures or Government officials who have the temerity to criticize the press and point out mistakes made by the news media as well as ideological preferences shown by some segments of that media.

Mr. President, for some years I had the distinction, I believe, of being one of the major targets of those considerable numbers of reporters and commentators with an affinity for liberal causes, candidates, and proposals. More recently, of course, Vice President AGNEW has become the object of almost hysterical criticism by some elements of the news media. His unpopularity began with a well-reasoned TV address several years ago in which he asked the newspapers and the networks to correct some of the major deficiencies which were showing up very obviously on TV screens and front pages throughout the country.

Mr. President, my point here today is that these have been a rough few weeks for press credibility and certainly not because of anything done by politicians or Government officials. The violence done to the credibility of the press—and consequently the threat arising to freedom of the press—were occasioned by the fact that the American Newspaper Guild for the first time in 40 years jumped into politics by endorsing the Democrat candidate for President before the Republicans even held their convention.

In addition to the action of the guild leadership against the wishes of hundreds of its dues-paying members, there is the example of this year's Pulitzer Prize winner for journalism—columnist Jack Anderson—getting caught in a deliberate effort to smear the Democrat nominee for Vice President and being forced to apologize publicly. Of course, in this case, public interest made it impossible for Anderson to get away with this bit of character assassination. Almost as soon as he broadcast—over a Mutual System radio network—that Senator TOM EAGLETON had been arrested for drunken driving in Missouri, he was called upon to produce his evidence. The fact that he had no evidence and was forced to admit to total irresponsibility did violence to the credibility of the American press on a scale it will be impossible to measure.

Thus, Mr. President, I repeat my assertion that if freedom of the press suffers any major setbacks in this day and age it will be as a result of actions taken by some members of the press itself—actions such as the guild endorsement of a political candidate and the Anderson broadcast.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, according to current Census Bureau approximations, the total population of the United States as of today is 209,418,039. This represents an increase of 126,865 since July 1, or roughly equivalent to the population of Amarillo, Tex. It also represents an addition of 1,665,218 since August 1st of last year, an increase equivalent to twice the population of Dallas, Tex.

MEDICAL EXPERIMENTS

Mr. RIBICOFF. Mr. President, a recent article by Jean Heller of the Associated Press revealed that the Public Health Service, an agency of the U.S. Government, for 40 years withheld all treatment from several hundred victims of syphilis as part of a medical experiment. New evidence suggests that not only was treatment withheld, but that the subjects of the experiment were not even told that they were part of an experiment and were misled into believing that they were in fact receiving treatment. This case is a frightening instance of bureaucratic arrogance and insensitivity.

The study was begun in 1932, and its stated purpose, according to spokesmen from the Center for Disease Control of the Public Health Service, was to determine whether the risk of mortality from syphilis was greater than the risk of mortality from the treatment for syphilis. At that time, the preferred method of treatment was the administration of drugs containing heavy metals.

A group of 399 black males from Macon County, Ala., with syphilis was the subject of the study. They were matched against 201 nonsyphilitic males. None of the syphilis victims received any treatment. The object of the study was to see whether untreated syphilis victims had a higher incidence of death and debilitation than those without syphilis.

By 1946, penicillin had become generally available, and was soon the drug choice for the treatment of syphilis. Unlike the previous heavy metal treatment, penicillin was not itself highly dangerous, and was far more effective than the previous drugs. Thus, even if the original experiment could have been justified because of the need to measure the risks of syphilis against the risks of heavy metals treatment, the advent of penicillin should have precluded the need for continuing the study.

Incredibly, however, Public Health Service officials continued to deny treatment to any of the subjects of the experiment. No records have been cited that show that any of the subjects were even informed of the existence of the new drug.

Public Health Service officials have condemned the methods used in this reprehensible episode. They state that no such thing could happen again. And yet this kind of experiment with people's lives seems all too typical of the way the health bureaucracy in this country has been treating the people it is supposed to be protecting.

Last fall, I released a GAO report concerning an experimental program run by the CDC on Capitol Hill. In that program, an investigational new drug, the 300-mg isoniazed tablet, was administered to people on Capitol Hill without adequate warnings to the subjects of the experiment, without adequate patient followup, and without the drug's having cleared FDA's established regulations for investigational drug use. As a result of that experiment, two persons died of infectious hepatitis and at least 17 others contracted the disease.

Another glaring example is the drug MK–665, which was used experimentally on human subjects by the Merck Co. before adequate data on animal tests were compiled. When the animal tests were finally reported to the FDA—months later than they should have been—they showed that dogs who had received the drug had developed tumors. In spite of this shameful history, followup on the conditions of these unfortunate people who were the subject of the human experiments with MK–665 has been grossly inadequate.

I have been increasingly disturbed about the problems of using unproven and possibly unsafe drugs experimentally on subjects who are not fully informed of the potential hazard and are not ade-

quately protected by proper procedures. In some instances, hundreds of thousands of doses of investigational new drugs have been allowed on the market by FDA long before new drug approval is given.

I have been especially concerned about the accumulation of cases involving misuse of experimental drugs on human subjects. In each instance, it has been pleaded by the bureaucracy that some mistake has taken place, and that in the typical case, the agency has a spotless record. The staff of my Subcommittee on Executive Reorganization developed a list of approximately 15 drugs which have been used experimentally since the mid-1960's, but which have still not received new drug approval for general marketing. I asked the GAO to look into the FDA's files on each of these drugs to see how experiments on human beings had been conducted.

The GAO study is not complete, but preliminary reports show that there are significant and deeply disturbing problems in a number of cases. The full report will be available early this fall. Cases such as these are becoming too frequent to be dismissed as isolated mistakes.

Americans are justified in demanding that bureaucrats and drug companies responsible for testing potentially dangerous drugs do a better job of safeguarding the rights of the human subjects of drug experiments. It is intolerable not to assure that every reasonable precaution is taken when investigational drugs are used in human populations.

The syphilis study presents a bizarre—almost unbelievable—example of bureaucratic callousness and bad judgment. But the general problem it illustrates is far broader and more pervasive than a single misguided experiment. It is time for a comprehensive review of the adequacy of investigational new drug regulations and a review of the extent to which existing regulations are being observed.

I ask unanimous consent that Miss Heller's articles and articles by Victor Cohn and Jeff Nesmith, of the Washington Post, be printed in the RECORD.

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

SYPHILIS STUDY

(By Frank Carey)

WASHINGTON.—A former government doctor who played a key role in a federal syphilis study involving Alabama black men says "there was nothing in the experiment that was unethical or unscientific."

U.S. Public Health Service officials in Atlanta have said their records show that none of the 400 or so syphilitic men in the PHS study ever received treatment for the disease during the experiment.

At least seven men died as a direct result of syphilis and that figure could be higher, the officials said. They voiced concern about the morality of the study, particularly about its continuation after penicillin was discovered as a cure for syphilis.

Dr. John R. Heller, the former PHS doctor, said it was his impression that all of the study's participants received some form of treatment for their syphilis from private doctors and clinics in the Tuskegee, Ala., area where the experiment was conducted.

However, at another point in an interview, Dr. Heller said that he did not know how many of the syphilitics were treated by outside doctors and he indicated that no check was made as to whether the patients actually went to doctors to whom he said they were referred.

"It was not the intention of the study that the participants should be intentionally deprived of treatment and it was not built into the project that treatment would be withheld," Dr. Heller said.

He was immediate director of the Tuskegee Study in 1933–34 and later had overall responsibility for five years when he became chief of the PHS's venereal disease division in 1943. The doctor is now a general consultant to the National Cancer Institute, of which he once was director.

He said also it was not the responsibility or purpose of the experiment to provide treatment for the disease. "Naturally, you'd rather have the study population untreated, but there was no covert attempt to keep these people untreated," Dr. Heller said.

However, Dr. J. W. Williams, a black Tuskegee physician who worked on the experiment as an intern in the 1930s, said the participants "were not told, so far as I know, what they were being treated for or what they were not being treated for."

"We told them what they had," Dr. Heller said in the interview here. But in Tuskegee, Dr. Williams said, "We didn't tell them we were looking for syphilis. I don't think they would have known what it was."

Discussing the fact that all participants in the study were black, Dr. Heller said, "There was absolutely no racial overtones to the study, and this was not an attempt to exploit the Negroes." Tuskegee was chosen as the site for the study of syphilis because the area had the nation's highest per capita rate when the experiment began in 1932, he said.

After The Associated Press disclosed existence of the 40-year experiment, the Department of Health, Education and Welfare, parent agency of the PHS, began an investigation of the study.

Dr. Merlin K. DuVal, assistant secretary of HEW, said, "I especially want to determine why the study was permitted to continue past the time penicillin became the effective drug of choice against the disease."

Dr. Heller was asked if he had made any effort to obtain penicillin for the syphilitics when it became gradually available in the 1940s.

"No," he said, "and it never occurred to us to ask because the demand was so great for other people who needed it much more than they did—the armed forces and people in civilian life" with other serious diseases.

"Also," Dr. Heller added, "we were not responsible for getting it to them so we made no effort to get it. This was a community responsibility in Tuskegee . . . It was not our ball of wax."

He said also: "We didn't know enough about penicillin to know whether it would be effective against late syphilis as distinguished from the early, highly infectious type. Most of the patients at Tuskegee had late syphilis ranging from five to 50 years.

"It took studies that ran into the 1950s to determine whether penicillin was effective against late syphilis that has gone beyond the infectious stages and involves the brain and central nervous system, the cardiovascular system, or lurks latent and quiescent in the body."

Dr. J. D. Millar, current chief of the PHS' Center for Disease Control in Atlanta, said earlier this week that he knew of some study participants who "were treated with penicillin for other diseases and then dropped from the program because the drug had some positive effect on the primary disease, syphilis. Looking at it now, one cannot see any reason they could not have been treated at that time" for syphilis.

To this, Dr. Heller said, "Dr. Millar makes the assumption that it was the responsibility of the project to give treatment, which it was not."

SYPHILIS STUDY

(By Jean Heller)

TUSKEGEE, ALA.—A local doctor who took part in the early years of a federal syphilis study says he does not recall that the Black participants were ever told they were subjects of an experiment or what the study involved.

"The people who came in were not told what was being done," Dr. J. W. Williams said in an interview Wednesday. "We told them we wanted to test them. They were not told, so far as I know, what they were being treated for or what they were not being treated for.

"We didn't tell them we were looking for syphilis," he said. "I don't think they would have known what that was".

The experiment, called the Tuskegee Study, began in 1932. It was run by the U.S. Public Health Service and involved 600 Black men from this area, 200 with no signs of syphilis and 400 who had the disease, according to the federal agency.

Current officials at the PHS Center for Disease Control in Atlanta have said their records show that none of the 400 syphilitics in the study ever received treatment for the disease during the experiment, which now has lasted 40 years.

At least seven men died as a direct result of syphilis and that figure could be higher, the officials said.

Dr. Williams, a Black physician, said he was an intern at the Local Tuskegee Institute Hospital when the study began and that he and two other interns, under the direction of two PHS doctors from Washington, worked on participants when they came in.

Williams said that part of this job involved going to church gatherings to convince adults from the black community to come into centers for blood tests. This was part of an area-wide effort to combat syphilis.

In Alabama, according to a 1927 state law, persons diagnosed as syphilitic were required to be treated for the disease.

During the area-wide study, statistics showed that the Tuskegee had an exceptionally high rate of syphilis. One group of men was set aside for experimentation.

Dr. Williams said that the interns were never informed of the purposes or procedures of the study.

"I was just told who to give a needle to when the people came back," Williams said. "I thought I was administering an arsenical the mercury-arsenic treatment used at the time to combat syphilis, but now I think some may have been a placebo a dummy treatment that does no harm or good. I don't know for certain what it was."

Williams said patients were drawn to the experiment by promises of free medical treatment for their ailments. "These people thought they were being treated for rheumatism or bad stomachs," he said. Williams, 73, is director of health and hygiene for the Office of Economic Opportunity's Community Action agency here. He heads a staff of six who have set up 17 clinics in Macon County for the poor.

He said he could not condemn the Tuskegee Study as a whole because he left it in 1937, but he said he believed more information should have been given to the people who took part. He said he returned to Tuskegee in the early 1940s as director of the Tuskegee Institute Hospital where the study was being conducted. But he said he did not resume any role in the study because the hospital was only being used as a base and took no active part in it. "All I knew about the experiment at that point is that when a person in the program died his body

was brought in for post-mortem work," he said. "A pathologist from the local Veterans Administration hospital did all that work."

The Department of Health Education and Welfare, parent agency of PHS, Tuesday began an investigation of the Tuskegee study following disclosure of its existence by The Associated Press. Dr. Merlin K. DuVal, assistant secretary of HEW, said, "I especially want to determine why the study was permitted to continue past the time penicillin became the effective drug of choice against the disease."

The mercury-arsenic treatment available before penicillin was almost as bad as having untreated syphilis, Dr. Williams said. But, according to Dr. J. D. Millar, head of the CDC's venereal-disease branch, penicillin became widely available after World War II and its use in the Tuskegee Study then probably could have helped or saved a number of experiment participants.

Syphilis can cause bone and tooth deterioration, blindness, deafness, central nervous system disorders, insanity, heart disease and death.

"I think a definite moral problem existed when the study was undertaken, a more serious moral problem was overlooked in the post-war years when penicillin became available but was not given to these men, and a moral problem still exists," Dr. Millar said.

"But the study began when attitudes were much different on treatment and experimentation. At this point in time, with our current knowledge of treatment and the disease and the revolutionary change in approach to human experimentation, I don't believe the program would be undertaken," he said.

Syphilis, a highly contagious infection spread by sexual contact, can cause, if untreated, bone and dental deformations, deafness, blindness, heart disease and central nervous system deterioration.

No figures were available on when the last death occurred in the program. And one official said that apparently no conscious effort to halt the program was made after it got under way.

A 1969 CDC study of 276 treated and untreated syphilitics who participated in the Tuskegee Study showed that seven had died as a direct result of syphilis. Another 154 died of heart disease. CDC officials say they cannot determine at this late date how many of the heart disease deaths were caused by syphilis or how many additional deaths could be linked to the disease.

SYPHILIS STUDY

(By Jean Heller)

WASHINGTON.—The Department of Health, Education and Welfare has launched a full investigation of a federal experiment in which some Alabama black men died because they were denied proper medical treatment for syphilis and its side-effects.

The investigation was announced Tuesday night by Dr. Merlin K. DuVal, assistant secretary of HEW, who said he was shocked and horrified to learn of the experiment. The announcement followed disclosure by The Associated Press of the 40-year study.

"Although the study was begun in 1932, and although the opportunity to bring treatment to these men has long passed, I am today launching a full investigation into the circumstances surrounding it," DuVal said.

"I especially want to determine why the study was permitted to continue past the time penicillin became the effective drug of choice against the disease," he said. "I can say with certainty that such a study could not be launched today."

HEW oversees the Public Health Service, which, in 1932, initiated the Tuskegee Study, an experiment which withheld proper medical treatment from a group of Tuskegee, Ala., syphilitics in order to determine through autopsy at the time of their deaths what damage the untreated disease can do to the human body.

Tuskegee was chosen, PHS officials say, because it had the highest syphilis rate in the nation at the time.

The doctor responsible for initiating the experiment was identified by PHS officials as Dr. J. R. Heller, assistant surgeon general in the service's venereal-disease section who later became division chief. Current PS officials say they have questions about the morality of the study, particularly the post-World War II decision not to treat the syphilitics with penicillin, then a proven readily available cure for the disease.

Originally, PHS officials at the Center for Disease Control in Atlanta told The Associated Press that the study involved 600 Blackmen divided into three groups: 200 not suffering syphilis, 200 with the disease and treated with the best methods known at the time and 200 not treated for syphilis at all.

However, after the study was disclosed and CDC officials rechecked, they said they found that none of the 400 men who had syphilis ever was treated for it, doubling the size of the group exposed to disability and death.

As incentives to enter the program, the men were promised free transportation to and from hospitals, free hot lunches, free medicine for any disease other than syphilis and free burial.

The Tuskegee Study began 10 years before penicillin was discovered to be an effective cure for syphilis and 15 years before the drug was widely available to doctors. Yet even after penicillin became common, and while its use probably could have helped or saved a number of experiment participants, the drug was not given to them, according to Dr. J. D. Millar.

He is chief of the venereal-disease branch of the Atlanta Center for Disease Control and is now in charge of what is left of the Tuskegee Study.

"I think that the moral problem, if any in 1932, was very vague because the risk of treatment was, in the minds of many physicians, worse than the risks of the disease," Millar said in an interview.

The pre-penicillin treatment for syphilis consisted primarily of injections of arsenic and mercury. A treatment-related death rate of 1 in 100 was considered a good record.

But, Dr. Millar added, "a more serious moral problem was overlooked in the post-war years when penicillin became available but was not given to these men, and a moral problem still exists. Looking at it now, one cannot see any reason they, the syphilitics, could not have been treated at that time."

Asked who made the postwar decision not to treat the syphilitics, Millar said, "I doubt that it was a one-man decision. These things seldom are."

Syphilis is a highly contagious infection spread by sexual contact. If left untreated it can cause blindness, deafness, deterioration of bones, teeth and the central nervous system, insanity, heart disease and death.

In 1969, a CDC review of the record of 276 syphilitics in the Tuskegee Study found that seven had died as a direct result of the disease. Officials could not say immediately how many other deaths could be linked to syphilis.

In the group, 154 had died of heart failure not attributable to syphilis, the officials added.

Seventy-four men participating in the study were still alive at the beginning of this year but, for them, syphilis therapy is too late. Their average age is 74 and, Millar said, the possible ill effects of massive penicillin therapy constitute too great a risk to the individuals, particularly those whose syphilis condition is dormant.

Some of the men, he said, have received penicillin or antibiotics in past years for other diseases and this may have helped them stay alive.

SYPHILIS STUDY

(By Jean Heller)

TUSKEGEE, ALA.—"Syphilis put Tuskegee on the map." Bill Lennard reflected grimly. "How's that for a town motto?"

Lennard is project coordinator for the local OEO Community Action Agency, a college-educated black, born and raised in Tuskegee and now deeply concerned about the future of his home town.

"How could I have lived here all my life and never know this was going on?" Lennard asked. "I'm astounded. I'm shocked and I feel sick. I don't know what it's going to do to this town."

This town and the surrounding county have, for 40 years, been the object of the Tuskegee Study, a syphilis experiment involving 600 local blacks.

The study was a cooperative project of the U.S. Public Health Service, the Alabama Health Department, the Macon County Medical Society and the Macon County Health Department and was conducted to determine what damage untreated syphilis does to the human body.

In the beginning, 1932, about 200 of the study group showed no signs of syphilis and were used for purposes of comparison with the 400 or so men who had the disease.

Questions existed over just how many of the 400 men ever received any treatment for their syphilis.

When the Tuskegee Study first was disclosed, the PHS' Center for Disease Control in Atlanta, now in charge of what remains of the study, said half the 400 received some treatment but the other half received none.

Later, officials said they didn't think any of the 400 ever received treatment.

A firm figure probably will have to await the conclusion of a current investigation by the Department of Health, Education and Welfare, parent agency of the PHS.

Another investigation is under way in the Alabama attorney general's office. Among other things, a spokesman said, an effort will be made to determine if the lack of treatment for some of the study participants violated a 1927 state law requiring treatment for all who suffered from the disease.

Both investigations were begun after Associated Press disclosure of the study last week.

During the study at least seven men died as a direct result of syphilis and the figure could be higher, said Dr. Don Printz of the venereal disease branch of CDC.

CDC officials have released no figures on whether any of the participants suffered other side effects of the disease, which can be deafness, blindness, heart disease, central nervous system damage, bone deterioration and insanity.

Local residents are deeply disturbed about the study and concerned about the surviving participants, particularly, that one of them was publicly identified, apparently by health officials.

"I know his family so well: some of them are highly educated and he's a real good farmer," a former county agent said. "Now they've got this stigma attached to them. Folks keep asking me if it's safe to shake his hand."

It is. Neither the man to whom the agent referred nor any other participant in the Tuskegee Study has syphilis in contagious form, according to PHS officials in Atlanta. At the time the study began, all participants had passed the infectious stage and could not have spread the disease, the official say.

Two issues have been raised since disclosure of the experiment: Why the study was allowed to continue in the era after World War II when penicillin and sulfa drugs were widely available, had been proven a cure for

syphilis and probably could have helped or saved a number of the experiment's subjects? The other issue is compensation for surviving participants and families of men who died.

Several of the Tuskegee Study survivors have retained a prominent civil rights lawyer, Fred D. Gray, to represent them, hoping to compensate for their part in the program.

Gray, a black state legislator who represented the late Dr. Martin Luther King and was active in the case which integrated the University of Alabama, said he intends to do "whatever we need to do to correct this injustice."

Based on interviews with his clients, Gray said he does not believe they knew what was in store for them when they volunteered for the Tuskegee Study. Nor, he added, do they recall signing any releases when they joined.

"What they were told was that they had bad blood or that something was wrong," he said. "I don't know if they understood what it was that was wrong. But it is my understanding that they were under the impression they were receiving proper treatment for whatever it was that was wrong with them."

Dr. J. W. Williams, a local black doctor who participated as an intern during the early years of the Tuskegee Study, said he does not recall any of the participants being told what was happening to them. In fact, he added, the three interns working as technicians under the direction of two PHS doctors from Washington were not told about the study, either.

"The people who came in were not told what was being done," he said. "They were not told, so far as I know, what they were being treated for or what they were not being treated for. We the interns were never told what was going on."

There seems to be a general consensus among PHS and state doctors that the Tuskegee Study may have had some validity when it was undertaken in 1932. There still were areas where research into the effects of syphilis was needed. The treatment available at that time was almost as dangerous as the disease, and sometimes fatal.

The question of morality arises in the decision not to end the study and treat all remaining participants with penicillin or sulfa drugs after World War II.

Dr. J. D. Millar, current chief of the CDC's venereal disease branch, said the two drugs were widely available after the war and their use probably could have helped or saved a number of the Tuskegee Study's participants.

Others disagree. Dr. John R. Heller, who had over-all responsibility stated that it was not the responsibility of the study to give penicillin to the syphilitics.

"It never occurred to us to ask for penicillin because the demand was so great for other people who needed it much more than they did," Heller said. "We were not responsible for getting it to them so we made no effort to get it."

Heller said he believed there was nothing unethical about the study and said that he was under the impression all of the study participants received some form of syphilis therapy from private doctors or health clinics. However, he added, no checks were made to determine if the men ever went to private doctors.

Dr. Ira L. Myers, the current Alabama state health officer, said the furor over disclosure of the study was an attempt "to make a mountain out of a mole hill."

In Tuskegee, a town which feels stigmatized, the problem already is a mountain.

Many people who were involved in the program, both as participants and supervisors, have gone into temporary seclusion. They don't answer their phones or doorbells and are said by their friends to feel the town may turn against them.

In restaurants, the Tuskeegee Study is the basic topic of conversation. Many still don't believe it. Many don't want to believe it. A few don't care. But basically, the people seem dazed.

"This used to be a real friendly town," said one black resident who asked not to be identified. "Now everybody's suspicious of everybody else. Folks are all trying to figure out who the people in the study were and they don't know what to do about them, whether they're safe or not.

"I've seen folks cross the street to avoid talking to someone they think was in the study," he added. "This is the biggest thing that ever hit this town. Everybody's buzzing. It ain't ever going to be the same around here and that's too bad. It's all too bad. It's all just a damned shame."

SYPHILIS STUDY

(By Jean Heller)

WASHINGTON.—During a 40-year federal experiment, a group of syphilis victims was denied proper medical treatment for their disease. Some participants died as a result, but survivors now are getting whatever aid is possible, the U.S. Public Health Service says.

The experiment, conducted by the PHS, was designed to determine through autopsies what damage untreated syphilis does to the human body.

Or about 600 Alabama black men who originally took part in the study, 200 or so were allowed to suffer the disease and its side effects without treatment, even after penicillin was discovered as a cure for syphilis. Treatment then probably could have saved or helped many of the experiment participants, PHS officials say.

They contend that survivors of the experiment are now too old to treat for syphilis, but add that PHS doctors are giving the men thorough physical examinations every two years and are treating them for whatever other ailments and diseases they have developed.

Members of Congress reacted with shock to disclosure Tuesday by The Associated Press that the PHS syphilis experimentation on human guinea pigs had taken place.

Sen. William Proxmire, D-Wis., a member of the Senate Appropriations Subcommittee which oversees PHS budgets, called the study "a moral and ethical nightmare."

"It's incredible to me that such a thing could ever have happened," he said in a statement. "The Congress should give careful consideration to compensating the families of these men."

Sen. Edward M. Kennedy, D-Mass., chairman of the Senate health subcommittee, said through a committee spokesman that he deplores the facts of the case and is concerned about whether any other such experiments exist.

The syphilis experiment, called the Tuskegee Study, began in 1932 in Tuskegee, Ala., an area which had the highest syphilis rate in the nation at that time.

When the study began, the discovery of penicillin as a cure for syphilis was still 10 years away and the general availability of the drug was 15 years away. Treatment in the 1930's consisted primarily of doses of arsenic and mercury.

Of the 600 original participants in the study, one third showed no signs of having syphilis; the others had the disease. According to PHS data, half the men with syphilis were given the arsenic-mercury treatment, but the other half, about 200 men, received no treatment for syphilis at all.

Men were persuaded to participate by promises of free transportation to and from hospitals, free hot lunches, free medical treatment for ailments other than syphilis and free burial.

Seventy-four of the untreated syphilitics were still alive last January.

Syphilis is a highly contagious infection spread through sexual contact. If left untreated it can cause blindness, deafness, deterioration of bones, teeth and the central nervous system, insanity, heart disease and death.

In 1969, the PHS Center for Disease Control in Atlanta, which has been in charge of the Tuskegee Study, reviewed records of 276 syphilitics, both treated and untreated, who participated in the experiment.

It found that seven men had died as a direct result of syphilis. Another 154 died of heart failure, but CDC officials say they cannot determine now how many of those deaths were caused by syphilis or how many additional deaths may have been linked to the disease.

PHS officials responsible for initiating the Tuskegee Study have long since retired and current PHS officials say they do not know their identity. But the current officials say, in retrospect, they believe the study may have been a moral mistake.

"I think a definite moral problem existed when the study was undertaken, a more serious moral problem was overlooked in the post-war years when penicillin became available but was not given to these men, and a moral problem still exists," said Dr. J. D. Millar, chief of the veneral disease branch of the CDC.

