H.R. 16398. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

H.R. 16399. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have some coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

H.R. 16400. A bill to provide that State and local sales taxes paid by individuals shall be allowed as a credit against their liability for Federal income tax instead of being allowed as a deduction from their gross income; to the Committee on Ways and Means.

H.R. 16401. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

By Mr. McFALL (for himself and Mr. MATHIAS of California):

H.R. 16402. A bill to amend the Poultry Products Inspection Act, to include chickens, turkeys, ducks, geese, guineas, pheasants, and squabs within the definition of "poultry"; to the Committee on Agriculture.

By Mr. MAYNE:

H.R. 16403. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PETTIS:

H.R. 16404. A bill to amend the Federal-aid Highway Act to provide for a system of economic growth center highways to revitalize and diversify the economy of rural areas; to the Committee on Public Works.

By Mr. PRICE of Texas:

H.R. 16405. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise certain requirements for approval of new animal drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 16406. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 16407. A bill to provide credit against individual income tax paid for elementary and secondary education of dependents; to the Committee on Ways and Means.

By Mr. BLACKBURN:

H.R. 16408. A bill to amend the National Labor Relations Act; to the Committee on Education and Labor.

By Mr. DON H. CLAUSEN (for himself and Mr. MIZELL):

H.R. 16409. A bill to amend the Federal-Aid Highway Act to provide for economic growth center highways to revitalize and diversify the economy of rural areas and smaller communities; to the Committee on Public Works.

By Mr. COUGHLIN:

H.R. 16410. A bill to amend section 521 of title 38, United States Code, to exclude from consideration as income, for the purpose of determining eligibility for pension, all payments of any kind or from any source, including salary, retirement or annuity payments, endowments or similar income, which a veteran receives or is entitled to receive after attaining age 72; to the Committee on Veterans' Affairs.

H.R. 16411. A bill to amend title II of the Social Security Act to increase to $5,000 a year (plus an additional amount to reflect the needs of other persons in the same household) the amount of outside earnings which a beneficiary may have without any deductions from his benefits thereunder; to the Committee on Ways and Means.

By Mr. FUQUA (for himself, Mr. MOSHER, Mr. TEAGUE of Texas, Mr. HECHLER of West Virginia, Mr. WYDLER, Mr. DOWNING, Mr. WINN, Mr. FREY, Mr. FLOWERS, and Mr. CAMP):

H.R. 16412. A bill to amend the National Aeronautics and Space Act of 1958 to provide for certain additional reports to Congress, and for other purposes; to the Committee on Science and Astronautics.

By Mr. KASTENMEIER (for himself, Mrs. ABZUG, Mr. DELLUMS, Mr. MAZZOLI, and Mr. MITCHELL):

H.R. 16413. A bill to establish an independent and regionalized Federal Board of Parole, to provide for fair and equitable parole procedures, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBISON of New York (for himself, Mr. MOLLOHAN, and Mr. DAVIS of South Carolina):

H.R. 16414. A bill to provide for a rural water survey, to create a Rural Water Council, to provide incentive grants for rural water supply projects, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.J. Res. 1287. Joint resolution designating the 7-day period beginning on the 23rd day of September of each year as "National 'Miss Twins U.S.A.' Week"; to the Committee on the Judiciary.

By Mr. HORTON (for himself, Mr. UDALL, Mrs. ABZUG, Mr. ANDERSON of Illinois, Mr. BELL, Mr. BINGHAM, Mr. BLACKBURN, Mr. CLEVELAND, Mr. DELLENBACK, Mr. DOW, Mr. DU PONT, Mr. FISHER, Mr. FRASER, Mr. GREEN of Pennsylvania, Mr. HARRINGTON, Mr. HICKS of Washington, and Mr. HILLIS):

H.J. Res. 1288. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

By Mr. HORTON (for himself, Mr. UDALL, Mr. LEGGETT, Mr. MAILLIARD, Mr. MALLARY, Mr. MATSUNAGA, Mr. MCCLOSKEY, Mr. PIKE, Mr. PREYER of North Carolina, Mr. REES, Mr. RIEGLE, Mr. ROBISON of New York, Mr. ROSENTHAL, Mr. SCHEUER, Mr. SEIBERLING, and Mr. WALDIE):

H.J. Res. 1289. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

By Mrs. GREEN of Oregon (for herself, Mrs. CHISHOLM, Mrs. GRASSO, Mr. HANSEN of Idaho, Mrs. HICKS of Massachusetts, and Mrs. MINK):

H. Con. Res. 687. Concurrent resolution providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women"; to the Committee on House Administration.

By Mr. COLMER (for himself, Mr. SISK, Mr. BOLLING, Mr. YOUNG of Texas, Mr. SMITH of California, and Mr. LATTA):

H. Res. 1103. Resolution to amend the Rules of the House of Representatives with respect to House consideration of certain Senate amendments, to provide for the Delegates from Guam and the Virgin Islands, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. BOLAND:

H.R. 16415. A bill for the relief of Luigi Santaniello; to the Committee on the Judiciary.

By Mr. DOW:

H.R. 16416. A bill for the relief of Howard Lindberg; to the Committee on the