"But the study began when attitudes were much different on treatment and experimentation," he added. "At this point in time, with our current knowledge of treatment and the disease and the revolutionary change in approach to human experimentation, I don't believe the program would be undertaken."

Don Prince, another official in the venereal disease branch of CDC, said the Tuskegee Study had shown that the morbidity and mortality rate of untreated syphilitics was not as high as previously believed, but he said he thought the study should have been halted with penicillin treatment for participants after World War II.

"I don't know why the decision was made in 1946 not to stop the program," Prince said. "I was unpleasantly surprised when I first came here and found out about it. It really puzzles me."

Because of their age, the CDC cannot now treat the 74 survivors of the Tuskegee Study for syphilis, Dr. Millar said. Possible ill side effects of massive penicillin therapy constitute too great a risk to the individuals, particularly those whose syphilitic condition is dormant.

However, he added, there was a point when the men could have been treated with some measure of success.

"The most critical moral issue about this experiment arises in the post-war era, the years after the end of World War II, when penicillin became widely available.

"I know some were treated with penicillin for other diseases and then dropped from the program because the drug had some positive effect on the primary disease syphilis. Looking at it now, one cannot see any reason they could not have been treated at that time."

SYPHILIS STUDY—AN AP NEWS SPECIAL

(By Jean Heller)

WASHINGTON.—For 40 years the U.S. Public Health Service has conducted a study in which human guinea pigs, denied proper medical treatment, have died of syphilis and its side effects.

The study was conducted to determine from autopsies what the disease does to the human body.

PHS officials responsible for initiating the experiment have long since retired. Current PHS officials, who say they have serious doubts about the morality of the study, also

say it's too late to treat syphilis in any of the study's surviving participants.

But PHS doctors say they are rendering whatever other medical services they now can give to the survivors while the study of the disease's effects continues.

The experiment, called the Tuskegee Study, began in 1932 with about 600 Black men, mostly poor and uneducated, from Tuskegee, Ala., an area which had the highest syphilis rate in the nation at the time.

One-third of the group was free of syphilis; two-thirds showed evidence of the disease. In the syphilitic group, half were given the best treatment known at the time, but the other half, about 200 men, received no treatment at all for syphilis, PHS officials say.

As incentives to enter the program, the men were promised free transportation to and from hospitals, free hot lunches, free medicine for any disease other than syphilis and free burial after autopsies were performed.

The Tuskegee Study began 10 years before penicillin was discovered to be a cure for syphilis and 15 years before the drug became widely available. Yet even after penicillin became common, and while its use probably could have helped or saved a number of the experiment subjects, the drug was denied them, according to Dr. J. D. Millar.

He is chief of the venereal disease branch of the PHS' Center for Disease Control in Atlanta and is now in charge of what remains of the Tuskegee Study. Dr. Millar said in an interview he has serious doubts about the program.

"I think a definite moral problem existed when the study was undertaken, a more serious moral problem was overlooked in the post-war years when penicillin became available but was not given to these men, and a moral problem still exists," Dr. Millar said.

"But the study began when attitudes were much different on treatment and experimentation. At this point in time, with our current knowledge of treatment and the disease and the revolutionary change in approach to human experimentation, I don't believe the program would be undertaken," he said.

Syphilis, a highly contagious infection spread by sexual contact, can cause, if untreated, bone and dental deformations, deafness, blindness, heart disease and central nervous system deterioration.

No figures were available on when the last death occurred in the program. And one official said that apparently no conscious effort to halt the program was made after it got under way.

A 1969 CDC study of 276 treated and untreated syphilitics who participated in the Tuskegee Study showed that seven had died as a direct result of syphilis. Another 154 died of heart disease. CDC officials say they cannot determine at this late date how many of the heart disease deaths were caused by syphilis or how many additional deaths could be linked to the disease.

However, several years ago an American Medical Association study determined that untreated syphilis reduces life expectancy by 17 per cent in black men between the ages of 25 and 50, a precise description of the Tuskegee Study subjects.

Don Prince, another official in the venereal disease branch of CDC, said the Tuskegee Study had contributed some knowledge about syphilis, particularly that the morbidity and mortality rate among untreated syphilitics was not as high as previously believed. Prince said he did not know the names of PHS officials who initiated the study.

Like Dr. Millar, he said he believes the study should have been concluded with penicillin treatment after World War II.

"I don't know why the decision was made in 1946 not to stop the program," Prince said. "I was unpleasantly surprised when I first came here and found out about it. It really puzzles me."

At the beginning of 1972, according to CDC data, 74 of the untreated syphilitics were still living. All of them, Dr. Millar said, were men who did not suffer any potentially fatal side effects from their bouts with the disease.

Some of them received penicillin and antibiotics in past years for other ailments, Prince said, but none has even received treatment for syphilis. Now, both men agree, it's too late.

The Tuskegee Study by CDC indicates that treatment now for survivors is medically questionable, Dr. Millar said. Their average age is 74 and massive penicillin therapy, with possible ill side effects, is deemed too great a risk to the individuals, particularly for those whose syphilis is now dormant.

However, Dr. Millar added, there was a point in time when survivors could have been treated with at least some measure of success.

"In the 1930s when the experiment began, those treated for syphilis were treated with mercury and arsenic," he said. "This period was before penicillin, before sulfa drugs, and the treatment was worse than the disease.

"The most critical moral issue about this experiment arises in the post-war era, the years after the end of World War II when penicillin became widely available.

"I know some were treated with penicillin for other diseases and then dropped from the program because the drug had some positive effect on the primary disease syphilis. Looking at it now, one cannot see any reason they could not have been treated at that time."

For survivors of the Tuskegee Study, the PHS is currently providing the best medical treatment it can, Prince said. "We see to it that they get a complete physical at least every two years," he said. "We can't treat them for syphilis but we can treat them for hernias and arthritis and any other problems they have. I guess you'd say we're doing all we can."

SYPHILIS

(By Jean Heller)

TUSKEGEE, ALA.—Several surviving participants in a federal syphilis experiment have retained a civil-rights lawyer to represent them in hopes of obtaining compensation for their roles in the study.

The lawyer, Fred D. Gray, said Thursday he also expects to represent families of several men who died in the experiment, called the Tuskegee Study.

Gray has represented the late Dr. Martin Luther King and other civil rights activists and is a member of the Alabama Legislature.

In an interview, Gray said several of the Alabama black men who participated in the Tuskegee study have told him that when they joined the experiment, they believed they were going to be treated for whatever disease they had.

"What they were told was that they had bad blood or that something was wrong," Gray said. 'I don't know if they understood what it was that was wrong, but it is my understanding that they were under the impression they were receiving proper treatment for whatever it was that was wrong with them."

The Tuskegee Study was begun by the U.S. Public Health Service in 1932 with 600 black men from this area. Two hundred showed no signs of syphilis and were used as controls. The other 400, according to PHS officials, had syphilis but were not treated for it so that damage caused by the disease could be determined through autopsy after death.

The officials also said they had determined that all of the syphilitics used in the study had passed the disease's contagious stage and could no longer infect other people.

At least seven deaths among the group can be attributed to syphilis and the figure could be much higher, current PHS officials says.

Current officials there say they have serious doubt about the morality of the study, especially the post-World War II decision to continue denying treatment to participants after the discovery of penicillin as a proven and readily available cure for syphilis.

The Alabama Health Department, the Tuskegee Medical Society and the Macon Medical Health Department, the Tuskegee Medical Society and the Macon County Health Department cooperated with the PHS in the project.

Dr. Ira L. Myers, state health officer, said he believes the participants were receiving proper care and that the furor following disclosure of the study was "trying to make a mountain out of a molehill."

Gray said he will do for the Tuskegee Study participants whatever "we deem necessary and proper to be sure they are properly compensated for any damages which they have sustained as a result of the study."

"They haven't gotten much so far," he said. "They told me that after they had been in the program for 25 years they received a certificate of appreciation."

[From the Washington Post, July 31, 1972]

SYPHILIS EXPERIMENT PROBED—EXPERTS ARGUE OVER POSSIBLE REPETITION

(By Victor Cohn)

The case of the "Four Hundred Black Alabamians With Syphilis," it might be called.

It is a new medical mystery in several aspects. A chiller in its effect on any reader. And perhaps a murder story, by some allegations—allegations hotly denied by doctors who were involved.

The 400, as disclosed by the Associated Press Tuesday, were men from their 20s through their 70s assembled in 1932 in the U.S. county with the highest rate of syphilis, a disease for which there was then no good treatment.

The 400 received no treatment as any part of a Public Health Service study—still continuing today, with 78 survivors—of what happens to men with untreated latent or inactive, yet possibly smouldering syphilis.

This fact is not so surprising for the 1930s. For German Paul Ehrlich's "Salvarsan" or "606," though he won a Nobel prize and was immortalized by Edward G. Robinson in an effusive 1940 movie called "Dr. Ehrlich's Magic Bullet," in fact may have harmed as many persons as it cured.

What surprised readers last week—and members of Congress and even government health officials who had never heard of this study—was that none of the men was given the new wonder drug, penicillin, after it became available in the mid-1940s.

These are the bare bones of the story.

They alone were enough to make Sen. James Allen (D-Ala.) call the study "callous" and Sen. William Proxmire (D-Wis.) call it "a moral and ethical nightmare." They prompted Rep. Ralph H. Metcalfe (D–Ill.), member of the Black Caucus, to brand the project "one of the most frightening forms of genocide practiced upon minorities in this country."

They were also enough to make Assistant Secretary of Health, Education and Welfare Dr. Merlin K. DuVal says after preliminary inquiry, "I was shocked and horrified . . . I am today launching a full investigation."

But what really happened? And why?

Also, in the question of Rep. Metcalfe, "How many more of these human sacrifices are being made elsewhere in this country?"

"I can say with certainty that such a study could not be launched today," said DuVal, assistant secretary for health and scientific affairs.

"It does happen today," said Dr. Jon Katz,

a New Haven psychiatrist, adjunct professor of law at Yale University and author of the new 1,159-page book, "Experimentation With Human Beings," published by the Russell Sage Foundation. "Man's inhumanity against man" is pervasive, states Katz's book, and the medical world is not immune.

But the so-called "Tuskegee Project"—Tuskegee is the seat of Macon County, Ala.—was humane by all its intention in the 1930s. This is something of its story, based on Washington Post and Associated Press interviews.

Syphilis in 1932 was a baffling medical problem. There were indeed "treatments:" usually injection with heavy metals like mercury and bismuth, followed by arsenicals. The "magic bullet" was an arsenic compound.

All helped kill the syphilis organisms. But the treatments had to be continued weekly for many months. The compounds were poisonous, and some patients died.

"The treatment was horrible," said Dr. Donald Printz, today assistant VD chief at Atlanta's federal Center for Disease Control. "Weighing the effects of the disease against the effects of the treatment was a constant battle."

Doctors habitually asked, "Is the cure worse than the illness?" but did not really know.

A study was certainly needed to seek the answer, especially for that great bulk of syphilitics known as latent cases—people who harbor the germ, respond as "positive" to a blood test, but are showing no symptoms.

Most doctors attacked all syphilis, active or latent, with the dangerous poisons, although a famous 1890-to-1930 Oslo study—a group of patients left untreated for 40 years—had shown that 60 per cent never displayed further symptoms.

Very few latents ever got treatment, however, or were seen by a doctor for any reason in the pretty, rolling cattle and cotton country of Macon County, Alabama.

What better place, thought the federal doctors, to follow a group of untreated latents and compare their fates with an age-matched group of nonsyphilitic men?

Four hundred latents, then, were sought out by blood tests, and another 200 men as the healthy controls. All were examined yearly.

Anyone with any active illness, syphilis or otherwise, was apparently told to go to a doctor or hospital for treatment. But a figure on the number really cared for will probably have to await DuVal's investigation.

In the early days, at least, there was no check to see if any had been treated, a key early participant, Dr. John R. Heller, told the AP last week.

Treatment was not the study's purpose or responsibility, he explained. "Naturally you'd rather have the study population untreated, but there was no covert attempt to keep these people untreated."

He insisted, too. "There was nothing in the experiment that was unethical or unscientific."

Heller, now 67, was then a young Public Health Service officer. One superior was Dr. Raymond A. Vonderlehr, who almost certainly would have had the approval of the famous, longtime surgeon general, Dr. Thomas Parran. VD was one of Parran's prime concerns.

Parran is dead. Vonderlehr at 75 still lives in Atlanta but is frail and ill. He went on to become a director of the important "CDC," then called the "Center for Communicable Disease."

Talented, well-known Rod Heller became chief of the Public Health Service's VD division from 1943 to 1948, and later director of the National Cancer Institute in Bethesda. Reviewing the anti-cancer battle, Time put him on its July 27, 1959 cover, calling him "a near ideal choice" as a leader, a "diplomat" who could keep peace among "backbiting" scientists.

Although all the patients in the Alabama study were black, Heller adds, "There was absolutely no racial overtone, and this was not an attempt to exploit the Negroes."

They were certainly what scientists call a homogeneous population, and they were concentrated in this area where they could easily be reached.

Also, said Heller: "We told them what they had."

However, "we didn't tell them we were looking for syphilis," said Dr. J. W. Williams, a Tuskegee physician who worked on the project as an intern in the 1930s. "I don't think they would have known what it was."

"They told me I had the bad blood," testifies 66-year-old Charlie Pollard, a young man of 26 when he was enrolled. "Bad blood" was a common phrase for venereal disease. It is still in use today in more than one part of the country.

The project has issued at least 13 valuable reports. A 1952 study, said Printz, showed that the life expectancy of the Tuskegee untreated had been reduced by only 4.17 years, compared with a 7.1-year decrease among treated syphilitics.

"We followed these people very carefully. They were not left to die," said Dr. Sidney Olansky of Emory University Medical School, who joined the project in 1950. "They got excellent medical care, better than the average person in that area. I resent very much this business that we took a bunch of poor people and let them die."

At least seven of the 400 have died of syphilis, however, and some might have lived longer, agreed Dr. Printz and his chief, Dr. J. D. Millar.

For in 1943 penicillin first became available in small amounts. By the mid or late 1940s it was in good supply.

There was for a time sincere medical debate over its value in syphilis, especially late syphilis. Penicillin also sometimes produces its own adverse reactions.

"We did not know enough. We would not have been comfortable about treating this group with penicillin until the mid-1950s," Olansky maintained.

By then was it too late to treat any of these men? "I would think so," he said. "If I had a 50-year-old latent walk into my office right now with no complications, I probably would not give him pencillin."

Printz disagreed. True, he said. "At that time the average man in the study had had the disease at least 20 years. But that was the critical juncture when some could have been helped. I can't tell you how many."

Printz said doctors today would almost universally give pencillin to a latent patient in his 50s who caught the disease two decades before. There is still hope, he maintained, of preventing the late heart and nervous system damage which often makes a patient's last years unbearable.

In 1969, a group was finally convened at Atlanta to review this study in "both its medical and moral aspects," Printz reported. At this late date, the main conclusion was to try to see that the men were given good care by their local doctors for the rest of their lives.

Some of the survivors have themselves engaged a civil rights lawyer in hope of getting compensation.

DuVal, Printz and Olansky—though of different views on the handling of the Alabama 400—agreed that this experiment would never be repeated today.

Most of the nation's medical research is funded by the National Institutes of Health. Its present guidelines, states director Dr. Robert Marston, emphasize a grantee's "basic responsibilities for safeguarding the subjects' rights." They say "an appropriate institutional committee" must insure that all rights are protected, that any risks to an individual "are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent is to be obtained."

[From the Washington Post, July 27, 1972]

HUMAN GUINEA PIG BARES 40 YEARS OF "DOCTORING ON ME"

(By Jeff Nesmith)

NOTASULGA, ALA., July 25—In 1932 Charlie Pollard, a 26-year-old Macon County farmer, took advantage of a public health official's offer of a free blood test and was told a few days later that he had "bad blood."

"They been doctoring on me off and on ever since then," Pollard, now 66, said Tuesday. "And they give me a blood tonic."

Pollard was not told—and did not know until Tuesday—but for the past 40 years he has been one of a constantly dwindling number of human guinea pigs in whose "bad blood" the effects of syphilis has been observed.

U.S. Public Health Service Officials revealed Tuesday that under a PHS study, treatment for syphilis has been withheld from hundreds of afflicted Negroes for the 40-year period. For the past 25 years, penicillin has been generally available to treat it. The purpose of the study was observation of the course of the disease in untreated persons over long periods of time.

Elizabeth Kennebrew, a nurse with the Macon County Board of Health who spends most of her time tracking the medical histories of the survivors, identified Pollard as a member of the group, from whom treatment was withheld.

"Back here in the '50s, they give me a certificate, saying I had been in the program 25 years," Pollard said, "and since then they don't come around as much."

During the first 25 years, however, health officials returned annually to the 400-acre cotton and cattle farm Pollard owns and operates near this tiny town west of Auburn, to collect blood samples.

"They haven't been by here in a year or two now," he said.

And while he believes he has received good medical care through "the program," he has turned to home remedies during recent years. "You say they ain't been doctoring me?" he asked a reporter who visited him Tuesday. "Well, they sure give me enough shots and took out enough blood for some reason. I even got one of them spinal taps."

On one occasion, Pollard said, he was given an operation, for removal of prostate glands.

Asked several times if he were aware that he had syphilis, Pollard always replied, "Well, they told me I had the bad blood."

Pollard was working on his father's farm in 1932 when health officials distributed a notice among black men in the Tuskegee, Ala., area, offering the free blood test.

"Then a few days later, they tolds us our blood was bad, and they always keep coming back and taking more."

Over the years, Pollard said, most other members of the group have died. "I think there's about eight or nine of us left in this area, though."

"I thought they did me, far as I know of, pretty good," "they say my heart is good, and I don't wear reading glasses. I ride a tractor practically every day."

However, about a year ago Pollard began having severe pains in his back and left leg and spent several weeks in a hospital in Montgomery.

"They told me there wasn't anything they could do for it and sent me home," he said. "I was on crutches for about six or eight weeks and I began to think I was to lose the use of this leg.

"So I tried me a home remedy the old folks had told me about for arthritis and put me some fat lightard (heart pine) splinters in

some whiskey and let it soak awhile and every now and then I'd take a little sip of that.

"Now I don't be bothered with my back as much."

ALLEN J. ELLENDER

Mr. SCOTT. Mr. President, yesterday, July 31, colleagues of the late Senate President Pro Tempore Allen Ellender joined with President Nixon in paying tribute to this great southern gentleman who gave so much of his life to the people of the State of Louisiana and the Nation. Mr. President, I ask unanimous consent that the editorial, "Allen J. Ellender," which appeared in Monday's editions of the Washington Post, be printed in today's RECORD.

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

ALLEN J. ELLENDER

Dean of the Senate and at his death the 81-year-old chairman of its Appropriations Committee, Allen J. Ellender, rose to political eminence less by his achievements or personal qualities, as considerable as they were, than by the workings of the seniority system, which brought him great power. A product of the Huey Long political machine in Louisiana, he arrived in the Senate in 1937, there easily fitting the Long populism to the New Deal spirit then pervasive on the national scene. For 18 years the former proprietor of the family's Hard Scrabble Plantation chaired the Agriculture Committee, shaping the programs which at once made him the favorite of producers, especially the big producers, and the bane of small farmers and the rural poor. He never abandoned his generation's regional heritage, which gave him his courtly manner, his skill as a chef, his Puritan ethic and, unfortunately, his attitudes on race.

In the loneliness that overtook this intense disciplined man after his wife's death in 1949, Senator Ellender turned relentlessly to world travel, going practically everywhere to collect evidence with the only means he trusted—his own eyes, becoming a scourge for American diplomats whose activities he scrutinized, and making long reports and films which in their simplicities ("there is water in the canals of Venice") did much to enhance his already substantial reputation as an eccentric.

His travels also brought him early to a world view which many of his fellow Americans did not take seriously for another 10 or 15 years: that the United States was recklessly over-extended, that it was spending far too much on arms and on dubious anti-Communist projects abroad, and that the Soviet Union, which he visited five times, was not inevitably a deadly menace after all. "It seems to me that we have as much to fear from ignorance, prejudice, selfishness and bias in our own nation as we have from a similar condition on the part of the Russian leadership," he concluded. Proud of his own legislative career in the determined way of a self-made man, Allen Ellender nonetheless felt regret that he had not been paid more heed for his counsel of peace.

SENATOR ALLEN J. ELLENDER, OF LOUISIANA—IN MEMORIAM

Mr. PERCY. Mr. President, the passing of Allen Ellender has left all of us greatly saddened. There is no question in my mind that history will remember him as one of the truly fine legislative leaders of this body. During the period I served on the Appropriations Committee I came to know him as a hardworking chairman, who nevertheless found time to help a very junior Senator become acclimated to the details involved in appropriations work.

At an age when many men are content to rest in retirement, he was serving the public interest with energy and vitality. His tireless dedication to the interests of his State and his Nation typified the best in public service. The 12- and 13-hour days were as nothing to him. His final hours were spent flying back to Washington to cast a vote on the agricultural appropriations bill.

He was a great traveler, and I consider the films he has shown in my home among the best sound motion pictures made in foreign countries that I have been privileged to see. Mr. President, I know that I speak for Senators on both sides of the aisle when I say that the Senate has lost a wise and dedicated servant. We have lost a dear friend. We shall miss him.

OCEANOGRAPHY: THE QUEST FOR SECRETS OF THE SEA

Mr. HUMPHREY. Mr. President, I invite the attention of the Senate to three articles by Mr. Al Rossiter, Jr., published in the Minneapolis Tribune on July 16, 1972. Mr. Rossiter focuses upon the national unawareness of the values of the oceans. Following the economic principles of resource scarcity, it is becoming increasingly clear that the resources of the continents are, in fact, already hard pressed in meeting the world's burgeoning populations and expanding technologies.

In our oceans, however, lies a new frontier rich in untapped resources. In them are nurtured the potential harvest of marine protein which could help meet worldwide malnutrition, especially the permanent debilitation that is the fate of protein-deficient children. In our oceans lie vast and uncharted expanses of seabed oil, gas, and minerals that will be required to supplement continental sources for an energy- and ore-hungry world. Rich in history, our oceans for centuries have served as avenues of commerce as well as culture. And finally, in our oceans emerges the potent locale for international cooperation among all nations who share in the sea today but could also share in its benefits tomorrow.

Clearly, the time has come to further extend our efforts seaward. As Vice President, I was assigned the responsibility of presiding over the Marine Science Council as created by the Marine Resources and Engineering Development Act of 1966, to carry out a mandate for more comprehensive study of the utilization of the sea. In June 1971, the Marine Science Council's statutory limitation expired, but during its brief history it laid the groundwork for what has largely been assumed by the National Oceanic and Atmospheric Administration.

But more can and must be done in this field. It is now our duty to take deliberate steps to further assess the social and economic concerns of our people and to determine how the oceans, through modern science and technology, can contribute more to our welfare.

We have witnessed the dramatic extension of man's presence to the surface of the moon—an event which satisfied the inherent curiosity of people all around the world. We can do no less for the sea. And in gaining a greater comprehension of its potential, we must direct its utilization to practical benefits that will serve our Nation well, and serve all mankind.

I ask unanimous consent that Mr. Rossiter's articles be printed in the RECORD.

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

OCEANOGRAPHY: THE QUEST FOR SECRETS OF THE SEA

(NOTE.—Oceans cover most of the earth's surface, but what goes on in them is still more mystery than knowledge. Articles on this page examine the new science of oceanography, its past successes, its current state, its outlook for the future.)

(By Al Rossiter, Jr.)

Her majesty's ship Challenger, a converted British warship, sailed from Portsmouth, England, 100 years ago on man's first comprehensive attempt to explore the world under water.

Today there are hundreds of vessels of all descriptions and many nations plying the seas to add to the world's storehouse of information about the great blankets of water that cover more than two-thirds of the earth.

Oceanography, its roots reaching back to the Challenger's initial research cruise in 1872, is now a well established science.

Within the past five years it has come up with a dazzling new discovery—the principle of "continental drift." Oceanography, scientists say, has provided them with proof that the continents are slowly drifting and the sea floors are spreading with molten rock coming up from deep within the earth to form a new oceanic crust.

Dr. Robert M. White, director of the National Oceanic and Atmospheric Administration (NOAA), said verification of the continental drift theory "is one of the great scientific achievements of this century."

Much of the evidence on continental drift has come from the deep sea drilling ship, Glomar Challenger, namesake of the HMS Challenger.

More than 10 miles of ocean bottom cores, drilled in water depths up to 20,000 feet, are now stored for scientific examination in large humidified and refrigerated vaults at main research laboratories.

During its 23rd expedition this spring, the Glomar Challenger drilled to a depth of 4,264 feet below the floor of the Arabian sea—the deepest penetration ever made into the bottom of a deep sea.

Because of its successes and the unknowns remaining, the Glomar Challenger's drilling operations were extended this year for another three years, bringing the total cost for seven years of drilling operations to about $68 million. The project is managed by the Scripps Institution of Oceanography for the National Science Foundation (NSF).

As a result of the drilling project and other oceanographic studies, said Maurice Ewing, director of the Lamont Geological Observatory, "the science of geology has been completely revolutionized, and the benefits of this advance in understanding the evolution of the earth will be reaped for centuries to come."

Man has turned to sea for reasons more material than pure science, too. It is becoming increasingly clear that the resources of the continents will soon be hard pressed to

meet the growing needs of burgeoning populations and expanding technologies. In the past decade glowing assessments have been made of the oceans as a new source of food, minerals and drugs.

For example, one resourceful American firm hopes to start mining the floor of the Pacific Ocean in 1976 using a massive vacuum cleaner to dredge up potato-sized lumps of metal which pave broad areas of the sea bottoms like cobblestones.

Deepsea Ventures, Inc., of Gloucester Point, Va., predicts it will be able to produce 260,000 tons of manganese, 12,600 tons of nickel, 10,000 tons of copper and 2,400 tons of cobalt from an annual harvest of 1 million tons of nodules.

If the enterprise is successful, it will mark a major breakthrough in man's quest for treasure from the sea.

On the other hand, many researchers believe the wealth of the sea often has been oversold.

"One cannot hold out the hope that the promises that have been made can indeed be fulfilled," said Dr. Robert A. Ragotzkie, director of the Marine Studies Center at the University of Wisconsin. "There are areas, however, where great benefits could be reaped if we were a little more realistic."

Offshore recovery of oil, gas and sulphur is the most dramatic example of the wealth in the land under the sea that has become available to man. Sixteen per cent of America's petroleum now comes from offshore wells, and coastal operations are being expanded around the world.

The continental shelves also produce large amounts of sand and gravel, particularly in England, along with coal in Japan, diamonds in South Africa and tin in Indonesia.

Salt, bromine and magnesium are successfully extracted from sea water and such operations in the United States compete favorably with land-based enterprises.

But despite these advances in the recovery of minerals, fisheries remain the largest economic harvest of the oceans.

Food from the sea has served man since the dawn of history and it has great promise for the future. But scientists agree it alone will not solve the problem of feeding the growing numbers of undernourished people around the world.

The U.S. Stratton Commission, convened in 1969 to study undersea potential, concluded that the overall calorie requirements of the human diet can be met from land farming for the foreseeable future. But the panel said ocean food is important to the world as a source of protein and edible oils.

These needs alone, the commission said, "are sufficiently large and urgent to compel a greatly accelerated effort" to expand harvesting of the sea's food resources.

The worldwide fish catch is rapidly increasing. The United Nations Food and Agricultural Organization (FAO), based in Rome, reported that the global catch in 1970 was 76.4 million tons—triple the catch in 1950. FAO predicted a catch of 107 million tons by 1985.

Nevertheless, America's fish production has changed relatively little during the past 20 years while Peru, Japan and the U.S.S.R.—the world leaders—have registered great gains.

In 1970, the most recent year for which figures are available, Peru accounted for 18.2 per cent of the world's fish production, followed by Japan with 13.4 per cent and the U.S.S.R. with 10.4 per cent. The United States with 3.9 percent followed China and Norway.

Fish farming—sometimes called aquaculture or mariculture—holds great promise in increasing fish production. Japan produced 600,000 tons of fish in 1970 from artificial ocean farms, mostly located in shallow waters. Fish farming also is under way in the United States with research being carried out by governmental and private laboratories around the Nation.

Sea life also is showing promise as a source of medicinal drugs—everything from antibiotics to anticancer agents.

For example, it has been found that stonefish secrete a poison that reduces blood pressure in animals. This, said Dr. John C. Baiardi of the New York Ocean Science Laboratory, might be used to reduce hypertension.

"The marine worm bonelia contains a water-soluble, growth-arresting hormone which may be useful in cancer therapy, while potent anti-tumor agents from clams, oysters and sea cucumbers are very promising," Baiardi said in an address at Long Island University.

Even barnacles have proved useful. The cement produced by the pesty crustaceans has been used as a strong, quick-hardening adhesive.

We no longer regard the resources of the sea as merely modest adjuncts to the resources of the land," said Dr. White, NOAA administrator.

Exploration of the sea has become a fertile new ground for expansion of technological knowhow. The United States, France, and the Soviet Union are actively pursuing deep diving programs. Even more nations have man-in-the-sea projects to explore the possibilities of man living and working in the sea.

"In terms of knowledge, the status of marine technology is excellent," said Dr. John P. Craven, dean of marine affairs at the University of Hawaii. "We know how to do many more things than we are supported by society to do."

One of the major problems, Craven said, is that the current image of ocean technology in the United States is futuristic with the sea seen as a place of fairy tale and fantasy.

"It envisions 21st century cities under the sea, it envisions a small and rare breed of aquanauts journeying with flooded lung and artificial gills to the deepest parts of the ocean, combating the white shark and riding the bottle-nosed dolphin. It envisions a few brave hydronauts making excursions in space-like vehicles to the deepest seabed in search of sunken treasure or lost civilizations."

Craven, also president of the Marine Technology Society, told fellow members at their last annual meeting that the ocean engineering community "has been partially guilty of fostering these myths."

Instead, he said, a more relevant approach should be taken. Marine technology should be pointed to areas where it can contribute to the solution of America's most pressing current problems.

The sea, for example, can help solve urban problems by housing power plants, air fields and refineries on low-cost ocean platforms, Craven said. He also suggested "floating communities" located anywhere near a harbor could offer a solution to many urban, transportation and recreational problems.

There is general agreement that the development of ocean technology will be slow and that it will not match the pace set by the advancement of space technology.

"The progress will not be as rapid nor the results as spectacular," said Ragotzkie at the University of Wisconsin. "However, the grassroots support of this, of the ocean environment program, will grow as the benefits show up."

"If society makes progress, interest in the oceans will probably increase," Craven said. "If society doesn't, forget it."

Pollution Poses Threat to Oceans

Pollution of the oceans is a growing concern around the globe.

French underwater pioneer Jacques Cousteau told an international conference on ocean pollution in Washington last October that the world's oceans will die within half a century if nothing is done to eliminate pollution.

Another famed underwater explorer, Jacques Piccard, said in Rome a year ago that all life on earth may suffocate if man keeps dumping poisonous waste into the seas.

Anthropologist Thor Heyerdahl reported at a conference in Malta last July that while crossing the Atlantic in a papyrus boat he found the sea too dirty to brush his teeth: "We could not dip our toothbrushes into the water in mid-Atlantic."

M. T. Lasarav, chief of the international sea law section of the Soviet Institute of the State and Law, told the same meeting that a Russian woman, Prof. Troitska, was once stranded on the bottom of the Mediterranean Sea in a French bathyscape for eight hours by technical problems. When she finally surfaced, she was asked for her impression of the 7,500-foot dive.

"Everybody thought that she would talk about the danger she had just experienced," Lasarav said. Her reply: "The most impressive experience I had was viewing the garbage on the seabed of the Mediterranean."

Some scientists, however, think that the pollution problem has been overstressed. Dr. John P. Craven, dean of marine affairs at the University of Hawaii, said that American development of the oceans has been hindered by a "fear of destroying the ocean environment."

"We must overcome the national feeling that the ocean is frail and easily polluted," he said.

Actually, the sea has been a much more successful environment for the life forms than land. Some primitive sea creatures have persisted for millions of years while their land counterparts have long been extinct.

U.S.S.R. Challenges U.S. Lead In Technology

(By Al Rossiter, Jr.)

How does the United States compare with other nations in ocean research?

"Until recently," according to Dr. Richard A. Geyer, director of Texas A&M's Department of Oceanography, "it could be said safely that this nation's marine capability was outstanding. . . . However, at this moment it is barely equal, if that, to the capabilities of the U.S.S.R."

Since 1958, the Soviet Union has steadily increased its oceanographic program to the point where it today outstrips British, French and Japanese research. It comes close to matching and sometimes surpasses American oceanography, many scientists believe.

Dr. Gunter Giermann, deputy secretary of the Intergovernmental Oceanographic Commission headquartered in Paris, said he believes the United States is still the leading nation in ocean research, followed by Russia and then Japan.

America's oceanographic effort for years has been kept alive by the U.S. Navy, which got into marine research after World War II. The Navy still spends more money on ocean science and technology than any other government agency. In fact, it provides the majority of funding for such marine research centers as Scripps Institution of Oceanography at La Jolla, Calif.; the Woods Hole Oceanography Institution, Woods Hole, Mass., and the Lamont Geological Observatory, Palisades, N.Y.

In the last 11 years, dozens of other marine science institutions and laboratories have come into being in the United States. The number of academic institutions active in oceanography increased from less than 20 in 1960 to more than 135 in 1971.

With the Navy playing a major role, much of the U.S. research effort has military overtones. The Soviet Union, too, seems to have geared its ocean research for short-term results, with emphasis on the military impor-

tance of the sea and its potential as a source of food and minerals.

The Russians now operate an estimated 200 research vessels and Soviet oceanographers have the assistance of the state-owned merchant marine and fishing fleet. The research fleet reached size parity with the American oceanographic fleet in 1964 and today in tonnage terms is about 50 per cent bigger.

There are now more than 2,000 qualified ocean scientists in the Soviet Union and Western sources say the Russians are training five times as many students in marine subjects as are the Americans.

In the United States, the scientific community has been inundated in the past 10 years with reports and studies on ocean sciences and their importance to today's world. The sequence ended with a four-volume report by the government's Commission on Marine Sciences, Engineering and Resources in 1969. The panel concluded that the nation's use of the sea in the decades ahead will affect profoundly its security, economy and influence.

"The nation's stake in the uses of the sea is synonymous with the promise and threat of tomorrow," the commission said. It called for a strong national effort to fulfill the promises and forestall the threats.

One result of the commission's work was the creation in 1970 of the National Oceanic and Atmospheric Administration (NOAA). But as set up by President Nixon, NOAA is not the independent agency recommended by the commission. Instead it operates under the Commerce Department.

Dr. H. Crane Miller, marine counsel to the Senate Commerce Committee, said the federal role in national oceanographic programs is dead unless ocean interests develop some political clout. "Unless we start focusing our attention to the development of a strong, popular constituency, were lost, we're dead," Miller said.

The problem, Dr. John P. Craven of the University of Hawaii said, is that there is a "national non-awareness of the value of the oceans. Therefore, there is no coalescence of political pressure and without this there is no action."

The United States spent about $500 million on ocean research and technology in 1969, 1970 and 1971 with about half of that going to the Defense Department. President Nixon raised the budget to $609 million for fiscal 1972 which ended last month and asked Congress to appropriate $647 million to be spent by 11 agencies in the new fiscal year.

The budget includes ocean science expenditures totaling $234 million for the Defense Department, $193 million for NOAA, and $69 million for the National Science Foundation, which is responsible for basic marine research.

NOAA's budget request for ocean work represents a 21 percent increase over the last fiscal year. That, Robert M. White, NOAA administrator said, "is the best evidence of the administration's intent with respect to the oceans."

"I think the interest in the general public is very extensive," White said, "I think there's no question that we will see a continually growing national effort . . . in activities in the marine environment."

FURTHER STUDY OF OVERTIME PAY REQUIRED

Mr. JAVITS. Mr. President, last week the Senate passed S. 1861, the minimum wage bill. As all Senators are aware, the bill is extremely important. In my opinion it is legislation which is vitally needed to enable low income workers to keep pace with inflation and provide themselves and their families with the vital necessities of life.

Because of the critical importance of raising the minimum wage now, the Committee on Labor and Public Welfare was not able to concentrate right now on the general issue of overtime. S. 1861 does narrow a number of the existing overtime exemptions, but it does not deal with overtime problems in a general way. I, myself, have devoted some time to studying this problem. Earlier this year I raised the question of providing for the payment of double time for overtime which was in fact regularly scheduled and therefore regular time. I did not press the matter in the committee or on the floor because other issues on the minimum wage precluded adequate consideration of this one but I believe that the time has come for us to take a broader look at the whole overtime question.

For example, is it the purpose of overtime to spread available work opportunities, or is it simply a matter of providing equitable compensation for long hours of work? Is legislation necessary to encourage further experimentation with the workday and the workweek, as we are now seeing with the 4-day week. 10 hours per day?

To the extent that overtime is a spread-work device, how well has it worked and how can it be made to work more effectively? That would include, in addition to the possibility of requiring a heavier penalty for excessive overtime, the question of whether groups now exempt from the overtime requirements of the law should be brought under them. These groups include employees in specific industries, and in addition all professional employees, who are now exempt. Thus, we presently see the spectacle of engineers and scientists working overtime in the aerospace industry while thousands of their counterparts have been laid off.

In that connection, I have just recently received petitions signed by over 500 members of the Professional, Technical, and Salaried Division of the International Union of Electrical, Radio, and Machine Workers urging that the exemption for professional employees from the overtime requirements of the Fair Labor Standards Act be repealed.

Mr. President, I do not know how many additional full-time jobs we could create by actually reducing the amount of really unneeded overtime work in American industry. But I have seen enough evidence to indicate that there is a possibility of creating several hundred thousand new jobs if we could just spread the work that is available a little more equitably than it is now being spread.

I make these remarks today to indicate for the RECORD that in my view with the passage of S. 1861 further consideration of changes in the overtime requirements of the FLSA are not a dead issue until the need arises to raise the minimum wage again. There is a great need to go into the overtime problem in more depth and I shall ask the Committee on Labor and Public Welfare, in the near future, to turn its attention to this problem. I certainly intend to continue my own work in this area with a view toward introducing appropriate legislation at the beginning of the next session.

TOWARD A MORE RATIONAL DELIVERY SYSTEM FOR FEDERAL GRANTS-IN-AID: THE STANDARDIZATION OF REQUIREMENTS

Mr. ROTH. Mr. President, it has become evident over the last few years that the delivery system of Federal domestic grants-in-aid operates in a less than effective manner. I have been concerned with the operation of this system, particularly as it affects State and local government. In the past, to provide sufficient information on Federal programs to potential applicants, I introduced the Program Information Act, which calls upon the Office of Management and Budget to regularly publish and update a listing of all Federal domestic assistance programs. To insure more rational decisionmaking in choosing among alternative programs, I became interested in the evaluation practices of the executive agencies and in the information available to the Congress on program results. This interest has led me recently to issue the results of a survey conducted by my staff on the evaluation practices of 12 executive departments and 29 independent agencies.

A major aspect of the delivery system to which I have given much attention, one which clearly contributes to the ineffectiveness characteristic of this system, is the complexity and inflexibility of the requirements imposed by the Federal Government on grant applicants. What has most concerned me is that we in Congress have continued to proliferate categorical programs without concerning ourselves sufficiently with their utility to intended recipients. Even a cursory study of the various guidelines, regulations, and application procedures reveals that this utility is greatly diminished by the needless expense, time, and effort required simply to apply for a single grant.

Mr. President, this point has been made painfully clear to me by the experience of a small town in Delaware seeking aid to develop adequate housing for its residents. Upon finding that some of the residents of the town of Laurel were living in inadequate housing facilities, a Department of Housing and Urban Development field team determined that Laurel was eligible for Federal assistance under an urban renewal program. The town subsequently prepared an application for this program, at which time they were told by the Department that funds were not available and were advised to reapply under a different program also administered by HUD. Mr. President, not only was the effort and expense used to prepare the earlier application wasted, but the preparation of the new application eventually cost the town an additional $30,000.

I consider the situation I have just described unacceptable, a gross distortion of our federal system. It is a clear example of the irrationality of bureau-

cratic redtape. Certainly it is not a rational system where, to solve the same problem, a small town must put forth great effort and expense to prepare two different applications, both of which went to the same agency. And the actual application for a grant is but one step in a process that is inordinately complicated. Simply to discover a program suitably designed to solve a particular problem involves research of such a specialized nature that many smaller counties are actually forced to hire a full-time expert. Compounding the problem is the delay between initial application and final decision, caused primarily by the specificity of the application requirements and by the procedure of multiple review. The most regrettable aspect of these delays, which in the case of Laurel has been almost 2 years, is that the time spent processing could be far better spent actually solving the problem.

I have stated that I find this situation deplorable. The President has demonstrated that he shares my dissatisfaction. In March of 1969, he initiated the Federal assistance review and charged it with the task of decentralizing and simplifying the machinery of Federal aid. Constructive directions in which the OMB has moved under FAR guidance include: The decentralization of grant administration; the establishment of common regional boundaries for agencies offering grants; the development of regional councils for the coordination of application procedures; the improvement of program information; and pilot projects in joint funding.

These are significant steps in the effort to achieve a more effective delivery system. A short while ago, I learned that substantial progress has also been made in achieving greater consistency in Federal requirements. As a first step, the OMB collected information concerning current practices for all Federal grant programs. Distinguishing between administrative requirements and program or even project-specific technical requirements, the OMB was able to classify all administrative requirements into 14 basic areas. Regulations in many of these areas were 'hen standardized governmentwide and are now promulgated in OMB Circular A–102. Mr. President. I ask unanimous consent that Circular A–102 be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ROTH. Mr. President, it is apparent upon studying a before and after chart of the areas in which the OMB has moved that they undertook a huge task and have accomplished a great deal. For example, with regard to regulations affecting matching shares, before standardization, of the 159 representative programs studied, 115 required cost matching. Of these 115, to determine the non-Federal share, 82 programs based this amount on a percentage of total costs, 24 on a percentage of some part of total costs, five on a fixed amount per grant and eight other programs based the amount on various other criteria such as level of effort. Adding to the complexity, agencies distinguished among types of matching. Of the 115 programs with matching provisions, 34 required cash contributions only, 42 required cash and inkind contributions, while 36 programs did not specifically define the type of contribution. Among the 42 programs allowing for inkind contributions, there were varying rules governing such things as methods for valuation of the contribution.

Complaints from State and local agencies about the unnecessary variance in Federal grant regulations seem to be wholly reasonable. This is especially true in light of the fact that in the first sustained effort at reform, the OMB has been able to create from this mish-mash of duplicative, unnecessary and confusing matching requirements one set of uniform guidelines for all grant programs. Similiar results were obtained in other areas, including: cash depository regulations; bonding and insurance requirements; record custody and retention requirements; waiver of "single" State agency requirements; program income regulations; expenditure reporting guidelines; and application forms.

These results do represent substantial progress in simplifying unreasonably difficult procedures. I am not, however, convinced that there is nothing more that can be done. Though there are now, as a result of the FAR project's accomplishments, only two different application forms, it will still be necessary for a prospective grantee to reapply for each separate project. Understandably, different programs require different information from the applicant; nevertheless, it is wasteful to require an applicant to prepare a completely new application for each program. A more practical approach would be to establish a central data bank in the executive branch, to store basic information on each State, town or institution that applies for Federal assistance. The data bank could then be used to furnish this basic information each time the grantee is required to prepare a new application.

Another area in which constructive reform could be initiated is that which the OMB termed technical, program requirements. With administrative procedures standardized for the most part, it will now be possible to get a clearer picture of the extent to which program-specific requirements vary needlessly. The experience that the OMB has obtained in securing executivewide cooperation can now be usefully employed to standardize this more difficult set of requirements. Of course, it is not yet clear what degree of success can be expected from efforts to simplify requirements generated by specific program needs. But it is obvious that these requirements contribute a great deal to the confusion and frustration many State planners feel. It is equally clear that there is much duplication and unnecessary variety here. It has been indicated to members of my staff that no commitment has been made to standardize program requirements. Mr. President, a commitment to restore the proper balance of federalism by decentralizing and simplifying the redtape in Federal assistance programs certainly seems to call for an all-out effort to eliminate irrationality from the machinery of domestic assistance. Anything less would be only a partial answer to the problem.

This is a roughly sketched picture of the situation which confronts the State and local governments when they try to secure Federal aid in solving their problems. I have been interested in efforts to make the delivery system for this aid more responsive to local needs since my first days in Congress and thus commend the Federal assistance review and the Office of Management and Budget for their progress along this line. Much has been done. Much still remains to be done, including reforms that Congress must initiate. It is my hope that we can continue to act creatively and energetically to make our grant system a more effective part of a vital and balanced federal system.

EXHIBIT 1

[Circular No. A–102, Transmittal Memorandum No. 1]

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., January 25, 1972.

To the heads of executive departments and establishments.

Subject: Uniform administrative requirements for grant-in-aid to State and local governments.

This Transmittal Memorandum No. 1 promulgates Attachments E and F of Circular No. A–102. They extend simplification and standardization of administrative requirements to additional areas in keeping with the objectives of the Federal Assistance Review Program to streamline the administration of grants to State and local governments.

GEORGE P. SHULTZ,
Director.

[Circular No. A–102]

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., January 25, 1972.

To the heads of executive departments and establishments.

Subject: Uniform administrative requirements for grants-in-aid to State and lcoal governments.

1. *Purpose.* This Circular promulgates Attachments A, B, C, and D containing standards for establishing consistency and uniformity among Federal agencies in the administration of grants to State and local governments. Also included in the Circular are standards to insure the consistent implementation of sections 202, 203, and 204 of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101).

2. *Rescission.* This Circular rescinds and supersedes Office of Management and Budget Circular A–96 dated August 29, 1969.

3. *Background.* By a memorandum of March 27, 1969, to the Office of Management and Budget and to ten Federal agencies engaged in domestic grant-in-aid programs, the President ordered a three-year effort to simplify, standardize, decentralize and otherwise modernize the Federal grant machinery. The standards included in the attachments to this Circular will replace the multitude of varying and oftentimes conflicting requirements in the same subject matter which have been burdensome to the State and local governments. (Additional attachments will be issued as standardization in other areas is developed.) Inherent in this standardizaton process is the concept of placing greater reliance on State and local governments. In addition, the Intergovernmental Cooperation

Act of 1968 was passed, in part, for the purposes of: (a) achieving the fullest cooperation and coordination of activities among levels of Government; (b) improving the administration of grants-in-aid to the States; and (c) establishing coordinated intergovernmental policy and administration of Federal assistance programs. This Act provided certain basic policies pertaining to administrative requirements to be imposed upon the States as a condition to receiving Federal grants. The implementing instructions of these policies were initially issued in Circular A–96. These instructions are modified herein in the interest of achieving further consistency in implementing that Act.

4. *Applicable provisions of the Intergovernmental Cooperation Act of 1968.* Federal agencies shall continue to follow the provisions of the Act, quoted below:

"DEPOSITS OF GRANTS-IN-AID

"Sec. 202. No grant-in-aid to a State shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State. All Federal grant-in-aid funds made available to the States shall be properly accounted for as Federal funds in the accounts of the State. In each case the State agency concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency. The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to the grant-in-aid received by the States.

"SCHEDULING OF FEDERAL TRANSFERS TO THE STATES

"Sec. 203. Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by a State, whether such disbursement occurs prior to or subsequent to such transfer of funds, or subsequent to such transfer of funds. [Sic] States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes."

"ELIGIBLE STATE AGENCY

"Sec. 204. Notwithstanding any other Federal law which provides that a single State agency or multimember board or commission must be established or designated to administer or supervise the administration of any grant-in-aid program, the head of any Federal department or agency administering such program may, upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency or multimember board or commission provision upon adequate showing that such provision prevents the establishment of the most effective and efficient organizational arrangements within the State government and approve other State administrative structure or arrangements: *Provided*, That the head of the Federal department or agency determines that the objectives of the Federal statute authorizing the grant-in-aid program will not be endangered by the use of such other State structure or arrangements."

Some of the above provisions require implementing instructions and they are provided in several of the attachments to this Circular which deal with the specific subject matter.

5. *Definitions.* For the purpose of this Circular:

a. The term "grant" or "grant-in-aid" means money, or property provided in lieu of money, paid or furnished by the Federal Government to a State or local government under programs that provide financial assistance through grant or contractual arrangements. It does not include technical assistance programs or other assistance in the form of revenue sharing, loans, loan guarantees, or insurance.

b. The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

c. The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education, hospitals, and school districts.

6. *Coverage.* The standards promulgated by this Circular are applicable to all Federal agencies responsible for administering programs that involve grants to State and local governments. However, agencies are encouraged to apply the standards to loan and loan guarantee programs to the extent practicable.

7. *Other statutory provisions.* Where the enabling legislation for a specific grant program prescribes policies or requirements that differ from the standards provided herein, the provisions of the enabling legislation shall govern.

8. *Requests for exceptions.* The Office of Management and Budget may grant exceptions from the requirements of this Circular when permissible under existing laws. However, in the interest of keeping uniformity to the maximum extent, deviations from the requirements of this Circular will be permitted only in exceptional cases. The head of each Federal agency responsible for administering programs that involve grants to State and local governments will designate an official to serve as the agency representative on matters relating to the implementation of this Circular. The name of the agency representative should be sent to the Office of Management and Budget within thirty days after the receipt of this Circular.

9. *Effective date.* The standards in the attachments to this Circular will be applied as soon as practicable but not later than July 1, 1972.

GEORGE P. SHULTZ,
Director.

[Attachment A, Circular No. A–102]

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

CASH DEPOSITORIES

1. Except for situations described in 2., 3., and 4., below, no grant program shall:

a. Require physical segregation of cash depositories for Federal grant funds which are provided to a State or local government.

b. Establish any eligibility requirements for cash depositories, in which Federal grant funds are deposited by State or local governments.

2. A separate bank account may be used when payments under letter of credit are made on a "checks-paid" basis in accordance with agreements entered into by a grantee, the Federal Government, and the banking institutions involved.

3. Any moneys advanced to the State or local governments which are determined to be "public moneys" (owned by the Federal Government) must be deposited in a bank with FDIC insurance coverage and the balances exceeding the FDIC coverage must be collaterally secure, as provided for in 12 U.S.C. 265.

4. Consistent with the national goal of expanding the opportunities for minority business enterprises, State and local governments shall be encouraged to use minority banks.

[Attachment B, Circular No. A–102]

BONDING AND INSURANCE

1. Except for situations described in 2. and 3., below, Federal grantor agencies shall not impose bonding and insurance requirements, including fidelity bonds, over and above those normally required by the State or local units of government.

2. A State or local unit of government receiving a grant from the Federal Government which requires contracting for construction or facility improvement shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

a. *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. Where the Federal Government guarantees the payment of money borrowed by the grantee, the Federal grantor agency may, at its discretion, require adequate bonding and insurance if the bonding and insurance requirements of a State or local government are not deemed to be sufficient to protect adequately the interest of the Federal Government.

[Attachment C, Circular No. A–102]

RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS

1. Federal grantor agencies shall not impose record retention requirements over and above those established by the State or local governments receiving Federal grants except that financial records, supporting documents, statistical records, and all other records pertinent to a grant program shall be retained for a period of three years, with the following qualifications:

a. The records shall be retained beyond the three-year period if audit findings have not been resolved.

b. Records for nonexpendable property which was acquired with Federal grant funds shall be retained for three years after its final disposition.

c. When grant records are transferred to or maintained by the Federal grantor agency, the three-year retention requirement is not applicable to the grantee.

2. The retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of the annual expenditure report.

3. State and local governments should be authorized, by the Federal grantor agency, if

they so desire, to substitute microfilm copies in lieu of original records.

4. The Federal grantor agency shall request transfer of certain records to its custody from State and local governments when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping a Federal grantor agency may make arrangements with State and local governments to retain any records which are continuously needed for joint use.

5. The head of the Federal grantor agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcripts.

6. Unless otherwise required by law, no Federal grantor agency will place restrictions on State and local governments which will limit public access to the State and local governments' records except when records must remain confidential for the following reasons:

a. Prevent a clearly unwarranted invasion of personal privacy.

b. Specifically required by Executive order or statute to be kept secret.

c. Commercial or financial information obtained from a person or a firm on a privileged or confidential basis.

d. Any other information which can be exploited for the purpose of personal gains.

[Attachment D, Circular No. A–102]

WAIVER OF "SINGLE" STATE AGENCY REQUIREMENTS

1. Requests to Federal grantor agencies from the Governors, or other duly constituted State authorities, for waiver of the "single" State agency requirements in accordance with section 204 of the Intergovernmental Cooperation Act of 1968 should be given expeditious handling and, whenever possible, an affirmative response should be made to such requests.

2. When it is necessary to refuse a request for waiver of the "single" State agency requirements under section 204, the Federal grantor agency handling such request will so advise the Office of Management and Budget prior to informing the State that the request cannot be granted. Such advice should indicate the reasons for the denial of the request.

3. Future legislative proposals embracing grant-in-aid programs should avoid inclusion of proposals for "single" State agencies in the absence of compelling reasons to do otherwise. In addition, existing "single" State agency requirements in present grant-in-aid programs should be reviewed and legislative proposals should be developed for the removal of these restrictive provisions.

[Attachment E, Circular No. A–102]

PROGRAM INCOME

1. Federal grant or agencies shall apply the standards set forth in this Attachment in requiring State and local government grantees to account for program income related to projects financed in whole or in part with Federal grant funds. For the purpose of this Attachment, program income means gross income earned by the grant-supported activities.

2. In accordance with Section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577), the States and any agency or instrumentality of a State shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

3. Units of local government shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds in accordance with a decision of the Comptroller General of the United States (42 Comp. Gen. 289).

4. Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the Attachment to this Circular pertaining to Property Management, to be issued at a later date.

5. Royalties received from copyrights and patents during the grant period shall be retained by the grantee and, in accordance with the grant agreement, be either added to the funds already committed to the program or deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs will be based. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Federal grantor agency in the absence of other specific agreements between the grantor agency and the grantee. The Federal share of royalties shall be computed on the same ratio basis as the Federal share of the total project cost.

6. All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be:

a. Added to funds committed to the project by the grantor and grantee and be used to further eligible program objectives, or

b. Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

7. Federal grantor agencies shall require the grantees to record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with grant agreements.

a. *Valuation of volunteer services.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of volunteered service may be counted as matching share if the service is an integral and necessary part of an approved program.

(1) *Rates for volunteer services.* Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the State or local government. In cases where the kinds of skills required for the federally-assisted activities are not found in the other activities of the grantee, rates used should be consistent with those paid for similar work in the labor market in which the grantee competes for the kind of services involved.

(2) *Volunteers employed by other organizations.* When an employer other than the grantee furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost) provided these services are in the same skill for which the employee in normally paid.

b. *Valuation of materials.* Contributed materials include office supplies, maintenance supplies or workshop and classroom supplies. Prices assessed to donated materials included in the matching share should be reasonable and should not exceed the cost of the materials to the donor or current market prices, whichever is less, at the time they are charged to the project.

c. *Valuation of donated equipment, buildings and land or use of space.*

(1) The method used for charging matching share for donated equipment, buildings, and land may differ depending upon the purpose of the grant as follows:

(a) If the purpose of the grant is to furnish equipment, buildings, or land to the grantee or otherwise provide a facility, the total value of the donated property may be claimed as a matching share.

(b) If the purpose of the grant is to support activities that require the use of equipment, buildings or land on a temporary or part-time basis, depreciation or use charges for equipment and buildings may be made; and fair rental charges for land may be made provided that the grantor agency has approved the charges.

(1) The value of donated property will be determined as follows:

(a) *Equipment and buildings.* The value of donated equipment or buildings should be based on the donor's cost less depreciation or the current market prices of similar property, whichever is less.

(b) *Land or use of space.* The value of donated land or its usage charge should be established by an independent appraiser (i.e., private realty firm or GSA representatives) and certified by the responsible official of the grantee.

d. *Valuation of other charges.* Other necessary charges incurred specifically for and in direct benefit to the grant program in behalf of the grantee may be accepted as matching share provided that they are adequately supported and permissible under the law. Such charges must be reasonable and properly justifiable.

5. The following requirements pertain to the grantee's supporting records for in-kind contribution from private organizations and individuals:

a. The number of hours of volunteer services must be supported by the same methods used by the grantee for its employees.

b. The basis for determining the charges for personal services, materials, equipment, buildings, and land must be documented.

[Attachment F, Circular No. A–102]

MATCHING SHARE

1. This Attachment sets forth criteria and procedures for the allowability and evaluation of cash and in-kind contributions made by State and local governments in satisfying matching share requirements of Federal grants.

2. The following definitions apply for the purpose of this Attachment:

a. *Project costs.* Project costs are all necessary charges made by a grantee in accomplishing the objectives of a grant during the grant period. For matching share purposes, project costs are limited to the allowable types of costs as set forth in Office of Management and Budget Circular No. A–87.

b. *Matching share.* In general, matching share represents that portion of project costs not borne by the Federal Government. Usually, a minimum percentage for matching share is prescribed by program legislation, and matching share requirements are included in the grant agreements.

c. *Cash contributions.* Cash contributions represent the grantee's cash outlay, including the outlay of money contributed to the grantee by other public agencies and institutions, and private organizations and individuals. When authorized by Federal legislation, Federal funds received from other grants may be considered as grantee's cash contributions.

d. *In-kind contributions.* In-kind contributions represent the value of noncash contributions provided by (1) the grantee, (2) other public agencies and institutions, and (3) private organizations and individuals. In-kind contributions may consist of charges for real property and equipment, and value of goods and services directly benefiting and specifically identifiable to the grant program. When authorized by Federal legislation, property purchased with Federal funds may be considered as grantee's in-kind contributions.

3. General guidelines for computing matching share are as follows:

a. Matching share may consist of:

(1) Charges incurred by the grantee as project costs. Not all charges require cash

outlays during the grant period by the grantee; examples are depreciation and use charges for buildings and equipment.

(2) Project costs financed with cash contributed or donated to the grantee by other public agencies and institutions, and private organizations and individuals.

(3) Project costs represented by services and real or personal property, or use thereof, donated by other public agencies and institutions, and private organizations and individuals.

b. All in-kind contributions shall be accepted as part of the grantee's matching share when such contributions meet the following criteria:

(1) Are identifiable from the grantee's records;

(2) Are not included as contributions for any other federally-assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives; and

(4) Conform to other provisions of this Attachment.

4. Specific procedures for the grantees in placing the value on in-kind contributions from private organizations and individuals are set forth below:

NATIONAL COUNCIL ON CRIME AND DELINQUENCY URGES CRIMINAL JUSTICE REFORM

Mr. HUMPHREY. Mr. President, I invite attention to three policy statements just released by the National Council on Crime and Delinquency calling for reform in the Nation's corrections systems. The council, headed by prominent leaders such as Milton Rector, executive director of NCCD; criminologist-psychiatrist Karl Menninger; New York Police Commissioner Patrick V. Murphy; and Duke University President Terry Sanford, urges national and State legislators and administrators, civic organizations, and the general public to demand the immediate implementation of the three following proposals:

Minimum standards and wages for the Nation's prison industries;

A halt in construction of new penal institutions until community alternatives are fully achieved; and

The replacement of the Federal Bureau of Prisons with a Federal corrections agency to supervise and assist State and local systems.

These proposals are important and needed ideas concerning reform of our criminal justice system. As the sponsor of S. 3612, to establish a National Institute of Justice, I again urge my colleagues to recognize the immediacy of this issue and join in support of this legislation to promote comprehensive review, research, and reform our entire justice system. I ask unanimous consent that excerpts from the NCCD news release be printed in the RECORD.

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

THE FEDERAL BUREAU OF PRISONS

The original concept of the federal government's relationship to state governments severely limited the role of criminal law in the federal system. Thus, throughout most of our history, federal crimes dealt only with protection of borders, the currency, and similar matters that affected the interest of the nation as a whole. In contrast, all other common law crimes were the concern of the states.

In 1895, Congress transferred the military prison at Fort Leavenworth, Kans., from the War Department to the Department of Justice; the first new federal penitentiary, at Atlanta, Ga., was opened in 1902. Since federal prisoners were then being "boarded out" in state and local institutions, this new penitentiary was not a necessity. Nevertheless, in the next forty years, fourteen new federal penal institutions were built. At the same time, the federal government expanded its criminal code, enacting many provisions that duplicated state laws—laws which governed, for example, prostitution, auto theft, and juvenile delinquency, all of which could have safely been left to the states—and, in 1930, it established the Bureau of Prisons, to manage a system that had grown larger than that of any state.

To summarize this unfortunate development: first the federal government built unneeded institutions, then it enacted duplicative laws that produced inmates to fill these institutions, and finally it created an agency to administer this unnecessary system, which now is a complex of about forty penitentiaries, correctional institutions, reformatories, institutions for juvenile and youthful offenders, prison camps, and detention, medical and treatment centers.

Since the federal system consists only of institutions and does not deal with noninstitutional community treatment, it has no prospect of serving as a fully developed correctional model for the states. As innovative and forward looking as the Bureau's program has been, its institutions do not have a better record in rehabilitation than the states'; in addition, the federal system usually requires that the offender be transported great distances from his residence for presentence diagnosis or correctional confinement. The Bureau's proposed "community centers" cannot, of course, be established in every community; each one must necessarily serve a large region. The federal institution system can only duplicate the states' systems, and its very existence impedes a state's trend toward community correction.

For these reasons, the National Council on Crime and Delinquency urges the disestablishment of the Federal Bureau of Prisons and its replacement by a Federal Correction Agency whose functions would be to provide technical assistance, program guidelines, and research designs to state and local governments. LEAA funds should be used to upgrade state and local probation systems for the rehabilitation of all offenders—federal as well as state—in the local communities. Pre-trial detention centers should be operated by each state—for federal as well as state law violators. NCCD opposes the Federal Bureau of Prisons' plan to construct a large number of detention and correctional institutions at a cost of several hundred million dollars in the next decade. The funds should be allocated to the states to help them develop the maximum use of community correction.

INSTITUTIONAL CONSTRUCTION

No new detention or penal institution should be built before alternatives to incarceration are fully achieved. Specifically, the National Council on Crime and Delinquency calls for a halt on the construction of all prisons, jails, juvenile training schools, and detention homes until the maximum funding, staffing, and utilization of noninstitutional correction have been attained.

What is the justification for this position in view of the present condition of these institutions?

There is scarcely a large city in the country that does not suffer from crowded jails and detention facilities. In some jails, two or more persons are caged in cells designed for only one. The buildings are often dirty, cramped, and suffocating. Their age (some are more than two hundred years old) defies adequate refurbishment and modernization. The results of overcrowding under such conditions are evidenced by high tension, conflicts, and, sometimes, riots and death.

The large state and federal prisons and training schools are often overcrowded, though not so severely as the city jails and detention homes. But many of these facilities are among the most dismal custodial buildings in the country. Typically, they are in the remote areas of the state, far from the inmates' families, far from universities with their behavior specialists and education programs, far from industry with its opportunities for training and work-release, far from medical centers with competence in therapy and research.

Our incarceration and detention institutions have frequently been characterized as sordid and destructive. Rather than rehabilitate, they dehumanize and criminalize. Prison protests have been rising. Inmates have rebelled; some, to protest their brutalizing prison experience, have even crippled themselves by cutting their Achilles tendons.

Do we not, therefore, need new institutions? Since projected construction of prisons, jails and juvenile facilities totals nearly two billion dollars, many state and local governments apparently believe we need them. Why, then, does NCCD believe we do not need them?

Correctional officials repeatedly say that their prisons contain many men who should not be there. The American Correctional Association estimates that less than 15 per cent of the men in prisons need maximum security. The President's Crime Commission urged that "only the very dangerous should be held in prison." It would be unwise, therefore, to plan new construction based on present practices. Until all forms of community-based correction are used to the optimum, the size, location, or type of facility required for the few remaining offenders who require institutional commitment cannot be accurately planned.

The compelling reason for turning aside from prison to community treatment is summed up by the director of the President's Crime Commission: "If we take a person whose criminal conduct shows he cannot manage his life, lock him up with others like himself, increase his frustrations and anger, and take away from him any responsibility for planning his life, he is almost certain to be more dangerous when he gets out than when he went in."

To allocate funds for institutions before making the greatest possible use of community correction will increase rather than decrease institution populations; it will absorb manpower and money that would be better used for community correction. Instead of wasting massive sums on a system that has not worked in the past and is not likely to work in the future, we should first allocate funds for expanded community treatment.

Through an investment in probation, California has reduced its state prison population from 28,000 to 21,000 in three years.

In Saginaw, Mich., NCCD conducted a three-year project which demonstrated that 80 per cent of felony offenders can be placed on probation without danger to the community. Their recidivism rate was lower than for those who went through prison. And in just eighty-eight cases, the citizens of Michigan saved over $400,000.

In New Mexico, where 1,500 men and women were jammed into cells designed to hold 1,200, state authorities established an effective parole and probation system. The prison population dropped to 800. The proposed expenditure of $20 million for a new institution was found to be unwarranted.

Cities, too, can benefit from community treatment. Philadelphia spends $10.4 million to maintain a daily average of 2,961 prisoners. Cost: $3,200 a year per prisoner. Upon release, at least 65 per cent will commit more

crime. At the same time, the city spends $2 million a year to supervise 17,300 offenders on probation. Cost: $150 a year per person. The recidivism rate is about 16 per cent. Community treatment makes sense.

A recent jail census carried out by the National Criminal Justice Information and Statistics Service showed that 52 per cent of all persons in jail were in pre-trial detention. Most of them could not post bail or qualify for release-on-recognizance. Expanded use of pre-trial release such as that carried out in the Des Moines community correction project can significantly cut the number detained in jail each year.

The removal of victimless crimes—drunkenness, addiction, prostitution, gambling—from the criminal codes would drastically reduce the jail and prison population. Half of all those now in jail are victimless crime offenders.

Institutions are necessary for only the dangerous offender. On that basis we have vastly more institutional space than we need. This is why NCCD calls for a halt in institutional construction until the potential of community treatment is fully achieved.

COMPENSATION OF INMATE LABOR

Virtually all prisons have work programs in which inmates produce, for sale to and use by government departments, salable articles such as clothing, textile products, machine parts, stamped metal goods, and farm produce, among other items.

Work that prepares the inmate for jobs outside the institution is especially valuable. Any work that trains and improves inmate skills and is performed under humane conditions is an essential part of a sound correction program.

The present condition of prison industries, however, limits the value of these programs. The deficiencies vary from prison to prison. In some institutions the operation is so slipshod and poorly organized that, despite the virtual absence of the cost of labor, it loses money for the state; sometimes two or three inmates are assigned to do a task that would require only one worker in private industry. In none are even 25 percent of the inmates released to work for which they were trained in prison. In all prison systems, idleness still obtains for a large part of the inmate population.

The equipment on which the prisoner works is frequently antiquated and obsolete. Skills learned by the inmate during imprisonment are seldom marketable when he is released. And even where equipment is new, it is usually designed for a very restricted type of industrial production. The work done with it produces skills that can be applied only by men who have returned to prison.

Prison administrators who speak candidly (usually off the record) admit that much prison labor is "busy work." The whole operation lacks efficiency, incentives, production norms, and the complex of operational goals and attitudes that are the hallmark of a successful industrial endeavor. The knowhow of private business or organized labor is not involved in inmate training or industry operation.

The pay for inmates employed in prison is too low to be regarded as wages. The average prison laborer receives from 10¢ to 65¢ a day. No institution pays its inmate workers for a day's work what the federal minimum wage law requires for an hour's work. The rate of pay, therefore, provides no incentive; indeed, since it is only a token, it is a daily rebuke to the inmate, reminding him of society's power to exploit him at will.

This counterproductive prison labor system must be changed. An inmate receiving equitable payment for work performed will be able to provide some support of his family, continue payments on his social security, provide restitution (if this is applicable in his case), make some payment for room and board, and save some money to assist himself upon his return to society.

Therefore, the National Council on Crime and Deliquency urges the introduction of federal and state legislation requiring that an inmate employed at productive work in a federal, state, or local institution shall be paid no less than the minimum wage operative nationally or in his state.

We urge legislators and administrators to adopt and support the foregoing policy and we call on civic organizations and the general public to demand its implementation.

STUDENTS SUPPORT THE PRESIDENT

Mr. BROCK. Mr. President, the growing support the President is enjoying among young people reflects, I believe, an appreciation of his record on many matters of concern to these young people.

More than anything else, however, I feel it is because they know that throughout his term in office he has sought, for this generation and for generations to come, a world of peace. In fact, he has done more than any man in my lifetime to bring lasting peace to the world.

A number of test elections and polls have been held on the campuses of high schools, colleges, and universities across the Nation. These elections and polls show that President Nixon enjoys wide support among young people.

The large majority of these test elections and polls were sponsored and conducted by official organizations, such as student councils and student government associations. Others were coordinated by independent, nonpartisan groups.

As chairman of the Congressional Advisory Board of the Young Voters for the President Committee, I have followed these reports closely.

Mr. President, I ask unanimous consent that the names of these 109 high schools, colleges and universities—where young people have demonstrated the same strong support for the President—be printed in the RECORD.

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

Atlantic University.
Central Florida Community College.
Chipola Junior College.
Embry.
Florida Presbyterian College.
Palm Beach Atlantic College.
Lake Samter College.
St. Petersburg Junior College.
St. Leo College.
Seminole Junior College.
Florida A & M.
Brevard Junior College—Gential Campus.
Valencia Junior College.
Polk Community College.
North Florida Junior College.
Rollins College.
Hillsborough Community College—Dale-Mabry Campus.
Indian River Community College.
Brevard Junior College—South Campus.
St. Petersburg Junior College.
Florida Southern College.
Palm Beach Junior College.
Gulf Coast Community College.
Miami Dade College (North).
Daytona Beach Junior College.
Okaloosa—Walton Junior College.
Stetson University.
University of Miami.
Florida Technological University.
Bethomb Cookman College.
Barry College.
Florida Institute of Technology.
Hillsboro Community College—Seminole Campus.
Pensacola Junior College.
Tallahassee Junior College.
Florida State University.
Auburn University.
Teenage Fair, Hollywood Palladium.
John F. Kennedy High School, Los Angeles.
John F. Kennedy University.
Whittier College.
California State College—Fullerton.
University of Southern California.
Pepperdine College.
Occidental College.
Los Angeles Valley College.
Five Campus Poll in Los Angeles.
University of California, Davis.
California Junior Statesmen of America.
William S. Hart High School.
Huntington High School.
Wheat Ridge Junior High School.
Fifth National Student's Presidential Preference Poll.
University of Connecticut.
Oakton Senior High School.
Hialeah Senior High School.
N. Miami Beach Senior High School.
Youth Political Bipartisan Convention of N.E. Florida.
Chipola Junior College.
St. John's Jr. College.
District Eight—Teenage Republicans Student Primary.
College of Idaho.
Taylor University.
Kansas University.
Centenary College, Shreveport.
University of Maryland.
Oxon Hill High School.
Albert Einstein High School.
Brooks Senior High School, Massachusetts.
High School Poll of Seniors in East Detroit.
Central Michigan.
Kellogg Community College.
Phi Theta Kappa, Jr. College Honor Society.
University of Mississippi.
Plymouth High School.
Kearsage High School.
Dover High School.
Spaulding High School.
Keene High School.
Laconia High School.
Pinkerton Academy.
New Hampshire College.
New Hampshire Technical Institute.
Plymouth State College.
St. John's River Jr. College.
Chipola Junior College.
Rider College.
East Carolina University.
Lees-McRae College.
Ohio State University.
Denison University.
Edinborough State College.
University of South Carolina.
Statewide Mock Convention at University of South Dakota.
Nettleton Commercial College.
McCallie School.
University of Tennessee.
Vanderbilt Undergraduate Political Science Association.
University of Houston.
University of Virginia.
Mary Washington College.
Washington State University.
University of Wisconsin, Madison.
University of Wisconsin, Whitewater.
Louisiana Tech University.
Louisiana State University.
Charles H. Boehm High School.
Norwich University.
Vermont College.

REVENUE SHARING

Mr. HARRIS. Mr. President, I hope that, if the Senate Finance Committee votes out any revenue sharing bill, it will recognize the just claims of Indian tribes to share in this revenue. To that end I have cosponsored an amendment, principally offered by the distinguished Senator from Montana (Mr. METCALF) to the pending bill. Today, I have received a resolution of the Salt River Pima-Maricopa Indian Community Council supporting that amendment. I ask unanimous consent that it be printed in the RECORD.

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

RESOLUTION No. SR-833-73

Whereas, there has been introduced in the 92nd Congress, Second Session, H.R. 14370, which is the proposed "State and Local Fiscal Assistance Act of 1972" which provides for federal payments to States and other units of local governments; and,

Whereas, Indian tribes are the only local governments in the country which are not benefited from H.R. 14370 in its present form; and,

Whereas, the Senate Finance Committee will be considering H.R. 14370 which has passed the House; and,

Whereas, the Tribal financial resources to meet tribal governmental responsibilities and the pressing needs of Indian Reservation communities are highly inadequate, notwithstanding some financial assistance through the Bureau of Indian Affairs and other governmental sources; and,

Whereas, the present bill which ignores the needs of Indian tribes violates long standing national policies embodied in numerous statutes and countless court decisions of recognizing and encouraging Indian-Tribal Governments. Now, therefore, be it

Resolved by the Salt River Pima-Maricopa Indian Community Council in meeting assembled this 19th day of July, 1972, that it respectfully requests Senator Paul Fannin and other members of the Senate Finance Committee to consider an Indian Revenue Sharing amendment which would provide for a reasonable share of the Revenue Sharing to Indian Tribes; and, be it further

Resolved that copies of this Resolution be forwarded to the members of the Senate Finance Committee and to the Arizona Congressional Delegation for its consideration.

ANOTHER DOLE FOR THE KENNEDY CENTER?

Mr. ALLOTT. Mr. President, I noted with interest an article in this morning's Washington Post stating that the Kennedy Center might be coming back to Congress yet again for another dole.

I hope this report is not accurate.

It has been apparent for some time that some of those associated with the Kennedy Center believe that the center has an inalienable right to a perpetual draw on the public Treasury. I disagree, and I intend to use whatever powers are at my command to see that this fictitious right does not become a reality.

It has been apparent for some time that the Kennedy Center is living beyond its means—unless it manages to make the Public Treasury a part of its "means."

It has been apparent for some time that the Kennedy Center lacks the will or the skill to bring its expenses into line with its revenues. I do not know what can be done about this. Perhaps the best and only thing that can be done is to provide the Kennedy Center with a special incentive to mend its constantly troublesome ways. That is, we can simply provide unambiguous assurances that the Federal money should not be a part of the Kennedy Center's finances. Or, failing this, we must squarely face the depressing possibility of Congress assuming full jurisdiction over the Center's finances.

I hope that all Senators will be resistant to additional siphoning off of Federal money.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

CENTER TO REQUEST MORE MONEY?

(By Stephen Green)

The John F. Kennedy Center for the Performing Arts could end up asking Congress for more construction funds, according to congressional testimony.

Roger L. Stevens, chairman of the Center's board of trustees, has previously testified in committee that Congress will not be asked to vote more money for construction, but the testimony released yesterday appeared to reopen that possibility.

The further construction expenses could be as much as $4.6 million more than a 1969 price limit set by Congress, according to William A. Schmidt, a Center official.

"How long we can hold the creditors at bay I do not know," Stevens told the House Interior Appropriations Subcommittee during a July 20 closed hearing. A record of the hearing was released yesterday.

"Will you be required to come back to Congress for more money?" asked Rep. Sidney R. Yates (D-Ill.).

"I don't know," answered Stevens.

It was unclear from the record whether Stevens might seek outright funding or borrowing authority.

During the hearing, the subcommittee, headed by Rep. Julia Butler Hansen (D-Wash.) was told that the final cost of the Center building by the Potomac River probably will be about $71 million—$26.6 million more than the original cost estimate of $4.4 million.

Congress in 1969 set a price limit of $66.4 million for Center construction.

"I think the total cost of the construction contracted for, including settlement for . . . claims, will approach $71 million," said Schmidt, executive director of engineering for the Center.

Stevens, who last month said he is unable to obtain money from private sources to pay outstanding construction claims estimated at $4.6 million, could not be reached for comment late yesterday on his testimony.

However, William W. Becker, a Center attorney, explained while giving no further details, that there "is no question the board of trustees has a problem. When Congress was told that no more money for construction would be requested, it was based on a 1969 General Services Administration estimate of $66.4 million. Since then we've had the increased costs."

Becker told the subcommittee that the Center is issuing one-year promissory notes carrying 6 per cent interest.

"The notes, in effect, defer the requirement to make immediate payment . . . The trustees felt that they did have to make some provision for interest in light of the fact that the outstanding obligations would continue to be unpaid for some period of time," Becker added.

Under questioning by Yates, he said the federal government is not responsible for payment of the notes.

Yesterday Becker said that about $300,000 in notes already have been issued or are in the process of being issued.

Rep. Hansen called the hearing to determine if Congress should appropriate $1.5 million for the National Park Service to pay non-performing costs of the Center. The funds were appropriated last week.

Included in the $1.5 million debt is a $359,232 electricity bill and $271,302 for janitorial services performed by ITT Service Industries Corp., one of three ITT subsidiaries holding Center contracts.

The others are Airports Parking Company (APCOA) and Canteen Corporation. APCOA has a contract to manage the Center garage and has loaned the Center $3.5 million which is supposed to be paid back by 1977. Canteen has a 16-year contract to run Center eating facilities.

For construction, Congress appropriated $23 million and authorized the Center to issue $20.4 million in revenue bonds. Another $23 million was raised through donations.

Schmidt told the subcommittee that $2.7 million of the extra construction cost is due to the fact that the amount of steel for the building was underestimated by a third.

The General Services Administration, he said, figured that 12,800 tons of steel would be needed but it turned out that 17,500 tons were required.

AMERICA'S SHEEP INDUSTRY TODAY

Mr. HANSEN. Mr. President, the New York Times of Sunday, June 23, 1972, contains an interesting article entitled, "Sheep Flock at Low," written by Mr. Kurt Knox.

The article, bearing a Cheyenne, Wyo., dateline, stated that nationally the sheep industry inventory set an all time low according to the Department of Agriculture. There were 33 million sheep in the United States in 1959. There are now only 18.5 million in the country as of early 1972.

Reasons for this dropoff in numbers of sheep and the effect it is having on the rancher and the average citizen are the subject of the article. Through interviews with several Wyoming citizens who are engaged in the sheep industry, the author presents some insight into America's sheep industry today.

In order that Senators might have a fuller understanding of the sheep industry today and its potential for the future, I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, July 23, 1972]

SHEEP FLOCK AT LOW

(By Kurt Knox)

CHEYENNE, WYO.—For generations Wyoming sheep families have grazed their flocks on the prairie grass of the high plateau west of here. But in the last decade a number of threats to their traditional way of life have developed.

Nor is the trend peculiar to Wyoming. Nationally the sheep inventory has declined to the lowest in the nation's history—18.5 million in early 1972 from 33 million in 1959, according to the Department of Agriculture.

The all-polyester, double-knit fabrics "clobbered us and the wool market fell out of bed," Verne Vivion explained. Mr. Vivion, a sun-tanned, third-generation rancher from Rawlings in south central Wyoming, is president of the National Woolgrowers Association and a big sheep-raiser. In fact, mill use of raw apparel wool plummeted from the 1960–64 average of 255 million pounds annually to 115 million pounds in 1971.

Still, there is no consensus for the plight of the sheep herd. Some cite the greater consumer demand for beef than lamb, which has caused some ranchers to concentrate on cattle.

Curtis Rochelle, another Rawlings rancher, says his No. 1 problem "is the coyote. I estimate my losses to coyotes run around $30,000 a year." He also cites lack of efficient labor and Government ownership of land as problems.

The dimmest outlook for sheep came from John Etchepare, who is in charge of the Warren Livestock Company, while his father, Paul Etchepare, recuperates from a heart attack.

"There is no incentive left," he said flatly. "The only incentive is some return for time and investment. The sheep industry is a tremendously time-consuming agricultural endeavor. It is not an eight-to-five job, and it never will be. When there is no return, you are not going to get young people to stay in the business. They are going to go elsewhere."

But Mr. Vivion, for one, calls himself "more optimistic than pessimistic," although he agrees that "a lot of people will go out of the sheep business before it turns around," an event he suggests might come within five years, provided the industry practices improved management and more cross breeding to produce larger lamb crops.

"We could be facing a world-wide wool shortage in the next year, if demand continues," he said, because of "unsatisfactory" polyesters and "some new polyester fabrics requiring the use of wool as a base" to give them the right feel and warmth.

Wool prices have already rebounded to the 40-cent-a-pound level from last year's 10-cent level: In addition under the Wool Act of 1954, sheep producers are eligible for Federal incentive payments, which have been fixed at 72 cents a pound through 1973, the same as in 1970 and 1971. Based on this year's average price, 40 cents, the incentive a rancher selling at that price would receive is 32 cents, or 80 per cent of his selling price and consequently anyone else—whether he sells above or below average—is also eligible for an incentive of 80 per cent of his selling price, so that his actual return may be more or less than 72 cents.

Mr. Vivion's optimism is not unqualified. He does attach the proviso, "if we can look for some type of predator program which is sensible."

The use of poisons on Federal lands was banned last year. Prior to that one common method of combatting coyotes was leaving animal carcasses poisoned with thallium sulfate for the coyotes to find.

Now the predators are sometimes shot and sometimes trapped. In addition the state is considering setting up a program, for sheep ranching is important to Wyoming's economy, and with 1,711,000 head, it ranks second only to Texas's 3,524,000.

But none of the sheep operators favored a plan advanced in some government circles to reimburse them for predator losses from public monies. For instance, Mr. Rochelle, who runs up to 30,000 sheep in summer and 16,000 in winter, along with 2,000 cattle on 300,000 acres, called the plan "stupid," even though it was he who rated coyotes as the greatest problem. He said he feared there "could be a lot of abuse."

But not everyone is equally perturbed by the coyote. Mrs. M. L. Foster, whose husband is a former Laramie County commissioner and a veteran rancher, said losses from coyote attacks in the last two years have been small.

They run some 400 sheep annually on average, which for Wyoming is a relatively small-scale operation, but have no intention of giving up raising sheep, even though last year's 10-cent-a-pound price was "not enough to pay for the shearing."

This year the Fosters have received a 25-cent-a-pound down payment for their wool, and Mrs. Foster noted that price "keeps coming up all the time." She expects it to reach 35 to 40 cents.

She added that sheep were a good hedge crop when some other farm-ranch crops might not pan out, and that she and her husband did not have help problems "because we are a family operation." Their ewes are Corriedales.

While sheep have declined in the United States, they have multiplied abroad, but most ranchers discounted import competition as a reason for the decline here, citing domestic factors instead.

Mr. Vivion, the National Woolgrowers Association president, said, "I think (currently) the economic picture favors the raising of cattle, but not everybody can change overnight. Much of this range is primarily adaptable to sheep. Sheep can live where cattle can't and do better.

"It is pathetic to think we wouldn't have them to convert the great Western grasses. I really don't think it will happen. I think we are going to survive this." But when the decline in sheep is reversed, Mr. Vivion expects a large part of them will be found on Eastern farms.

Perhaps one of the most important influences likely to mitigate against further major declines in Western sheep flocks in reluctance to abandon a traditional way of life.

Then too, as Mr. Vivion said, "Wool is a good product and lamb is a good product."

A MINNESOTA INVITATION TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. HUMPHREY. Mr. President, I am pleased to announce that Gov. Wendell Anderson has extended an invitation to Premier Chou En-lai to send a delegation from his country to visit the State of Minnesota. I applaud this initiative taken by our Governor and would encourage other States to do the same. We have a lot to learn about mainland China and its people. They in turn have a lot to learn about our country. The only way that the learning process can begin is by undertaking the kind of educational and scientific exchange suggested by Governor Anderson. I am hopeful that Governor Anderson's invitation will be accepted and that an exchange with some leaders in the Minnesota community can also be worked out in the future.

Mr. President, I ask unanimous consent that the news release on the Minnesota invitation be printed at this point in the RECORD.

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

NEWS RELEASE

Last week we extended a unique invitation to the world's most populous nation, the People's Republic of China.

On behalf of the people of Minnesota, we invited Premier Chou En Lai to send a delegation of Chinese to our state in order to examine aspects of our technology, industry and culture.

The invitation was the first extended by any state to mainland China. We hope, of course, that it will be accepted, and that it will result in an invitation to us, in turn, to send a Minnesota trade delegation to China.

We have absolutely no way of knowing whether such an exchange will ever take place. In fact, our rather extensive dealings with the State Department, the Vice President's Office and other federal agencies have convinced me that no one in this country really knows how the Chinese will react.

I am of strong conviction, however, that the benefits could be very great.

Minnesota's prosperity, to a greater extent than is comonly recognized, is dependent upon the volume of its exports. We ranked ninth among all states in agricultural exports in 1970. Our Minnesota-based electronics firms sell to a worldwide market. The techniques we have developed in medicine and the mining of low-grade ores have, in a very real sense, been exported throughout the world.

For many years, the Canadians, West Germans and others have traded with the Chinese. In 1970, for instance, the Canadians sold $142 million worth of wheat to that nation.

I think Minnesota farmers and businessmen, as well as their Canadian and West German counterparts, ought to have the opportunity to sell in that huge market.

In conclusion, I believe the exchange would be an enriching experience for all Minnesotans, both culturally and economically.

The Chinese, during the President's recent visit, proved themselves warm and gracious hosts. I have no doubt they would accord similarly gracious treatment to visitors from our state. The people of Minnesota, in turn, would be equally excellent hosts, I'm sure.

Mr. HUMPHREY. Mr. President, I intend to do what I can to see that exchanges of this kind and a full-scale program of improved relations with the People's Republic of China will be worked out in an organized fashion. This is not a matter for Presidential decree, but one in which Congress, with the assistance of experts in the field of Chinese studies, can work to establish a comprehensive agenda for interrelations between the United States and the People's Republic of China.

THE MAFIA AND MEAT PRICES

Mr. HANSEN. Mr. President, recently the Farm Journal published an article by Ralph D. Wennblom entitled "How the Mafia Drives Up Meat Prices." The article notes that the New York meat market is the country's biggest and a bellwether for wholesale meat prices.

The article charges that racketeers probably make more profit on meat between the unloading dock and the store counter than the livestockman does from feeding the animals for several months. Mr. Wennblom then states:

Congress needs to face the problem head on and do whatever is needed to clean it up fast.

Mr. Wennblom notes that certain Members of Congress from New York have clamored the loudest for price controls on meats. Perhaps the interests of the consumers of New York might best be served by looking into the situation described by Mr. Wennblom to determine the extent of the problem and the steps which can be taken to correct it.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

HOW THE MAFIA DRIVES UP MEAT PRICES

(By Ralph D. Wennblom)

Certain members of Congress from New York have clamored the loudest for price controls on meat. Meanwhile, back in Manhattan, the forces of organized crime systematically add on at least $1 million a week to the meat bills of 18 million consumers in the Greater New York area.

This is important because the New York market is the country's biggest, and a bellwether for wholesale meat prices.

These racketeers probably make more profit on meat between the unloading dock and the store counter than you normally do from feeding the animals for several months.

That such a situation was allowed to develop, much less persist, is a disgrace. Congress needs to face the problem head-on and do whatever is needed to clean it up. *Fast.*

Unfortunately, the key people in the syndicates of organized crime are hard to nail in court. No one in the meat business is senseless enough to face up to the mobsters on their own, and precious few people have the courage to cooperate with law enforcement officials. It's simpler and safer to cooperate with the crooks. Fears of reprisal against your business, your family and your life are very real.

People were reluctant to talk with me as I gathered information for this article. "These people are gangsters," said one source. "I look the other way when they're around, and you writers damn well better too, or you'll make a splash all right—in the river with a chunk of concrete tied to your ankle."

But I talked with enough informed people to convince me that organized crime has infiltrated certain labor unions and the meat business in New York City. "No one is exempt; there isn't a store that gets around all of their schemes for extorting payments for labor peace, bribes, kickbacks," said one informant who knows the New York meat market well. "Everybody pays off somewhere along the line sooner or later, and they would all love to get out from under it."

From an out-of-town meat packer: "We can't get our meat into New York City under our own label."

From a supermarket chain: "We simply gave up trying to operate—closed out our New York City stores."

Other cities are also involved. An authority on supermarket operations told me that "there are areas in this country where you pay a premium for meat. For what reason, I wouldn't want to say. But there are many metropolitan cities involved with this. And it reeks—just reeks with rottenness. I've known the premium to be as much as 3¢ a pound on a wholesale carcass, which is a wad of money when you're talking about hundreds of thousands of pounds a week."

Law enforcement officials agree that the problem is not confined to New York. "If organized crime's take here is as big as our information indicates, the possibility is great that they're also operating in other cities," says William Aronwald, Special Attorney with the Joint N.Y. Strike Force on Organized Crime.

Ownership of legitimate businesses by organized crime, which they then run in an illegitimate way, is part of a trend. "They especially like the meat business because it lends itself to concealing large earnings from gambling and loansharking," says one Federal source.

For more than a year, a secret grand jury has been holding hearings in New York City to determine whether certain people engaged in the meat brokerage business, and corrupt union leaders, are fronts for organized crime.

The nature of the investigation came to light a few weeks ago when the office of Manhattan District Attorney Frank Hogan had to tip its hand and invoke a court order to bring a balky witness, Herbert Newman, back from Florida to testify about conversations overheard by the District Attorney through court-authorized wiretaps.

Newman's testimony, as well as all proceedings of the Grand Jury, are secret. Both Alfred J. Scotti, the gutsy Chief Assistant District Attorney in charge of the Rackets Bureau, and Assistant District Attorney Franklyn H. Snithow, who are in charge of the investigation, refuse to comment on the case. Except to say that they don't call the groups the Mafia "because we don't want to get involved in a controversy over nomenclature."

But there's no doubt that they believe there's collusion between organized crime and the meat business. The order asking for Newman's return specifically stated that their investigation seeks to determine "whether there exists a conspiracy unlawfully requiring representatives of certain supermarkets to make payments of money to certain labor union officials and to certain individuals fronting for organized criminal elements.

"Whether representatives of the supermarkets were required to pay inflated prices in order to obtain labor peace;

"Whether certain officials of certain supermarkets have accepted unlawfully payments of money from Herbert Newman, Moe Steinman, Sol Steinman and others for having caused the said supermarkets to purchase meat from wholesale suppliers at inflated prices."

Newman is the retired president of Trans World Fabricators, a meat wholesaling firm.

In an article on the links between organized crime and the meat industry, The New York Times for May 9, 1972, reported: "One of the leading credit-clearing houses for the food industry, Market Services, Inc., lists Sol Steinman as its vice president. A source there described him as the brother of Moe Steinman, who is the director of labor relations for Daitch Shopwell." (Daitch Shopwell is a chain of supermarkets in the New York area, whose sales run more than $150 million a year.)

Continued the Times: "Moe Steinman was a key witness at the State Commission of Investigation's 1969 hearings into the infiltration of organized crime into legitimate business. He admitted during the hearings that he had a close social relationship with John Dioguardi, who is known as Johnny Dio and is described by law-enforcement officials as a captain in the crime-syndicate family operated by the late Thomas Luchese." (Dio is now in jail for the fraudulent bankruptcy of a meat company.)

Because meat packers operate on such thin margins, slaughtering usually doesn't appeal to the racketeers. They prefer to take over when dressed meat arrives at the unloading dock. Without the mob's permission, your meat probably won't be unloaded. Or 10 carcasses somehow get "lost" enroute to the buyer's cooler. Whatever "tribute" you pay to get it unloaded promptly without pilferage is shared by the racketeers and corrupt union leaders.

Once in the wholesaler's cooler, the meat becomes fair game for everyone up the line except the consumer who can do nothing except pick up the tab for the financial shenanigans and blame farmers for high meat prices.

"Costs are so inflated along the way," I was told, "that a New York supermarket can't afford to use meats as 'specials' as many supermarkets do."

Exactly how much more meat costs in New York City than it should is impossible to prove. But every shakedown is passed along, and the retailer ends up charging for all of them. If you assume that 18 million people in the Greater New York area buy 500 million pounds of meat a week, 2¢ a pound to organized crime amounts to $1 million a week; 3¢, $1½ million.

Here are average retail prices for U.S. Choice cuts from the U.S. Department of Labor's Bureau of Labor Statistics for April, 1972:

	New York per pound	Chicago per pound
Round steak	$1.77	$1.16
Sirloin	1.56	1.36
Porterhouse	1.81	1.64
Rump roast	1.63	1.20
Rib roast	1.19	1.28
Chuck roast	.86	.81
Hamburger	.97	.75
Pork chops	1.37	1.00
Loin roast	.92	.79

With beef, about a third of the carcass goes over the counter as hamburger. By marking up its hamburger, a supermarket is able to keep sirloin and porterhouse prices more nearly in line. Freight from Chicago is 2c to 3c a pound, according to Supermarket News.

To raise the money to pay the syndicate and corrupt labor leaders, some companies exchange invoices among themselves to indicate purchases of meat from each other when, in fact, no meat changes hands.

Or, a company pads a real purchase to accumulate the surplus cash needed for the extortion payment or bribe.

In other instances, the syndicate manipulates the market and forces the buyer to pay more than the "going price" for meat, part of which they may kick back to the buyer.

Whatever the approach, once a buyer "cooperates" with the mobsters, he soon finds himself in over his head and settling on the racketeers' terms.

Unless stores meet those terms, they can find themselves in trouble with three unions: meat cutters, teamsters and retail clerks. "The meat industry can't attack the meat unions because unless the industry is successful, it will work out very badly for them," says Nicholas Scoppetta, Special Assistant U.S. Attorney who successfully prosecuted three officers of Local 174 of the Amalgamated Meat Cutters and Butchers Workmen's Union for extortion in 1969. "In that trial, the people who had been victimized by the union didn't parade down and say 'let me tell you about this problem.' We had to dig it out. All of them testified only after being compelled by subpoena."

Scoppetta saves his sharpest scorn for businessmen who "find it profitable to deal with the elite criminal element."

Racket-buster Scotti puts it more bluntly. "Our efforts would be substantially aided by the cooperation of organized labor and the meat industry," he says. "It is most regrettable that greed causes the industry to be blinded by expediency. They don't really care because they know that the cost can be passed onto the helpless consumer."

Scotti saves his strongest wrath for corrupt unions. "One New York local has been dominated by underworld characters for more than 30 years," he said in a court proceeding. "The racketeers use it as an instrument of extortion—to shake down meat dealers, supermarkets, chain stores, even other unions."

Scotti says flatly that unless unions devote themselves exclusively to the welfare of their members, and the meat industry concentrates on protecting the integrity of its business, "both will become helpless captives of organized crime." Maybe they already have.

RETIREMENT OF STATE SENATOR EDGAR A. BROWN OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, on July 28, 1972, upon the final adjournment of this year's session of the South Carolina General Assembly, the long legislative service of that body's senior member was also concluded.

Senator Edgar A. Brown of Barnwell, S.C., who has served in the State legislature for 50 years, retired on that day.

He began his service in 1921 as a member of the house of representatives where he served for 6 years, the last 2 of which were as speaker. After remaining out of the legislature for 2 years, he went to the State senate in 1929 where he served continuously until last Friday.

Mr. President, Senator Brown served his county and his State ably, effectively, and with dedication. He has left a legacy of sound financing by the State government which has developed and maintained an enviable triple-A credit rating. Such astute planning and management have saved our citizens millions in taxes which, otherwise, would have been necessary to pay the higher interest rates on bond issues. As president pro tempore of the senate and chairman of the finance committee since 1942, Senator Brown exerted a powerful and effective influence over the affairs of his State.

Mr. President, an article published in the State newspaper of Columbia, S.C., following Senator Brown's last day of legislative service contains accounts of the esteem with which he was held by his colleagues. I ask unanimous consent that the article entitled "Brown Ends Legislative Career," be printed in the RECORD.

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

BROWN ENDS LEGISLATIVE CAREER

(By Levona Page)

"I have felt the cut of the sharp sword that he had . . . but my life has been better because I have been associated with him."

With rare frankness about his relationship with his so-called "Barnwell Ring" colleague, House Speaker Sol Blatt joined the governor and the state Senate in tributes to Sen. Edgar A. Brown who ended his 50-year legislative career Friday.

The Senate made Brown an honorary senator emeritus, gave him his desk and chair which he said will be put on display with other memorabilia at Clemson University and presented him a silver-handled walking cane.

With tear-filled eyes and a cracking voice, the 84-year-old Brown told the Senate, "You say 50 years is a long time and it is, but in retrospect, if I look back on the last 50 years I have served in this General Assembly, I see a panorama of activity and growth, and fights—strong, hard fights.

"That panoramic view is so filled with activity that I can scarcely realize that I have been a part of state government for the past half century."

During Brown's career, he has been speaker of the House, president pro tem of the Senate, chairman of the Senate Finance Committee for 29 years, and a national committeeman of the State Democratic Party. A small town attorney, he never finished high school, but holds honorary doctorates from two state universities.

Gov. John C. West, who said he slipped into the Senate chamber without an invitation because Brown had said he wanted no fuss on his last day, told the senator, "I'm going to be calling on you and depending on your wise guidance through the remaining months of my administration."

West added, "South Carolina will always be richer as long as you are here to guide us."

Speaker Blatt stood at the back of the Senate chamber listening to the tributes to Brown before he was invited to take the floor himself to speak of his 40-year legislative association with the senator.

Alluding to the political differences that have sometimes privately divided the two powerful Barnwell lawmakers, Blatt said, "I have felt the cut of the sharp sword that he had and felt the blessing of his help. I have always loved and respected him and have admired him as a statesman and a gentleman."

Blatt continued, "I have been close to him at times and at other times there has been a valley between us, but at no time did that cause me to lose my love and respect for him and I hope that at no time did it cause him to lose the love and respect I hope he had for me."

South Carolinians, Blatt said, should be indebted to Brown. "When I see smoke stacks all over South Carolina, when I see school buildings, roads paved, mental patients treated, and those who have been convicted of crimes in proper housing, I look at my colleague from Barnwell and say, 'Thank you, Edgar'."

He continued, "For 40 years, he and I have been on the same team . . . although sometimes at odds, but at no time did we let our differences interfere with the people of South Carolina. We had our battles, but as a result of that, it made for a better South Carolina."

Brown struggled to keep back the tears as he shook hands with Blatt after the speaker's comments.

Sen. L. Marion Gressette, D-Calhoun, who is in line to succeed Brown as president pro tem of the Senate, said Brown "will never retire so long as the men in this chamber are granted the gift of memory." He said a plaque with an appropriate inscription will be placed under Brown's portrait in the Senate chamber.

Sen. James P. Mozingo, D-Darlington, who if re-elected will be Brown's successor as chairman of the Senate Finance Committee, presented the senator his desk and chair, the traditional gift to a retiring lawmaker.

The fourth senior senator, Sen. Rembert C. Dennis, D-Berkeley, whom Brown has called his right-hand man on the Senate Finance Committee, presented the Senate's gift of a silver-handled walking cane.

Wiping away tears, Brown lightened the moment by telling the Senate, "This walking cane is something that I need and use now," but said as a youth, he "walked with a cane, wore a derby hat and an ascot tie and sang in a barber shop quartet."

As the tributes continued Lt. Gov. Earle E. Morris, Jr., suggested that the best route for South Carolina to take in the presidential election would be to "write in the name of Edgar Brown for president this November."

ABUSE OF A FEDERAL GRAND JURY IN TEXAS

Mr. KENNEDY. Mr. President, I believe that the Department of Justice is engaging in a double abuse of the grand jury process by its peremptory and heavy handed actions in connection with a pending grand jury investigation in Texas of gun-running to Northern Ireland. I have today written a letter to the Attorney General, calling for the immediate release on bail of the five men who have now been imprisoned for contempt for more than a month in the Tarrant County jail in Fort Worth.

Mr. President, the Department of Justice convened this grand jury in Texas, far from the homes and families and friends of those witnesses. In addition, it has refused to allow bail to the prisoners, even though difficult legal and constitutional issues surrounding the validity of their contempt citations must be resolved before their imprisonment can be justified.

Last week, I received a handwritten letter from the five men now imprisoned in the Tarrant County Jail. Their letter is an eloquent plea for freedom and a testament against injustice, a worthy companion to Martin Luther King's letter from the Birmingham jail and other famous letters from prison in the past.

In my letter to the Attorney General, I have urged him to make a thorough review of this grand jury investigation, and to take whatever steps may be necessary to secure the prompt release of the five men now imprisoned so unfairly.

Mr. President, I ask unanimous consent that the text of my letter to the Attorney General, which explains the circumstances of the investigation in greater detail, and the text of the letter I have received from the Tarrant County jail be printed in the RECORD.

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

U.S. SENATE,
August 1, 1972.

Hon. RICHARD G. KLEINDIENST,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am writing to protest what I believe is the unjustifiable treatment by the Department of Justice of five Irish-Americans now imprisoned in the Tarrant County Jail in Fort Worth, Texas.

These five individuals—Thomas Laffey, Matthias Reilly, Kenneth Tierney, Daniel Crawford and Paschal Morahan—have been imprisoned for more than a month on charges of contempt of court arising out of their refusal to answer certain questions before a Federal Grand Jury convened by the Department of Justice in Fort Worth to investigate possible gun-running from the United States to the Irish Republican Army in Northern Ireland. I understand that this investigation was initiated by the Department of Justice, upon the basis of representations made by the Government of Great Britain.

I hold no brief for the Irish Republican Army. In no way do I condone the indiscriminate killing and maiming of the people of Ulster that has been taking place for so long at the hands of the IRA. I recognize the obligation of the Department of Justice to investigate and prevent the shipment of arms to Ulster from this country, and I fully support a legitimate investigation.

But the circumstances of the present case strongly suggest that the Department of Justice has exceeded the bounds of legitimate investigation in the present case and is now engaged in a double abuse of the grand jury process:

—First, the convening of the grand jury in Fort Worth, Texas, and the subpoenas to these men—all residents of New York State—to appear before that grand jury, far from their homes, their families, and their friends, has imposed a serious hardship on the witnesses for no apparent law enforcement purpose. As I understand it, these men are the only known witnesses to appear before the grand jury, and the grand jury has set aside its inquiry without additional testimony. In these circumstances, it seems to me that the Department of Justice has a strong obligation to demonstrate that the grand jury was a part of a legitimate Federal investigation, and that some substantial law enforcement purpose was served by the extraordinary inconvenience inflicted on these witnesses.

Second, the imprisonment of these witnesses without bail, on charges of contempt, for refusing to answer certain questions before the grand jury, appears to be an even more clear-cut abuse of the grand jury process. In order to compel their testimony, the

Department of Justice granted immunity to the witnesses, invoking the relevant Federal immunity statute. The refusal of the witnesses to answer the questions asked by the grand jury, even after receiving the Department's grant of immunity, was based on their view that the immunity was too narrow to protect them from self-incrimination, in violation of their rights under the Fifth Amendment to the Constitution, since the immunity would protect them only from prosecution by the United States, not from prosecution by the British Government.

I understand that this issue of immunity is at the heart of the prisoners' appeal now pending in the Federal courts. The issue is a substantial one, going to the root of the interpretation of the Fifth Amendment and our basic constitutional rights as Americans. Given the very real legal doubts as to the validity of the contempt citations in these circumstances, I find it unconscionable that the Department of Justice refuses to acquiesce in the grant of bail to the prisoners pending resolution of the issue.

Overall, as I have indicated, the pending investigation raises extremely serious questions of abuse of the grand jury process by the Department of Justice. The peremptory and heavy-handed investigation has every appearance of being another unfortunate step in the politicization of the Department of Justice. It is a travesty on fundamental principles of American justice, and a thinly veiled attempt to harass and intimidate peaceful and legitimate activities by Irish American individuals and groups in this country in support of equal justice for the Catholic minority in Northern Ireland.

I urge you to make a thorough inquiry into the circumstances of this investigation, and to take whatever steps may be necessary to secure the prompt release of the five men now unfairly imprisoned in the Tarrant County Jail.

Respectfully,

/s/ EDWARD M. KENNEDY.

TARRANT COUNTY JAIL,
Fort Worth, Tex., July 17, 1972.

DEAR SENATOR KENNEDY: We the five imprisoned Irish born men who in most un-American have been torn from our wifes children families neighborhoods and our livelihoods, wish to thank you for the interest and help you have already generated in our most unusual case.

As you well known we are in jail without charge or trial on the flimsiest "contemp" charge. The police state tactics used to incarcerate us is a disgrace to the principles of our founding fathers.

There is no doubt whatever but that we are the victims of the dictactorial Unionists of Belfast and their upholders the Tories in England.

The Archie Bunkers of the Republican Party have shown their willingness to railroad Yankee Irish-Americans to the Mason-Dixon line for obvious reasons.

Having you as our champion fills us with utmost confidence.

Very Sincerely,

/s/ THOMAS LAFFEY,
MATTHIAS REILLY,
KENNETH TIERNEY,
DANIEL CRAWFORD,
PASCHAL MORAHAN.

VETERANS' DRUG AND ALCOHOL TREATMENT AND REHABILITATION ACT OF 1972

Mr. HANSEN. Mr. President, it is a pleasure to join with several other Senators in support of S. 2108, which is in accord with the President's policy on drug abuse.

During the last year, Senators and their staffs have labored hard and long to bring before this body a bill which will provide adequate means to significantly reduce the incidence of drug and alcohol abuse in these United States.

To aid the Special Action Office on Drug Abuse, the Veterans' Administration will make available its vast hospital system which now includes 32 centers. Another 12 will be in operation in the next few days.

This bill will provide both inpatient and outpatient care of addicts in a community setting. The hard statistics about drug addiction are brutal; the National Institute of Mental Health estimates there are about a quarter of a million addicts in the United States today, and this figure could increase even more unless we provide some means of curtailing it along with this measure of treating it.

One of the most tragic aspects of this problem is the human cost in terms of lost talent and family anguish and personal suffering. Once a person is hooked, he requires more and more drugs each time. The life expectancy of a heroin addict is 15 to 20 years less than a nonaddict. Addiction produces mental and physical dependency and precludes a productive roll in society for the user.

These statistics point up the fact that heroin addiction is one of the most severe social problems this Nation faces.

Both Congress and the administration realize that present procedures against addiction must be improved and strengthened.

The approach embodied in this bill is a further step in the right direction.

HEARINGS IN PHILADELPHIA POINT TO NEED FOR REFORM OF PRIVATE PENSION SYSTEM

Mr. SCHWEIKER. Mr. President, the Subcommittee on Labor of the Committee on Labor and Public Welfare has conducted for the past 2 years an in-depth study of problems encountered by many of the 34 million American workers covered by private pension plans. Currently pending before the subcommittee is a comprehensive bill to reform the private pension system, S. 3598, introduced by the distinguished chairman of both the subcommittee and full committee (Mr. WILLIAMS) and the ranking minority member of the subcommittee and full committee (Mr. JAVITS). I am pleased to be a cosponsor of S. 3598, as are 15 of the 17 Senators who serve on the full committee.

In line with our work on S. 3598, the subcommittee has held field hearings this year in St. Louis, Minneapolis, Cleveland, Newark, and Philadelphia, to examine cases in those cities of pension plans which have terminated, leaving workers either with no pension benefits at all or with pensions much lower than they anticipated. I was glad to have the opportunity to preside at the hearings held in Philadelphia on July 17.

Mr. President, the Philadelphia hearings attracted wide public attention. Many people, especially working people, are becoming increasingly aware of what can happen to a pension plan and its beneficiaries when the business firm goes out of business, goes bankrupt or is merged into another company. Several hundred persons came to the Philadelphia hearing, and it had ample coverage in newspapers and on television. The time has definitely come to eliminate certain abuses in private pension plans through the passage of comprehensive Federal legislation. There has been a notable lack of strong Federal legislation in this field, but our hearings and the other investigations made by the subcommittee and its staff clearly show the need for such legislation now.

Mr. President, I ask unanimous consent that several newspaper accounts of the July 17 hearings in Philadelphia be printed in the RECORD: from the Philadelphia Evening Bulletin of July 17; the Philadelphia Inquirer of July 18; the New York Times of July 18; the Philadelphia Daily News of July 18, and the Delaware County Daily Times of July 17 and July 22.

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

[From the Philadelphia Evening Bulletin, July 17, 1972]

THIRTY-THREE PERCENT WON'T GET NICKEL OF PENSION, PANEL TOLD

(By Henry W. Mesaros)

A third to one half of American workers covered by pension plans will not realize a nickel when they retire, U.S. Sen. Richard S. Schweiker (R-Pa.) said here today.

"Workers are losing their pension rights when their companies go bankrupt, merge with companies or simply go out of business," he said.

Schweiker, a ranking member of the Senate subcommittee on labor, made his statement as he opened a public hearing in the Federal Building, 9th and Chestnut sts., on pension reform legislation being considered by the subcommittee.

PENSIONS LOST

Among witnesses called to testify were former employes whose pensions were lost or drastically reduced because of the financial difficulties of the Horn & Hardart Baking Co. here and the closing of the Baldwin-Lima-Hamilton Co. in Eddystone, Schweiker said.

Schweiker said he and many other members of Congress feel a much stronger federal law is needed to protect the pension rights of workers. He estimated that 34 million Americans now are covered by private plans with combined assets of $152.8 billion, a figure which will approach $250 billion by 1980.

OVERFLOW CROWD

Among seven Baldwin-Lima-Hamilton employes testifying before an overflow crowd of mostly elderly persons in Courtroom 6 was Thomas Litchko, 39, a father of five, who said he lost his job when the Greyhound Corp. took over the plant in April.

"After I contributed nearly $1,000 to the pension plan, Greyhound, out of the goodness of its heart, gave me $400, less taxes, when they let me go," Litchko told Schweiker. "This is wrong. There should be protection. You're better off on welfare than on that kind of pensions many people get."

Litchko, who started at 99½ cents an hour as an apprentice and was earning $4.50 as a machinist when his job folded, said "this reminds me of a dangerous intersection where they holler for a red light after somebody's been killed."

FEELS CHEATED

"The red light is long overdue in this field," he added. "Most of us gave the best

part of our lives and have nothing to show for it."

Alfred Campbell, who worked 29½ years for the company, said he has been "hurt and feels cheated."

"I'm on the unemployment markets," he said. "At 59, it's hard to get any kind of work—and it's not because of anything that I have done.

"I had planned to retire at age 62 and take a cruise now and then. But now, my pension plan has been dissolved."

Paul F. Dempsey, corporate director of labor relations and personnel for Baldwin-Lima-Hamilton Co., told Schweiker the plant had closed because of foreign competition, mostly from Germany and Japan.

In explaining the pension plan problem, Dempsey said the company had put an extra $500,000 into the plan this year and $234,000 previously. He said about 680 employes with the company as of last April would receive their entire pension while another 530 employes, who were over 40 and had 15 years seniority, would receive 38 to 41 percent of their pension roughly $180 a month.

HORN & HARDART

Dempsey also told Schweiker the employes did not contribute to the pension plan. This brought cries of "Gestapo," "liar" and such from the employes. Litchko stood up and said, "That's not true. We agreed to forfeit our raises in favor of the pension plan." The employes put 51 cents an hour into the plan, Litchko said.

Also testifying were a number of former employes of the Horn & Hardart Baking Co., now being operated by trustees by order of the Federal Bankruptcy Court. Leon Grimes, 73, said, "We were told this (the pension plan) would make us financially well and we would have nothing to worry about."

At that point, Schweiker held up a company brochure describing the plan and read from it, "Happy retirement to you whenever it comes." Schweiker said, "This gave the employes, no doubt, great expectations in their planning and hoping for the future."

Four other former employes, all in their 70s, told Schweiker they were still working because of the situation they were left in by the company.

"GOOD FAITH"

Horn & Hardart was represented by C. Thomas Gibbons, vice president and secretary-treasurer of the company. He said the pension plan had been instituted in good faith, primarily to provide a supplement to Social Security for a group of about 250 employes who were about to retire.

Gibbons said the company's financial problems began when it was forced to move to the Northeast in 1966. "Between 1966 and 1971, the company had net losses totaling $16.9 million," he said. Prior to 1966 the company had never had a losing year, Gibbons said. The pension problem stemmed, he said, from the company's "absolute inability" to finance further payments to the pension fund.

[From the Philadelphia Inquirer, July 18, 1972]

SENATE PANEL HEARS PLIGHT OF ELDERLY WHO LOST PENSIONS

The plight of 601 employees who lost their pensions when Horn & Hardart Baking Co. went bankrupt last year was detailed before a U.S. Senate labor subcommittee in the U.S. Courthouse on Monday.

Laughter and applause rang out from the packed audience when Sen. Richard S. Schweiker (R., Pa.), who chaired the hearing, held up the pension information booklet H & H distributed to employes and read:

"Happy retirement to you when your time comes."

"Great expectation," Schweiker said. "But it didn't work."

Many of the baking firm employes, the senator said, were forced to retire, and then forced to return to work elsewhere when financial difficulty hit the firm and their pensions stopped. All the employes are in their 60s and 70s, with more than 40 years of average service.

Similar stories came from many representatives of the 1,300 employes who were laid off when the Eddystone plant of Baldwin-Lima-Hamilton Corp. shut down in April. Many veteran employes will get reduced pensions because of inadequate financing of the fund.

The subcommittee has been reviewing private pension plans for more than two years.

When the subcommittee recessed its hearings, Schweiker said the stories he had heard were "typical of the sad state of affairs in which we find our pension system in this country". He pledged that a reform bill would be on the Senate floor for a vote before the end of the year.

Some recommendations before the subcommittee suggested that there be plans to insure that sufficient funds would be available to continue payment of pensions if a company went out of business.

Schweiker estimated that between one-third and one-half of all workers now covered by pension plans will not "realize a nickel from their pension plans when they retire."

Olaf Anderson, who worked for H & H for nearly 49 years, said his $100 monthly pension was stopped by the bankruptcy. He said pensions were also stopped for his two brothers, one with 44 years of service and another with 46 years.

Leon Grimes, who worked 37 years for the firm, said at age 73 he is working for a Chestnut st. typewriter firm to make ends meet.

He said he was forced to retire at 65, then after four years was told the pension funds ran out. He said H&H should have been a "little more careful with its money."

Mrs. Ethel Lowe said she began work for the firm in 1924 for 27 cents an hour, and when she retired in 1964 got a monthly $26.22 pension.

"How do you get along?" Schweiker asked.

"I own my own home, and my niece helps share the bills," she replied. It's kind of tight. Kind of tight."

C. Thomas Gibbons, vice president of H&H, testified that the firm was making a million dollars annually until 1965. But he said it lost $16.9 million from 1966 to 1971.

Gibbons blamed the Redevelopment Authority for forcing H & H to move its commissary from center city to the Northeast to make way for expansion of Jefferson Medical College.

The company borrowed the $15 million for the new plant, and then began forcing retirement of employees over 65. The pension plan was established in 1964.

Since H&H began in the city in 1888, it reached a peak of 44 restaurants and 55 retail outlets. It now has 19 restaurants and 10 retail stores.

[From the New York Times, July 18, 1972]

REFORM OF PRIVATE PENSION SYSTEMS URGED—SENATE LABOR GROUP CONCLUDES HEARINGS AS UNION PICKETS

(By Michael C. Jensen)

PHILADELPHIA, July 17.— Senator Richard S. Schweiker called today for reform of the nation's private pension system, and complained that workers are losing their pension rights when their companies go bankrupt, merge with other concerns or go out of business.

The Pennsylvania Republican presided over the last in a series of five field hearings by the Senate labor subcommittee, and heard testimony from a dozen workers who had been deprived of their pensions. Meanwhile, about 50 union pickets paraded quietly in front of the Federal courthouse in support of reform legislation, then crowded into the already filled courtroom.

In an interview following the hearing, Mr. Schweiker said pension insurance and early vesting (a guarantee of future pension rights) were likely to be approved by Congress within 12 months, and predicted that it may be mandatory for companies to provide some sort of pension plan for their employes within a decade. Such plans are now voluntary.

CITE HORN & HARDART CASES

One of the witnesses, Mrs. Ethel Lowe, 65, said she worked 40 years for the Horn & Hardart Baking Company of Philadelphia before suffering a heart attack in 1964 and retiring on a monthly pension of $26.22. That pension ended when the company filed for bankruptcy late last year, she said.

Another Horn & Hardart employe, 72-year-old Kenneth Jones, also worked 40 years for the company before retiring in 1965. His pension of $60.50 a month was terminated last year. In addition, Mr. Jones's wife worked 28 years for the same company but was not qualified for a pension when she left for a better job in 1967 at the age of 54.

C. Thomas Gibbons, vice president of Horn & Hardart, which is separate from the Horn & Hardart Company in New York, outlined the financial difficulties of the concern that led it to bankruptcy. He said pension plans bargained for by unions still are being paid, while those promised individually before 1964 are not.

Among the signs carried by the pickets outside the courthouse were: "The Government Insures Stockholders and Corporate Loans, Why Not Private Pensions?" and "Pension Reinsurance, Only Answer to Plant Shutdowns."

William J. Hill, president of Local 92 of the United Auto Workers, who was supervising the picketing, said the men were from seven local unions, and were present to support the testimony of the witnesses inside.

Among the legislative leaders for pension reform are Senator Harrison Williams of New Jersey and Senator Jacob Javits of New York.

Senator Schweiker cited the testimony of the retired employes of Horn & Hardart, noting that they involved men and women in their 60's and 70's.

"Today they are retired and forced to keep working because the company has hit financial difficulty and has had to give up its pension plan," he said.

"This has meant no pensions for 601 retired workers, 100 current workers and six executives of the company."

The highlights of the reform legislation, he said, included (1) a guarantee to every employe of a vested pension right after he's worked eight years for a company, with full vesting after 15 years. (2) Sound funding schedules, and (3) insurance for pension plans that are terminated.

[From the Philadelphia Daily News, July 18, 1972]

WORKERS TELL PANEL OF LOSING PENSION FUNDS

(By Kitty Caparella)

When Mrs. Ethyl Lowe, 65, began working for Horn and Hardart Baking Co. in 1924 she made 27 cents an hour. When she was forced to retire in 1964, 40 years later, she made $1.23 an hour.

In 1971 her pension of $26.22 a month was cut off when the company filed for bankruptcy.

Hubert Talbot, 42, worked 23 years at the Baldwin-Lima-Hamilton Corp. near Chester making heavy duty equipment and paying into the pension fund. When the plant closed down in April the father of two ended up on unemployment and ineligible for "vested" pension benefits because he was not 45.

Leon Grimes, 73, worked 37 years for Horn and Hardart. When unions organized the workers there, Grimes refused to join. His wife who also worked there, did join. She received a $74-a-month pension until she died a month ago.

Grimes receives nothing.

The three were among the 19 persons to testify about the need for pension plan reforms at a hearing conducted by Sen. Richard S. Schweiker yesterday in U.S. District Court here.

Schweiker, a member of the Senate Labor subcommittee which has been investigating pension plans for two years, was collecting testimony in the fifth hearing on Senate Bill 3598 which he co-sponsored in May.

"One-third to one-half of all workers now covered by pension plans will not realize a nickel . . . when they retire. In one study made by our subcommittee of 51 pension plans covering 6.9 million workers since 1950 92 percent of the workers in these plans are left without any benefit whatsoever," Schweiker told the standing room-only courtroom crowd of more than 300 persons.

About 34 million workers are covered by private pension plans which have combined assets of $152.8 billion, he said. By 1980 the assets will approach $250 billion.

One by one workers told how their company either went bankrupt or merged with another company—forcing them to look for other employment and making them, in some cases, ineligible for pensions which they paid into.

When Horn and Hardart filed bankruptcy in 1971 after losing $16.9 million in six years it left no pensions for 601 retired workers, 100 current workers and six executives. More than one-third had served more than 30 years, it was testified.

When the Baldwin Corp. merged with Greyhound Corp. in April, 1300 workers were affected. Those hardest hit are under 60. Workers between 45 and 60 will only receive about one-third of their vested pension benefits. Those under 40 will receive nothing, despite paying into the fund and working in some cases more than 15 years for the company, the employes testified.

Schweiker said Senate bill 3589 would guarantee partial pension rights after eight years and complete rights after 15 years of service.

[From the Delaware County Daily Times, July 18, 1972]

PLEDGE GIVEN RETIREES

(By James F. Byrnes 3rd)

PHILADELPHIA.—U.S. Sen. Richard S. Schweiker (R-Pa.) pledged Monday to push for passage of a Senate bill aimed at reforming federal regulation of private pension plans.

Schweiker made his promise to an overflow crowd of mostly retired persons in Courtroom 6 of the U.S. Courthouse, 9th and Chestnut Sts., at the conclusion of a three-hour field hearing of the Senate Labor Subcommittee.

The session brought statements from both exemployes and management representatives of two companies, the Baldwin-Lima Hamilton Corp's Eddystone facility and Horn & Hardart, a Philadelphia baking company.

Seven former BLH workers told of losing what they considered to be substantial pension benefits when the Eddystone plant shut down in late April, while several longtime Horn & Hardart employes said their pensions ceased when the company declared bankruptcy in 1971.

"All people who work for a living feel there is something radically wrong when they work all their lives and have nothing to show for it," one witness told Schweiker and his panel of attorneys and researchers for the subcommittee.

After listening intently to the stories workers told, Schweiker said, "This in itself is an indication of why the law has to be changed."

"I think the cases we heard today are rather typical of the sad state of affairs of private pension plans," he said. "All we want to do is write some safeguards and procedures to prevent a recurrence."

"To illustrate the magnitude of the problem, it has been conservatively estimated that between one-third to one-half of all the workers now covered by pension plans will not realize a nickel from their pension plans when they retire."

"Workers are losing their pension rights when their companies go bankrupt, merge with other companies or simply go out of business," Schweiker said.

The session was the fifth subcommittee field hearing, with others bringing statements from workers in St. Louis, Cleveland, Newark and Minneapolis.

The hearing, attended by a sizable contingent of United Auto Workers Union members who support the subcommittee's proposal for reform, got under way at 9:30 a.m. with testimony from the former BLH employes.

Some, nearing retirement age but falling just short when the plant closed, said their benefits will be cut substantially.

Alfred Campbell, who worked for BLH for nearly 30 years, said he "feels cheated" by the former locally-owned company's takeover by the Greyhound Corp.

"I'm on the unemployment market," he said. "At age 59, it's hard to get any kind of work and it's not because of anything I've done.

"I had planned to retire at age 62 and take a cruise now and then. But now, my pension has been dissolved," said Campbell.

Others with long years of employment but who failed to qualify for vesting rights said they will receive either a small cash settlement or no return at all from the pension plan.

Paul F. Dempsey, BLH corporate director of labor relations and personnel, and Frank X. Bruton, industrial relations for the Media-based company, told the panel the Eddystone plant was forced to close due to foreign competition and a slump in capital goods.

They said 681 retirees are due to receive 100 percent of their pensions while 530 more workers with vested rights, those over 40 with at least 15 years service, would receive an estimated 38 to 41 percent of their benefits or roughly $180 monthly.

When Dempsey said employes had never contributed to their own plan, Thomas Litchko, an ex-BLH worker now unemployed, interrupted with the cry. "That's a lie."

Litchko, who earlier testified, said members of the United Steelworkers Unions had agreed to forego 51 cents in hourly wage increase to have the hike go instead to pension funds.

"In other words, we were forfeiting raises in favor of the pension," Litchko said.

Schweiker and 14 other Senators on the committee are sponsoring a bill that would institute six basic reforms, including the establishment of a program of pension plan termination insurance to cover unfunded vested benefits.

[From the Delaware County Daily Times, July 22, 1972]

PENSION BILL WILL PROTECT RETIREE'S RIGHTS

(By James F. Byrnes 3rd)

The U.S. Senate Labor Sub-Committee research hearing in Philadelphia on Monday brought to the fore a legislative proposal for reforming private pension plans.

Chaired by U.S. Sen. Richard S. Schweiker (R-Pa.), one of 15 co-sponsors of Senate Bill 3598, the session brought stories of ost pension benefits from former employes of the Baldwin-Lima-Hamilton Corp. plant in Eddystone and ex-Horn & Hardart workers.

The people who told Schweiker's panel their tales of lost retirement benefits said they had reconciled themselves to the fact that it was too late for them. But, they said, they wanted to prevent the same thing from happening to others.

The Senate's Retirement Income Security for Employees Act of 1972 is aimed at correcting some of the faults of private pension plans in at least six area.

The bill calls for:

A federal law establishing minimum standards of vesting, of the non-forfeitable benefits a worker is guaranteed after a specific number of years on the job.

A federal law establishing systematic requirements for funding of pension plans, accompanied by a program of plan termination insurance to cover unfunded vested benefits.

A uniform federal standard of fiduciary responsibility, so that pension plan trust funds are adequately maintained.

A federal law requiring improved disclosure and communication of plan provisions to workers, to be accomplished in part by the revision of existing disclosure requirements.

The institution under federal guidelines, of a program to develop portability and reciprocity among private pension plans. Portability and reciprocity provide that a worker can maintain his pension benefits when shifting from one employer to another.

The centralization in one agency of all existing, as well as prospective, legislation of private pension plans to the maximum extent feasible.

Other bills now pending in both the House and Senate have similar aims, as well as asking "the federal government to play a more protective role to assure fulfillment of the expectations of plan participants."

Chris Randolph, an aide to Sen. Jacob Javits (R-N.Y.), who is ranking minority member on the sub-committee, expressed confidence on the bill will be passed when Congress resumes session in the fall, or when a new Congress is seated in January.

"Our interest is what the law says today. We're interested in changing the law so that in the future we can prevent what occurred there (at BLH and Horn & Hardat)," Randolph said.

Randolph said the bill proposed by the Senate provides for wider reforms than those contained in Nixon Administration proposals and that a House bill for expanding pension coverage is "a diversion from the real ills."

The subcommittee's study of private pension plans turned up evidence that a collectively-bargained, 22-year-old plan at a Pennsylvania steel fabricating plant has almost twice as much vested benefit liabilities than the company has in assets.

"Assets on hand after 20 years of funding are only sufficient to cover one-half of the vested benefit liabilities covered by the plan. If this plan should terminate today substantial numbers of participants with vested rights would have their benefit expectations frustrated." the sub-committee reported

Randolph summed up the status of thousands of retirees, whose benefits were either greatly reduced or altogether nonexistent when he said, "The law hasn't been broken. It's just a fact of life."

THE NATURAL BEAUTY OF GROWING THINGS

Mr. SPARKMAN. Mr. President, in an article entitled "Rock the Cradle in Deep South," published in the May-June edition of the National Gardener, there was deserved recognition of a project in Montgomery, Ala., involving both young and aging. This program involves young people from all groups—Girl Scouts, Boy Scouts, public schools and others; and the residents of Richardson Terrace, a low-rent housing project for the aging managed by the Montgomery Housing Authority.

Mr. President, this program results from the vision and tireless energy of a retired Montgomery schoolteacher, Mrs. Betty Fitz-Gerald. Mrs. Fitz-Gerald rec-

ognized an opportunity to bring together a common interest of our young and aging—an interest in the natural beauty of growing things.

Her plan that is attracting national attention and has been adopted by the garden clubs of the Deep South—Tennessee, Georgia, Missouri, Louisiana, Florida, and Alabama—was born and rocked in the cradle of the Confederacy, Montgomery, Ala. It became the pilot project of the Garden Club of Alabama—Mrs. James Durden, president—and was directed by Mrs. Fitz-Gerald who is Deep South youth and aging chairman.

The planning with J. C. Miller, Jr., director of the Montgomery Housing Authority, assisted by Wiley Thomas, Jr., Mrs. Pat Morgan, Mayor James Robinson and recreation director of city senior services, Mrs. Mary McMasters, has resulted in a bridging of the generation gap by Girl Scouts, high school boys and girls—Robert E. Lee High, with Principal Clinton Carter a part of the planning sessions—and their "grandparents adoption plan" of retirees 60 to 93 years of age. The youth do the planting and the foster grandparents teach them how.

This joint project of mini-gardening—vegetable and flower—and a beautification program in an unsightly area of Montgomery has done much to develop responsibility for the aging, a better knowledge of conservation laws of the State and to prove that, "youth only needs to be busy doing good and they will be good." To discover the world around us, its truths, beauty and order and the individual worth of every human being and ways of proving that worth, is to meet the needs of America today and to insure a future of a better world for tomorrow has been the purpose of this youth-aging program.

Mrs. Vernon Connor, first vice president of national council of garden clubs and a resident of Florida, moved that the Richardson Terrace pilot program of Montgomery be adopted as Deep South project at the recent national convention in Cleveland, Ohio. Mrs. Lewis Easterly, Deep South chairman of garden clubs, has asked Mrs. W. J. Kearney of Birmingham, Ala., to serve as cochairman of the project with Mrs. Fitz-Gerald.

Mr. President, I commend Mrs. Fitz-Gerald, the Montgomery Housing Authority, and all those who had a part to play in this undertaking. It is one which I hope will continue to spread through the country.

I ask unanimous consent that the article from the National Gardener be printed in the RECORD.

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

[From the National Gardener, May-June 1972]

"ROCK THE CRADLE" IN DEEP SOUTH

Following a leadership workship in October 1971, twenty-three garden clubs, members of the Montgomery (Alabama) Federation of Garden Clubs, pledged themselves to actively work toward revitalizing a lagging youth gardening program.

The results of this concerted effort has been gratifying according to Mrs. Betty Fitz-Gerald, Regional Chairman of High School Gardeners and Youth Chairman for the Montgomery Federation. There are now 1,454 Junior, Intermediate and High School gardeners enrolled and more clubs are in the making.

Mrs. Fitz-Gerald cites a few of the accomplishments of six of these youth groups as being typical of what young people can do and want to do—if given the proper guidance and leadership. She says these six groups are *"Literally rocking this old 'cradle of the Deep South.'"*

One of the groups, Lanier High School Boys Garden Club, a well-established unit with 35 members, has for several years grown flowers from which they make corsages which they sell at football games and for other school functions.

Under the guidance of their teachers-director, W. C. Locke and the sponsorship of Cherokee Rose Garden Club, they carry on a well-balanced gardening program. With this particular project, unusual in its concept, they are learning the fundamentals of horticulture; acquainting themselves with beauty; developing dexterity and a design consciousness; and at the same time acquiring business acumen as they market the product of their work and creativity.

The other five units, which are a part of this *"cradle-rocking"* group, were organized last fall at the R. E. Lee High School. With an approximate total membership of 115 these five units are guided by teachers-directors and sponsored by three senior clubs.

The combined accomplishments of this group is amazing and each facet of their work is a story unto itself. Briefly, however, here are some of the things they are doing: on weekends they work on schoolground beautification; sponsor a year-long anti-litter campaign by eye-catching bulletin boards placed strategically around the building and suitable to each month's emphasis; paint trash barrels for the schoolgrounds; work on landscape design and civic projects and put to practical use a well organized in-school program of conservation. Many of the members of this 5-unit group are registered for their first voting under the recently passed 18 year old vote law. They are *boning up* on state and national conservational bills and anti-pollution laws.

The preceding "brief" account of what these fine young people are doing does not tell the complete story. Mrs. Fitz-Gerald continues with a few specific activities which indicate the depth and scope of their concern and involvement.

Richard Terrace is a low rental project designed for the aging (60 to 92 years) who do not yet require nursing home care. Together with a group of Girl Scout Gardeners, they have "adopted" grandparents from among the residents of this housing project and are helping them to build an old-fashioned flower garden and wayside park on the grounds.

They participated in a Christmas tree lighting ceremony along with girl scouts, civic leaders, garden club officials and other interested citizens. This event received wide approval and was filmed in color for showing on a local TV station.

During the vacation months they have organized summer tours of a tree farm with the assistance of Mrs. Rosalie Koch of Washington, D.C., American Forest Institute, and "show-me-trips" to nearby parks and lakes while at the same time maintaining their schoolground program and continuing to work with the residents of Richardson Terrace.

Mrs. Fitz-Gerald, in commenting on the projects and personal involvement of these 10th, 11th and 12th grade students, suggests they are proving "Youth only needs to be kept busy doing good and they will be good. They have an affinity with nature. They can bridge the generation gap and give to and learn from the aged."

Based on her experience in youth and educational work, Mrs. Fitz-Gerald says of the garden club sponsorship of youth programs, "Through these garden club programs the students learn to appreciate beauty, to conserve our natural resources and to contribute toward the betterment of our communities. It is obvious that youth who participate in these programs are seldom found in delinquent groups or in our courts. Thousands of our youth are becoming 18 year old voters each year. Those who have come up through our vocational programs and have been influenced by garden club experiences can be counted on to aid in the protection and conservation of our natural and human resources and to encourage civic beauty, community-wide, state-wide and nation-wide."

This was endorsed by Vocational Director of Alabama State Department of Education T. L. Faulkner.

RUNAWAY YOUTH ACT

Mr. HRUSKA. Mr. President, official business prevented my participating in debate on S. 2829, Runaway Youth Act, on yesterday. Hence, I make the following comment now in opposition to the bill. This is not an easy measure to vote against because everyone in this Nation—and certainly this Senator—is concerned about the adequate protection of young people who run away from home. But, praiseworthy goals provide an unsatisfactory litmus with which to test the value of legislation.

My reasons for opposing this measure are threefold:

First, this bill was insufficiently considered by the Juvenile Delinquency Subcommittee;

Second, this bill will contribute to the further fragmentation of an already existing congressional mandate to the executive branch to deal with the problem of runaway youth; and

Third, while there are may be a need for additional legislation in this field, this bill is not the answer.

Let me turn to each of these three points in turn and discuss the facts regarding this bill as they were set out in my individual views appended to the report on this bill, report No. 92–1002:

The hearings in support of this legislation were conducted on January 13 and 14 of this year—days which fell during the adjournment of Congress between sessions. It is no surprise that they were attended only by the subcommittee chairman. I find no satisfactory explanation for conducting hearings during a period when both tradition and good sense dictate that business of this sort is to be avoided. Such activity amounts to a fundamental rejection of the committee process by denying to other Senators of whatever political persuasion the opportunity to participate in hearings. The further consideration of S. 2829 during a subcommittee executive session just 12 days after these hearings, prior to the availability of the printed hearing record, represents an additional distortion of the committee process. I strenuously object now, as I did then, to this type of arrangement in the absence of some overriding consideration. No such consideration exists with regard to S. 2829.

Turning to the bill itself, the question of its need involves some basic issues. Is this, first of all, a problem of national implications with a sufficient Federal nexus to justify action by the U.S. Congress? There is no doubt that young people run away from home—it is estimated that perhaps 1 mil-

lion a year do so. But it is not clear whether this is a growth in numbers, a decrease, or a relatively constant amount in relation to our growing population. Other factors, such as increased affluence and mobility, ought to be taken into account. My reading of the record indicates that these aspects were not given sufficient coverage during the 2 days of hearings.

Witnesses were heard from the metropolitan areas of New York, San Francisco, San Diego, and Washington, D.C. A judge from Indiana was also heard. These witnesses supported S. 2829. The sole administration witness, Mr. Philip J. Rutledge of the Department of Health, Education, and Welfare, opposed the bill. He did so on several pragmatic grounds which are addressed in the majority report. The supporting witnesses likewise provide a pragmatic basis for their endorsement of S. 2829, but on a far more general predicate. All of these witnesses indicated that facilities should exist at which wayward juveniles could be received, counseled, and sheltered in a professional manner outside the judicial process. They voiced approval of S. 2829 as an ostensible means of providing funds to meet this end.

Unfortunately, such support for a legislative proposal of this nature begs the question. Will the specific approach taken in S. 2829 result in the creation of facilities which will have a beneficial effect on juvenile delinquency in general and on runaway youth in particular? Based on the evidence at hand, an affirmative answer to this question would be unrealistic.

This bill would set up a categorical grant program designed to support facilities regarding which both governmental control and coordination would be minimal. Mr. Treanor, the director of Runaway House in the District of Columbia, testified that he considers this lack of control a virtue (hearings, p. 9). As legislators preparing to authorize the expenditure of 30.5 million tax dollars I am not convinced that we can share Mr. Treanor's viewpoint.

Although the record in support of this bill leaves several key questions unanswered, it does provide ample evidence that young people leave home for a variety of reasons. Further, a study by the National Institute of Mental Health which was quoted with approval by Mr. Slattery, a codirector of Huckleberry House in San Francisco (hearings, pp. 31–32), indicates that runaways can be broken down into two groups: a small group whose running away is bound up with individual or family pachology, and a much larger group consisting of those who run away only once. This study states that this larger group "was not clearly distinguishable from adolescents generally. . . . These, too, are troubled children, but they are troubled in much the same way as other adolescents are troubled. Unlike the pathologically driven frequent repeater, the others need no custodial care and have no special need for individualized professional services" (hearings, pp. 227–228).

Everyone would want those who are compelled to run away to be protected and returned home as soon as possible. But if a reduction in the number of runaways is a goal of equal or even greater priority, the proliferation of facilities to which juveniles know they can run raises serious problems. It is not enough to dismiss this concern, as Mr. Slattery did, by calling it "just a fancy theory" (hearings, p. 43). The possibility of creating potential "attractive nuisances" for adolescents must not be minimized.

Mr. Rutledge, the only adverse witness, made no effort to minimize the problem of runaway youth. Neither did he insist that it was receiving adequate attention. He did, however, state that adequate legislative authority exists to provide an appropriate Federal response to this problem. Mr. Rutledge cited the Juvenile Delinquency Prevention and Control Act of 1968 and title IV of the Social Security Act as examples of such authority. To quote Mr. Rutledge, "What is called for is not legislation establishing new categorical programs dealing with one aspect of the larger problem. Instead, efforts are needed at the State, Federal, and local level to integrate those services that are already available, and to fill gaps in the provision of services in each community, according to the needs of that community" (hearings, p. 20).

Neither the Congress nor the administration have been idle in the area of juvenile delinquency. The Vocational Education Act of 1963, as amended in 1968, provides Federal funding to State programs designed to provide vocational education to, among others, those with records of juvenile delinquency. Educational assistance to delinquent children is also available under the original Elementary and Secondary Education Act of 1965, as amended. One of these amendments, in 1970, gave special attention to the problem of juvenile delinquency, as did a 1970 amendment to title V of the Higher Education Act of 1965. There is other legislation which provides money and assistance in specific areas which have particular applicability to our troubled youth, such as drug abuse, manpower training, and relevant community action projects.

In 1970 the Omnibus Crime Control and Safe Streets Act of 1968 was amended to add a new part E to title I. This part provides for specific programs dealing with corrections, which must include special attention to the handling of delinquents and youthful offenders. And then there is the Juvenile Delinquency Prevention and Control Act of 1968 which, for all its faults, offers considerable promise if properly revised and administered. Last year this act was extended to June 30, 1972 and it is now to be extended again until June 20, 1974. Included in last year's extension was the creation of an interdepartmental council to coordinate all Federal juvenile delinquency programs. To be noted is the language of the committee in favorably reporting the extension of the 1968 act: "its relative ineffectiveness in its 3 years of operation has been a result of weakness in administration rather than of faulty conception" (S. Rept. 92–220, p. 3).

The newly created Interdepartmental Council is in full operation, and bureaucratic entanglements appear to have been significantly unsnarled. The President's budget for fiscal year 1973 calls for expenditures of $43.7 million by the Law Enforcement Assistance Administration on juvenile delinquency prevention and control. The Department of Health, Education, and Welfare has projected $19.5 million to be spent by the National Foundation for Higher Education, and $17.1 million by one Social and Rehabilitation Fund, in this same area. No funds have as yet been budgeted for the Juvenile Delinquency Prevention and Control Act of 1968 because of its pending expiration.

An additional, fragmented approach to juvenile delinquency, regardless of how well-intentioned, would be counterproductive. Coming at the point where the executive branch is displaying a heartening intention and ability to coordinate its efforts in this area, S. 2829 could become a liability.

Singular recognition of the need for a comprehensive and coordinated approach to juvenile delinquency is evident in the introduction by the chairman of the Subcommittee To Investigate Juvenile Delinquency of a bill entitled "Juvenile Justice and Delinquency Prevention Act of 1972." In the words of the subcommittee chairman, who is also the primary sponsor of S. 2829, his proposal "completely restructures the Federal approach to the problems of juvenile delinquency." Since the Juvenile Delinquency Prevention and Control Act of 1968 is again coming up for review, the question whether it should be extended or replaced by a restructured program is not out of place. But piecemeal efforts like S. 2829, the Runaway Youth Act, only detract from such an approach.

Every year the volumes of the United States Code grow fatter with new laws designed to cure the ills of society. And every year the truly valuable legislation produced by Congress becomes overshadowed by other laws which increase the credibility gap between promise and performance. It is long past time that we make a more serious effort to improve our partnership with the executive branch so that existing laws can be made to function, particularly in this important area. While we should never hesitate to improve law through reasoned amendments, these should be enacted only upon a sound foundation of demonstrated need. We will never have true improvement in juvenile delinquency, as in other fields, if we do not give our partners in the executive branch an opportunity to adjust to and implement the laws we do pass in a manner that will permit effective administration.

It is for these reasons that I oppose the passage of S. 2929.

COMMENCEMENT ADDRESS BY MRS. JACQUELYN MATTFELD

Mr. PELL. Mr. President, Mrs. Jacquelyn Mattfeld, dean of academic affairs at Brown University and a consultant to the National Endowment for the Humanities, recently gave a commencement address to the class of 1972 at Sarah Lawrence College. Mrs. Mattfeld's remarks constitute a valuable perspective on the enrichment of our lives by an understanding of both our humanness and our humaneness. It is a message of optimism, but calls for a recognition of responsibility for ourselves and others, and a utilization of the individual's gifts in the service of others. Mrs. Mattfeld's work in the academic world and her contribution to the humanities endowment have set a fine example of living out her own words. I ask unanimous consent that Mrs. Mattfeld's remarks be printed in the RECORD.

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

ADDRESS BY MRS. MATTFELD

Few commencement speakers are fortunate enough to know the school or the graduating class they address as intimately as I have been privileged to know Sarah Lawrence College and these seniors. Because so many of us who are leaving Sarah Lawrence have become friends it may not be too presumptuous of me to say out loud that I think most of us here were initially drawn to this college because of our personal affinity with its singular, brave insistence upon the indivisable unity of the intellect and emotion in the process of education. I would like, therefore, to speak with you today about the relationship between that unusual educational philosophy and the raw reality of our times and the lives you will choose to be your future.

You, the class of 1972 were freshmen in 1968–69, the year of national student uprisings. The student strikes, black walkouts, indeed *all* the social movements and their attendant demands of that year and the next were the energetic, angry attempt of the young to effect change in the consciousness and actions of those with power. They cried out against the escalating undeclared war. They deplored the degrading deprivations and indignities endured by the poor of this wealthy nation. They rejected the gross social injustice blindly perpetuated for gen-

erations on the non-white races, on women, children, the mentally ill, and the aged in a country which promises human rights for all. They decried the squalor and dehumanization of the cities, and the wanton destruction of all those resources of the planet which sustain life itself. 1968–69 was a chaotic, disrupted year in which to begin study.

For many students that distracting confusion was accompanied by a heady sense that after several millenia of human failure, theirs might be the generation of an elect who could usher in an era of peace and create a new and humane society which would dignify *all* persons, and exist in harmonious interdependence with nature.

You who were freshmen in 1968–69 experience for a year or two the support of your causes by many faculties, and a positive, if fearful, response to your common concerns, *not* from the vast silent majority of our countrymen, to be sure, but at least from the colleges and universities historically conditioned to meet whatever changes in knowledge and skills the citizenry require of formal learning. By this your senior year, we have witnessed together how shockingly short lived and superficial much that we took for social awakening and change has again proven. Idealism in individuals and institutions faded, while in an incomprehensible economy this nation sent more men into space and war but cried "depression" as public and private support were withdrawn from education, poverty programs, libraries and the arts. It has been a quiet year on campuses across the country; disillusioned and despairing, the older students appear human nature, and that history repeats itself because mankind does not change.

No other animal has the enormous capacity for reasoning, communication, creativity, empathy, and love that the human has. No other pursues the indiscriminate destruction of his own specie, or commits conscious and deliberate suicide. Only when we have accepted the opposing facets of our humaness and understood the enormity of the implications of this duality do we fully recognize the degree to which it is we ourselves who will determine the quality of our lives no matter the state of the world in which we find ourselves. There is abundant record that again and again throughout human history individual men and women have wrested purpose, and beauty, and meaning out of human existence during turbulent and barbaric times. You, too, have that capacity and that opportunity.

The purpose of education is to assist us in attaining mastery over the demonic traits of our humaness, and in developing to their highest power all that set us apart from bestiality. In all we learn, we are in pursuit of self-understanding—knowledge of ourselves, of our own and our fellows' identity, the workings of our minds, and feelings, and physical being. Even as we explore the laws that govern every aspect of our world and our universe we are in search of reassurance of orientation in our surroundings. At Sarah Lawrence most of your teachers have understood that this is so. They have tried to make explicit the connections between theory and reality. They have attempted to have withdrawn from the political into the academic. They remark that their younger successors seem resigned or apathetic, that they conform to the resurgent conventions of school and society in a spirit of passivity or cynical gamesmanship. Many outside observers have commented that a brooding pessimism hangs like a pall over the most gifted and sensitive young people. As you graduate today many of you are asking silently, or have discussed with one another behind closed doors through long nights, just what good education is if it can not resolve the agonizing dilemmas of contemporary society gone out of control.

Four *thousand* years ago in 2000 B.C. an Egyptian chronicle wrote these lines, "No one ploughs the land any longer. People keep saying, 'We never know what will happen from one day to the next' . . . Filth is everywhere . . . The country is spinning madly round and round like a potters' wheel . . . No one ever laughs any more . . . No public office is really open as it should be, and the masses mill like terrified sheep without a shepherd."

Five *hundred* years ago the poet Eustache Deschamps asked, "Why are the times so overcast that men do not know one another at all, and Governments quite clearly change from bad to worse? The bygone days were more worthwhile. Now what holds sway? Only deep gloom and boredom. Justice and law are nowhere to be found. I no longer know where I belong."

These dark passages out of man's past remind us what we so often forget—that learning has never been able to change show the connections that exist between *what* you are learning and the *you* who is learning. Your education began long before you arrived at Sarah Lawrence College. It will continue—at times formally, at times informally—so long as you are truly alive. We would like to believe that when you look back upon these four years you will find you were strengthened in the certainty of your worth, and encouraged to accept the responsibility of all who are so richly endowed, namely, to bring mind and heart together in your personal relationships and the service you render through community and profession. We can promise you that though we are nomads, we are not alone in the accidental horrors and possibilities of this historic moment. We may feel beleaguered and alienated as we encounter greed, cruelty, jealously, hypocrisy, fear and prejudice in our fellows. Yet there will always be the recurrent miracle of encountering their opposites—compassion, generosity, truth, courage, and wisdom. These will not enable you to become comfortable with the swift-footed pace of change nor with the uncertainty, ambiguity and contradiction that are inherent in the human condition. But you can become strong by learning to be yourself—by daring to love, to suffer, and to work for the realization of the highest the human race is capable of attaining, wherever you are, with whatever gifts you find you can develop and put into the service of others.

The world will not become perfected by your efforts, but you will have had the rarest and most unlikely experience this universe is believed to contain—a truly *human* life.

Live well—and godspeed.

LABOR STRIKES FARAH IN EL PASO, TEX.

Mr. MONTOYA. Mr. President, to every woman working in America, the fruits of labor are guaranteed under a system of law which fulfills, sustains, and gives dignity to our Nation's constitutional imperative: "All men are created equal."

The rights to air grievances and bargain collectively have become as basic to our 20th century standard of economic justice as our Nation's productivity is to our unparalleled standard of living.

Employer and worker alike, not without pain and even begrudging sacrifice, have come to embrace a system of law which guarantees good faith and which gives dignity to the aspirations of both.

The wise and judicious application of progressive labor law in this century has afforded the American worker and his employer a mutual respect unequaled in industrial history. An honest day's work for an honest day's pay is a reality because thoughtful men opened avenues of exchange through law.

It is deeply troubling, therefore, to uncover the small pockets of injustice which do exist, to find that good law is calously violated in small corners of our country, to see that economic exploitation is a living experience for one of our Nation's people, to whom the fruits of labor are bitter at best, if extended at all.

In another age, illegal union busting by wealthy industrial employers was a cruelly expedient and commonplace corollary to the American worker's struggle to secure better working conditions for himself, a better home for his family, a better future for his children.

The subtle and calculated deployment of selective layoffs, withholding of wages, restrictions on outside activities, intimidating interrogations, and threats, as a pattern of discriminatory practices against dissatisfied and disaffected workers, are well documented in the accounts of the early trade union movement. So, too, locked factory exits, the use of vicious dogs and mass employee arrests are, for most workers, a closed and all but forgotten chapter in American history.

But for 3,000 Mexican-American workers employed by the Farah Manufacturing Co. in west Texas and New Mexico, 19th century union busting tactics have become almost a daily reality.

The Farah Co. is one of the Nation's larger producers of men's pants, and operates nine plants in El Paso, San Antonio, and Victoria, Tex.; Las Cruces and Albuquerque, N. Mex., The company has thrived in areas where jobs are scarce, where unemployment is so acute that a man will take anything he can get. Its plants are known for their high barricaded walls and barbed wire.

In August of 1969, a shipping department employee at one of the four El Paso plants was summarily discharged from his job for the simple act of meeting with a representative of the Amalgamated Clothing Workers Joint Board, and seeking the union's assistance in organizing the plant. Although a court review reinstated this man to his job, the event touched off a sequence of activity which remains unresolved after 3 long years. In the fall of 1969, Farah instituted and enforced stiff rules prohibiting the distribution of literature and employee solicitation as part of a campaign to avoid unionization at all cost.

When the National Labor Relations Board, in October of 1970, upheld a petition to hold elections on the question of forming a union unit among cutting room employees at one plant, the company attempted to stymie the election process by a series of maneuvers, including the publication of unreadable eligibility lists and attempted participation in the voting process by ineligible employees, methods which can be described only as an effort to rig the vote.

Despite this, the workers voted in favor of unionization, and the cutting room at the Gateway plant has been certified. Farah has filed more than 100 challenges to the certification.

The company continued its campaign to ferret out union sentiment in the

Gateway plant during 1970 by the consistent discharge of those workers suspected of union activity, by maintaining an open watch on employee activities, by enforcing both discriminatory work practices and nonsolicitation rules. The company sharply cracked down on nonwork-related conversations between employees, and even color coded identification tags to prohibit interdepartmental solicitation. Many of these practices, including the firing of 20 employees in 1970, are in direct violation of Federal labor law.

On May 9 of this year, employees initiated a walkout at the two San Antonio plants and at four Farah facilities in El Paso, in response to the discriminate firing of workers for their participation in a union organizing committee. The consistent intransigence of the Farah management in refusing to allow employees to air grievances gave few recourses to workers, and a totally peaceful and orderly picketing demonstration was organized.

As a result, 600 strikers were arrested en masse for alleged violations of Texas picketing laws. Some workers were awakened from sleep in the middle of the night and taken to jail for the act of exercising their constitutional rights of publicly airing their dissatisfaction with social injustice.

The bail bonds for the 600 men totals $240,000, or $400 apiece, although the usual bond is $25 for such an alleged misdemeanor. Unmuzzled police dogs "protected" the Farah gates while still and moving pictures were taken of all striking employees for later use in court.

The company has since employed its tactics of withholding paychecks to strikers, and has even ordered the physical blocking of plant exits at times, in order to prohibit sympathetic workers from joining picket lines.

Judicial remedies through local avenues of justice have been all but exhausted. The El Paso Justice of the Peace who set the high bond for the strikers has been heard to say that "arrests will continue until the strike is broken." Justice through the local courts is all but impossible given the Farah company's position of prominence in El Paso city affairs.

Mr. President, strike busting, Farah style, was outlawed in this country decades ago, yet it thrives in a corner of the Southwest in America, 1972. The right of workers to form a union for their own betterment is safeguarded in law, to prevent closed economic communities and political monopolies from breeding economic exploitation and social injustice.

The small pockets of injustice fester as sores on a national model which has consistently proven its worth in securing a better way of life for all workers, and a stable economy for all America.

Chicano people are becoming acutely aware that they must bear twice the burden, pay twice the price, and suffer twice as much to gain the protections of law which America guarantees to all. If we permit a comparative handful of American citizens to be so easily thwarted in their struggle against corporate injustice in securing their human and legal rights, then the claims of all workers under the law are weakened, and the letter and spirit of all our progressive labor legislation remains unfulfilled.

If those in management in this case feel that their side has been distorted, I shall not close my ears. Management is entitled to be heard in the open forums of discussion. Above all, we have a responsibility to bring about human equity and justice to this situation which blemishes our economic landscape.

It is our responsibility as a Nation and as individuals in a society to assure for our fellow man the equal opportunity that gives meaning to our Federal Constitution. To sit idly by is to maintain this injustice, and to assist our people in need is to give voice to our aspirations as a free Nation.

IMPLEMENTATION OF EDUCATION AMENDMENTS OF 1972 BY DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. PELL. Mr. President, I am deeply concerned about the manner in which the Department of Health, Education, and Welfare is implementing the education amendments of 1972. We have quite often had problems with the Department's tendency to rewrite the law—frequently to the point that we do not recognize it. However, the siutation on the present law is more extreme than has ever, to my knowledge, been the case.

I would like to bring to the attention of the Senate an example of their blatant disregard for the plain language of the law as well as the unequivocal intent of Congress.

One of the major underlying purposes of the recently enacted higher education portion of the education amendments of 1972 was to make student assistance available to students from middle and upper middle income families. While this purpose is reflected in many portions of the bill, it is especially evident in the amendments to the guaranteed student loan program.

The guaranteed student loan program was established in 1965. Put simply: It is a Federal program carried out in partnership with the lending institutions of our Nation under which a student obtains a loan to finance his education. That loan—subsidized in certain cases—is fully guaranteed by the Federal Government, thus making it an attractive loan for the banks, and one which is easily obtainable by the student, whether he has a banking history or not. Interest to the student is 7 percent; however, under previous law, where students are from families with adjusted family incomes of less than $15,000, 3 percent of the interest is subsidized while the student is in school. There was a limit of $1,500 per year per student.

The conference, attempting to make the guaranteed student loan program available to more middle-income people, changed this figure from a yearly limit of $1,500 to $2,500. More important, the limitation on the adjusted family income levels to which the interest subsidy was to be made available was deleted in the House bill, so that students from families earning more than $15,000 could receive interest subsidies.

It is the interpretation of this latter change, from prior law, which is causing a serious problem. The Senate version of S. 659 contained no change from prior law, while the House version contained an amendment removing the $15,000 ceiling on eligibility for interest subsidies and, at the same time, imposing a "needs test" on all student borrowers. The Senate conferees favored removing the $15,000 ceiling but opposed the inclusion of the "needs test" on all borrowers. The conferees compromised by removing the $15,000 ceiling and including a "needs test" for eligibility, but only for students from families with annual adjusted incomes in excess of $15,000.

Recent interim regulations issued by the Department of Health, Education, and Welfare represent a misreading of the intent of Congress, and, if allowed to continue, will bring to an end the guaranteed student loan program. The first regulation involved would make a "needs test" necessary for any guaranteed loan, no matter what the income level of the student or his family. Therefore, a student who comes from a $10,000 family, and who automatically received interest subsidy last year, is considered no longer eligible unless he proves his need for a loan to the student loan officer and ultimately, the lender.

The institution of a "needs test" for those from families under $15,000 was not the intent nor purpose of this legislation. When one considers that we wished to broaden the program and make it available to more families, it should be clear that interpreting the legislation in a manner which restricts availability of loans is directly contrary to the intent. It is our view that there is a presumption of need for families with incomes of $15,000 or less, as there was before the legislation was enacted, and that the need factor is only to be taken into consideration with families of $15,000 or more income. Therefore, an HEW regulation requiring a needs finding for all loans is clearly a contravention of law.

The other regulation which is contrary to both the intent and letter of the law is that which states that the bank can only loan as much as the student financial aid officer recommends. This is found nowhere in the statute, and it should be pointed out that we indeed used the word "recommend." A recommendation is just that—it carries no force and effect—and the lenders may, according to their own judgment, loan more than the student financial aid officer recommends.

These two regulations which are just now being broadcast throughout the country are definitely limiting participation in the guaranteed student loan program, instead of broadening that program.

On Friday, I communicated my concern about HEW's interpretation of the limitation, along with Representatives BRADEMAS and PERKINS and Senators RANDOLPH and WILLIAMS. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter

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

CONGRESS OF THE UNITED STATES, HOUSE OF REPRESENTATIVES, COMMITTEE ON EDUCATION AND LABOR
Washington, D.C., July 28, 1972.

Hon. SIDNEY P. MARLAND, JR.,
Commissioner of Education, Office of Education, Washington, D.C.

DEAR COMMISSIONER MARLAND: We are writing to you with respect to an interim regulation affecting the interest subsidy provisions of the Guaranteed Student Loan Program, which was filed last week and published in the Federal Register of July 18, 1972.

Having compared the regulation to the relevant provisions of the statute, we must tell you that in our view the regulation seriously misconstrues the law, and, if left unchanged, will effect a substantial change in Federal student aid policy that we as Members of the Committee of Conference on the Education Amendments of 1972 did not intend.

The regulation in question purports to give effect to Section 132C (a) of the recently approved Education Amendments of 1972, and states in part:

"(b) In connection with a loan issued after June 30, 1972, in order for a student to be eligible for payment on his behalf by the Commissioner of a portion of the interest on such loan . . . the eligible institution at which the student has been accepted for enrollment or which he is attending . . . must, prior to the making of such loan, (1) determine, pursuant to paragraph (c) of this section, the loan amount needed by the student, if any, and (2) recommend that the lender make a loan in the amount so determined.

In our view this regulation would not be objectionable if it governed only the eligibility to receive interest benefits of students whose adjusted family incomes exceed $15,000, since in essence it merely restates the three elements of subparagraph II of Section 428(a)(1)(C) of the statute, as amended. These elements are: (1) that the institution has determined the student is in need of a loan; (2) that the institution has determined the amount of the loan of which the student is in need; and (3) that the institution has recommended to the lender that it make a loan in the amount of such need.

The comparable statutory provision running to students whose adjusted family incomes does not exceed $15,000, however, contains only two of these three elements, omitting the requirement that the institution has determined the student is in need of a loan.

This omission was intended by the Conferees to have meaning. Our intent was to create *a presumption* of need in favor of students whose adjusted family incomes does not exceed $15,000, and not to change existing law in this respect.

The statement of the managers that accompanied the legislative provisions of the Conference Report supports this conclusion:

"The conference substitute contains features drawn from both the Senate and House amendments. Under it a student would be eligible for an interest subsidy if his adjusted family income is less than $15,000. The student's school will furnish the leader with a statement concerning its determination of the amount of the student's need for the loan and a recommendation as to amount of the subsidized loan. In the case of students whose adjusted family income is over $15,000, the school may determine that he is in need of a loan to attend the institution. If it so determines, it shall provide the lender with a statement evidencing the school's determination of the amount of his need and a recommendation as to the amount of the subsidized loan.

You will note that the statement of managers describes in absolute terms the eligibility to receive interest benefits of students with adjusted family incomes of less than $15,000. Further, the statement of managers clearly indicates that the only issue to be addressed by the educational institution under such circumstances is the *amount* of the student's need, and the amount of the loan it will recommend.

Thus, on the strength of the language of the statute, as well as the statement of managers that accompanied it, we feel that the only reasonable construction of the recently enacted amendments is one which recognizes a clear distinction between the eligibility requirements applicable to a student with an adjusted family income of less than $15,000, and those applicable to a student with an adjusted family income in excess of $15,000. Indeed, unless Section 132C when read in its entirety is construed as having this meaning, our action in writing two separate eligibility provisions could at best be regarded as a frivolous exercise. It was not.

You will appreciate that the above analysis has more than academic interest, since it bears directly on a question to be addressed in subsequent regulations, i.e. the basis on which the payment of interest benefits may be made on loans in excess of the recommendation of the educational institution.

The regulation here addressed implies—and the form (OE 1260) intended to implement it flatly states—that "if the educational institution makes no recommendation for a loan . . . , the loan is not eligible for the Federal interest benefits."

Again, in our view such a result would not be objectionable if it applied only to the eligibility to receive interest benefits of students whose adjusted family income exceeds $15,000, for there an institutional determination of need is a prerequisite to any further consideration of a student's application.

When applied to students whose adjusted family income is less than $15,000, however, such a rule would have the effect of allowing the educational institution to overcome the statutory presumption of need on the part of such students, thus exercising a power Congress did not grant, and working a substantial change in previously existing law.

This result was not our intent. We intended to leave existing law substantially unchanged with respect to students with adjusted family incomes of less than $15,000, adding only the requirement that the educational institution have some input into the judgment reached by the lender before the loan is made. This input was not intended to be conclusive, and students with adjusted family incomes of above and below $15,000, respectively, were not intended to have to proceed on the same footing.

It follows from this conclusion that if the Office of Education is to administer the loan subsidy program in the manner intended by Congress, substantial changes must be made in the regulation promulgated last week. Such changes should reflect the intent of Congress that students with adjusted family incomes of less than $15,000, and students with adjusted family incomes in excess of $15,000, not be treated the same, and that the former be accorded a presumption of need, as was the case under previous law.

It is our understanding that, pursuant to Section 139 of the recently enacted Education Amendments, the Office of Education will submit proposed permanent regulations, guidelines, and application forms issued in connection with the subsidized loan program to the Committee on Labor and Public Welfare of the Senate, and to the Committee on Education and Labor of the House of Representatives, at least thirty days prior to such regulations, guidelines, and application forms taking effect. We trust that copies of the relevant documents will be transmitted as soon as possible since the immediate plans of millions of college students, and thousands of colleges, universities and lending institutions, are dependent upon the matter being resolved without delay.

In the meantime we hope the information contained in this letter will be useful to you in revising the regulation issued last week. We appreciate that the Office of Education has had to move with considerable speed in implementing the changes made by Congress in the subsidized loan program but know you will agree that this and all programs created by statute must be administered in accordance with the intent of Congress, without exception.

Best wishes.

Sincerely,

CARL D. PERKINS,
Chairman, House Committee on Education and Labor.
JOHN BRADEMAS,
Member, House Committee on Education and Labor.
HARRISON A. WILLIAMS, JR.,
Chairman, Senate Committee on Labor and Public Welfare.
CLAIBORNE PELL,
Chairman, Senate Subcommittee on Education.
JENNINGS RANDOLPH
Ranking Majority Member, Senate Committee on Labor and Public Welfare.

A BILL TO PROVIDE FOR THE PAYMENT OF FUNDS TO THE IOWA INDIAN TRIBE

Mr. DOLE. Mr. President, on May 7, 1965, the Indian Claims Commission made an award to the Iowa Indian Tribe of Kansas and Nebraska and the Iowa Tribe of Oklahoma. The award was made as payment for certain land which was excluded from the Iowa reservation established in southeast Nebraska and northeast Kansas by an 1854 treaty and as additional payment for other land sold under the same treaty.

Funds to pay this award were appropriated by Congress on March 21, 1972, and the tribes have since agreed on the division of the funds. I, therefore, introduce legislation to authorize payment of the appropriated sum to the Iowa tribes.

Mr. President, it is unreasonable that a just claim arising from a formal U.S. treaty adopted nearly 120 years ago should still remain unsatisfied. It would be even more unjust for the Senate to delay any longer the satisfaction of this claim. The Claims Commission has awarded the claim, Congress has appropriated the money, a tribal agreement on distribution of the funds has been reached, and Congress must now pass the authorizing legislation to enable settlement of this claim. I, therefore, encourage my colleagues to act promptly in their consideration of this bill, and bring about prompt payment of this 120-year-old obligation.

The Iowa Tribes of Oklahoma and of Kansas and Nebraska have a membership of approximately 1,740 individuals. The Iowa Reservation of the Kansas and Nebraska Tribe is located in Brown County, Kans., and in Richardson County, Nebr. It covers approximately 1,378 acres, most of which is farmland. Approximately 83 percent of the land is

used by Indians and the remainder by non-Indians under lease arrangements.

The tribe is governed by a general council composed of all enrolled members of legal age, and by an executive committee which has broad delegated powers for carrying on the daily business of the tribe.

The primary functions of the tribal government are in matters pertaining to the preparation of claims, prosecution and distribution of claims, preparation of membership rolls, and supervision of the tribal lands.

The tribal government has proposed distribution of the judgment now in question on a per capita basis to currently enrolled members, in accordance with the tribal constitution. They have voted to hold payments distributed to minors in trust for them, and are in the process of establishing a trust fund in a local bank for this purpose. Once completed, the trust proposal will be submitted to the Secretary of the Interior for final approval. I urge the Senate to respect the wishes of the tribe and permit retention of the trust funds in the local Indian community.

There is no controversy surrounding this award. The Claims Commission has adjudged it, the Iowa tribal government has agreed on the distribution scheme, and Congress has appropriated $633,193.77 to satisfy claim docket No. 135. I am hopeful that this authorization bill can be acted upon promptly so that this obligation owed by the United States to the people of the Iowa Tribes may finally be met.

PAUL-HENRI SPAAK

Mr. PERCY. Mr. President, it was with great sadness that I heard the news of the death of Paul-Henri Spaak, the Belgian statesman and one of the chief architects of European unity and the Atlantic partnership. Mr. Spaak earned the title of Mr. Europe for his efforts to preserve Western solidarity and independence in the critical years after World War II.

Mr. Spaak's vision of a free, united Europe never faltered and his leadership, skill and determination to strengthen and preserve the free societies of Europe gave heart and hope to his people and colleagues.

There is hardly an international organization in Europe that does not owe in part its birth and healthy existence to the tireless efforts of Mr. Spaak. He was president of the European Coal and Steel Community, president of the Council of Europe, and signatory to the Treaties of Rome which created the European Economic Community. He was also one of the principal creators of NATO and its secretary general from 1957–61. He helped write the Charter of the United Nations and served as the first president of the U.N. General Assembly in 1946.

Remarkably Mr. Spaak also found time to serve three times as Belgium's Premier, and six times as its foreign minister in addition to numerous other cabinet and government posts.

Mr. President, the Western World truly owes a great debt of gratitude to Paul-Henri Spaak. His vision of a peaceful and just world was based on a concept of a unified Europe and partinership between Europe and the United States. The Atlantic partnership on which so much of our own foreign policy is based would have been impossible without him.

FEDERAL REVENUE SHARING

Mr. MATHIAS. Mr. President, as a long-time advocate of Federal revenue sharing, I am pleased to see that at long last there is some hope for passage of this critical reform this year. The many communications I have received from officials throughout my own State of Maryland attest to the urgency of the need for the fiscal relief provided in the State and Local Fiscal Assistance Act of 1972. I recently spoke to this point in a statement to the Committee on Finance during its hearings on S. 3651. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF SENATOR CHARLES MCC. MATHIAS, JR., SUBMITTED TO THE SENATE FINANCE COMMITTEE, JULY 27, 1972

Mr Chairman, I am deeply grateful to have the opportunity to express to your Committee my enthusiastic support for S. 3651, the State and Local Fiscal Assistance Act of 1972. As a former member of the Senate Government Operations Committee's Intergovernmental Relations Subcommittee, I am all too familiar with the fiscal plight of our State and local governments and with the various proposals for easing it. Moreover, I recently held hearings in my own State of Maryland to study alternatives to the inadequate property tax system upon which our local governments have been forced to lean. I am convinced that revenue sharing is essential, not only to the survival of the federal system as we know it, but to the solution of our most urgent public problems.

Maryland will receive $117.5 million this year if S. 3651 is enacted, bringing relief to property owners who have watched their taxes soar as local governments strive to pay for schools, police, fire protection, water and sewer lines and other public services. The $19.4 million available to Baltimore this year under revenue sharing is essential to bringing new life to the urban center of Maryland. How essential will be understood when it is realized that the current Baltimore City budget anticipates these funds and will be in default if they are not provided. A real urban crisis would follow the defeat of this bill.

I would like to address myself to one of the objections most often raised against revenue sharing—the charge that it would divorce the authority to tax from the authority to spend and thus destroy one of our most basic built-in controls over irresponsible spending. There is, it is argued, no more effective check upon such spending than the requirement that the responsibility for raising and for spending money should rest upon the same governmental shoulders. To permit a government to enjoy the power of spending money without having first to endure the pain of raising it is, we are told, to undermine the principle of public accountability.

On the face of it, Mr. Chairman, this argument would seem to have a good deal of force. But it simply does not stand up under close and careful analysis.

To begin with, revenue sharing is not the novel notion—the alien and untried idea—that some would have us think it is. In the broadest sense of the phrase, revenue sharing has been with us since the early decades of the Republic. It has, more recently, become not only a fact of federal life, but an increasingly important feature of our federal system. We have developed what Daniel Elazar has called a "cooperative system," in which "the federal government, the states, and the localities share the burden for the great domestic programs by making the larger governments primarily responsible for raising the revenues, and the smaller ones primarily responsible for administering the programs." As we all know, state and local officials have, for decades now, administered billions of dollars of federal assistance. But what is far more significant, and what we rarely seem to recognize, is the fact that for years every state in the nation has been sharing large portions of its revenues with local units of government. In fiscal 1969, the states disbursed almost $25 billion to their local governments.

The development of these state revenue sharing practices has not been merely a matter of accident or convenience, but of deliberate design. We have relied heavily, under our federal system, upon those governments and agencies closest to the people—upon local governments and agencies—for the actual provision of many of our public services. We have, at the same time, relied just as heavily upon the Federal and state treasuries for much of the funding of these services. And we have done so for some very sound reasons.

It is, to begin with, impossible to devise a set of geographic boundaries that would divide the country into governmental units capable of raising precisely the amount of revenue each unit would need. Some of our areas are wealthy, others poor; some are rural, others urban; some are industrial, others residential; and so on. Yet none of these areas is self-contained. Over their boundaries, countless times daily, millions upon millions of people are passing—making demands upon one jurisdiction while paying taxes in another.

The only way to make government responsive and effective under these conditions is to work out a system of intergovernmental transfers to help insure the provision of at least the essential services in every jurisdiction. Without some such system, many units of government would inevitably elect to block the immigration of people or businesses or activities which, for one reason or another, might add to its financial burden. In varying degrees this has, in fact, already happened—most notably in the resistance of some suburbs to the construction of low and moderate income housing. It is to counter this tendency that we have developed a rather complex set of both federal-state and state-local transfers.

Recently, the federal-state system of transfers—the federal grant in aid system—has come in for a good deal of attention. But we have in the process almost entirely ignored the fact that, for many years, the states have had highly advanced systems of grants. Indeed, state grants account for over 30 per cent of local governmental expenditures, and for about a third of state budgets. Many of these grants are for specific purposes, but many others are not. State grants, in other words, cover the entire spectrum of possibilities—from grants that are completely untied, to others which allow a great deal of latitude, to still others that leave state-local officials with virtually no discretion.

Take, for example, my own State of Maryland. We have had school equalization grants for many years. These are transfers from the State to local governments which spend money they do not raise in taxes. Every school board in my State spends money it is not responsible for raising. Finally, the county "piggy-back" income taxes are a form of

revenue sharing, at least to the extent of the minimum 25 per cent which the State requires of all counties.

The same situation holds true in a variety of ways throughout the country. A number of states have independently enacted "per capita grants" to their local governments, which are similar in every respect to the revenue sharing grants proposed in the legislation before us today. Back in 1949, New York State replaced most of its shared taxes (personal and corporate income, alcoholic beverages, and utility taxes) with per capita aid to localities. Many other states use shared taxes in one form or another; and still others provide support in the form of property tax relief.

The enactment of a new revenue sharing plan in New York stands out as the most dramatic state aid development of 1970. The New York plan will distribute 21 per cent of the State personal income tax to counties and municipalities. As a result, New York's per capita aid will triple from the present $200 million to $600 million.

At the federal-state level, some degree of federal sharing of revenue with the states has occurred in every period since the beginning years of the nation. Before the depression years of the 1930's, most such distribution of funds was of a temporary or short-term nature—with a few notable exceptions such as the land grant colleges, vocational education, and the federal aid highway system. In 1790, at the recommendation of Secretary of the Treasury Alexander Hamilton, the Federal government assumed some $18.3 million worth of Revolutionary War debts incurred by the states. During the closing years of the second Jackson Administration federal revenues exceeded both the national debt and the level of current expenditures. The Federal government decided, in 1836, to distribute more than $28 million of its surplus funds to the states in proportion to their electoral votes.

Today, in addition to the billions of dollars of federal categorical or restricted assistance which each year pour out of the federal treasury and into the hands of state and local officials, the Federal government directly shares with state and local governments a portion of the revenues it derives from the sale of public lands from grazing leases and permits, and from the use of national grasslands.

In short, Mr. Chairman, state and local officials are already very much involved in spending funds which they themselves have had no hand in raising—and they have been doing so for many, many years.

There is, however, one glaring gap between the Federal-state and the state-local transfer systems: states *do* make general purpose grants to localities, while the Federal government currently makes no such grants to state and local governments. That gap should, in my judgment, be closed by a carefully constructed program of Federal revenue sharing.

The major reason for revenue sharing, which I shall not expand upon here, is to help reduce the enormous disparities that have developed in the revenue raising abilities of our state and local governments—disparities that we cannot diminish through the conditional grant system. Next to the swelling growth in Federal revenues—a ninety-fold increase in 36 years—state and local revenues seem almost at a standstill, their growth stifled by their dependence upon regressive and excessive property and sales taxes. As John Kenneth Galbraith once said: "The great economic anachronism of our time is that economic growth gives the federal government the revenues while, along with population increase, it gives the states and especially the cities the problems."

A federal revenue sharing program to overcome that fiscal imbalance would, I am convinced, strengthen rather than subvert political accountability at all levels of government—Federal, state and local.

If divorcing the authorities to tax and to spend were as dire a deed as some suggest, then we would have been done for long ago—for, as I've stressed, we have had such a divorce, in some form or other, from the start.

Nor do I see how the current system of categorical aid is in any respect more "accountable" than a system of general revenue sharing. As President Nixon noted in his Revenue Sharing Message to Congress, the "crucial operating decisions are often made by anonymous bureaucrats who are directly accountable neither to elected officials, nor to the public at large." Indeed, even many of the elected officials who control federal spending have only a limited degree of public accountability. In its sheer size and complexity, with its 500 different spigots, the current multi-billion dollar categorical aid system defies both Presidential and Congressional oversight. Under this system, authority rests in the hidden hands of thousands of program administrators who run the system by spawning a vast jungle of regulation that serves as an almost impenetrable obstacle to efficient state and local use of Federal aid dollars.

Presidential and Congressional control over this sprawling system has steadily slipped away. Increasingly, the Congress has relied on trust funds, long term contract authorizations, and debt service grants to help finance highways, airports, mass transit facilities, college housing, and public housing units. The great gap between Federal aid promises (program authorizations) and funding performance (annual appropriations) has been one of the strongest factors behind the demand that Congress make the funding of these and other capital facility programs far more certain. We have paid an extremely high price for that certainty—as the President and the Congressional appropriations committees have been stripped of much of their annual budgetary control over these categorial aid programs.

In a real sense, then, neither the Congress nor the President nor the Federal bureaucrats down the line are capable of being really accountable or responsive to the mass of citizens who are affected by their actions.

As President Nixon put it in his Message, "accountability really depends, in the end, on accessibility—on how *easily* a given official can be held responsible for his spending decisions." The crucial question is thus not where the money comes from, but whether the official who spends it can be made to answer to those who are affected by the choices he makes. To echo the President: Can the people get their views through to him? Is the prospect of their future support a significant incentive for him? Can they remove him from office if they are unhappy with his performance? These questions, quite clearly, are far more likely to receive an affirmative answer in a smaller jurisdiction than in a larger one.

Under revenue sharing, therefore, the political accountability of state and local officials to their electorate would stand as a powerful and natural defense against wasteful fiscal practices. Local policymakers will fully realize that, if they fritter away revenue sharing funds, they will be forced to ask their constituents to pay yet higher taxes.

As an argument against revenue sharing, therefore, the issue of divorced taxing and spending and of diminished accountability simply does not stand up. It is a false issue that simply diverts our attention from the real one—the urgent and overriding need to relieve the fiscal plight of our states and localities.

Mr. Chairman, we can no longer ignore the fiscal crisis threatening our states and localities—we can no longer delay action on revenue sharing. I strongly urge prompt adoption of S. 3651.

THE 193D BIRTHDAY ANNIVERSARY OF FRANCIS SCOTT KEY

Mr. MATHIAS. Mr. President, today marks the birthday of a man well remembered not only in the history of my own State of Maryland, but also in the history of the United States. Francis Scott Key, the lawyer turned poet, who wrote the "Star-Spangled Banner," was born in Frederick, Md., 193 years ago today.

In 1814 Key traveled to Fort McHenry to obtain the release of a friend, and witnessed from an anchored ship the Battle of Baltimore during the War of 1812. A gigantic 42-foot by 30-foot flag flying through the night over the embattled fort, had been made by Baltimore citizens to express their outrage and defiance of the British. For Francis Scott Key, the banner symbolized a profound patriotism to which he responded with the words all America now sings.

Mr. President, I am proud to mark the birthday of this famous Marylander. It is an occasion to stop and remember the patriotism upon which this great Nation was built, a deep love of country which I hope we may never lose.

ORDER FOR RECOGNITION OF SENATOR CHILES ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday of this week, after the two leaders have been recognized under the standing order, the distinguished junior Senator from Florida (Mr. CHILES) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BOGGS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow following the recognition of the two leaders under the standing order, the distinguished Senator from Delaware (Mr. BOGGS) be recognized for not to exceed 15 minutes.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND SENATOR BOGGS TOMORROW, AND FOR THE SENATE THEN TO PROCEED TO CONSIDERATION OF THE UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the two leaders under

the standing order on tomorrow, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from Delaware (Mr. BOGGS) for not to exceed 15 minutes, and that the unfinished business be laid before the Senate upon the conclusion of the remarks by Mr. BOGGS.

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

ORDER FOR CONSIDERATION OF S. 945, THE NO-FAULT INSURANCE BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, upon the final passage of the military procurement bill, the Senate proceed to the consideration of S. 945, the national no-fault motor vehicle insurance bill, and that that bill be made the so-called second-track item.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. The distinguished majority leader will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Delaware (Mr. BOGGS) will be recognized for not to exceed 15 minutes, after which the Senate will resume consideration of the unfinished business, the military procurement bill. There is a time limitation on that bill and on amendments thereto.

When the unfinished business is laid before the Senate on tomorrow, the time agreement runs as follows: There will be 4 hours of debate on the amendment by Mr. CRANSTON, followed by 2 hours of debate on an amendment by Mr. BROOKE, followed by the recognition of the distinguished Senator from Vermont (Mr. AIKEN) for the purpose of calling up an amendment on which there is a 1-hour limitation. There will be a yea-and-nay vote on the amendment by Mr. AIKEN, and undoubtedly there will be yea-and-nay votes on the amendment by Mr. BROOKE and the amendment by Mr. CRANSTON, as amended, if amended; and other amendments may then be offered.

As I recall, following the disposition of the amendment by Mr. CRANSTON, the distinguished junior Senator from California (Mr. TUNNEY) may be recognized, if he elects to do so, for the purpose of submitting an amendment, with a time limitation thereon of 1 hour.

A final rollcall vote on passage of the military procurement bill will occur tomorrow at no later than 6 p.m., following which the Chair will lay before the Senate the second-track item, which will remain on the second track daily until disposed of, that being S. 945, a bill to regulate interstate commerce and to provide for the general welfare by requiring certain insurance.

In conformity with the decision of the distinguished majority leader, on Thursday morning the Senate will proceed to the consideration, in executive session, of the SALT treaty. That treaty will remain the main track item, or the unfinished business, daily, until it is disposed of; and at some time during each afternoon—this will be discussed later and ordered later—the Senate will return to legislative session, in which the second-track item, no-fault insurance, will be considered until it is disposed of.

After the SALT treaty has been disposed of as the main track item, the Senate will proceed to the consideration of the interim agreement, and it will remain the main track item daily until disposed of. Following its disposition, hopefully, the revenue-sharing bill will become the main track item daily.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and at 7:57 p.m. the Senate adjourned until tomorrow, Wednesday, August 2, 1972, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1972:

IN THE NAVY

Rear Adm. Damon W. Cooper, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

SENATOR ROBERT C. BYRD PRAISED BY COLLEAGUES AND THE PRESS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, August 1, 1972

Mr. RANDOLPH. Mr. President, Members of the Senate are fully aware of the skill and diligence with which the able assistant majority leader carries out his duties.

Senator ROBERT C. BYRD's talents have long been recognized by the voters of West Virginia, who have placed their trust in him, and they are recognized by the Senators with whom he is associated daily. Recently, two of his colleagues, the Senator from Utah (Mr. Moss) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), gave public testimony to their respect for the assistant majority leader.

Their comments were incorporated in an editorial published on July 28, 1972, in the Elkins, W. Va., Inter-Mountain. Mr. President, this editorial reflects the feelings for Senator ROBERT C. BYRD that are held both by his colleagues and by the citizens of West Virginia. I ask unanimous consent that it be printed in the RECORD.

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

PRAISE FOR BYRD

West Virginia gets kicked around frequently by outside critics so we are pleased when the opportunity presents itself to pass along favorable comment made about one of the state's distinguished citizens and public servants.

United States Senator Robert C. Byrd of West Virginia has risen to the high position of Majority Whip in the Senate and his diligent work there has not gone unnoticed by those who serve with him.

Recently, Senator Harry F. Byrd of Virginia offered a tribute to the work of our Senator Byrd as acting majority leader over the past busy weeks when long hours and controversial legislation often resulted in tempers becoming frayed.

But as Senator Byrd of Virginia said, ". . . one member of the Senate has had the responsibility of seeing that the Senate proceeded in an orderly and appropriate way. Throughout the year, and especially during the past three weeks, he has been the first Senator to arrive in the Senate each morning, and he has been the last to leave each night."

Sen. Byrd of Virginia was referring to Sen. Byrd of West Virginia, "a man whose tact and patience and good will were indispensable to the workings of the Senate during the past few hectic weeks."

"I wish," he said, "that every one of the 1,700,000 West Virginians could come to the Capitol and sit in the gallery and watch Senator Robert C. Byrd as he undertakes the responsibilities and duties of the acting majority leader of this great body. I am sure that every one of those 1,700,000 of his fellow citizens would be as proud of him as we in the Senate are proud of him."

Senator Frank E. Moss of Utah joined in the tribute to Sen. Byrd saying, "He has maintained his rapport with the Senate. He has gone out of his way to accommodate and work with every Senator. No Senator has been denied any of his rights. They have been protected jealously. Yet, the Senator from West Virginia has moved the work along in a very difficult time."

Sen. Moss continued, "The Senate is now so burdened with legislative work that without that kind of attention and effort and diplomacy, we could have been so tangled up that we would not have adjourned for the conventions, much less get through any time this year. I am hopeful now, because of the great work done by the Senator from West Virginia, that we can complete our legislative task this year in time for Senators and others to go home and participate in the election process this fall, with enough time to really be effective."

Hopefully some of the national publications that are quick to criticize Sen. Byrd at times for his courageous and outspoken views on issues and others who seem to delight in downgrading West Virginia will not hesitate now to recognize the important job the Senator is doing for his country. All West Virginians have reason to feel proud of the tribute offered Sen. Byrd for it is the people of this State that have had the wisdom to elect and re-elect this outstanding citizen to the office of the United States Senate.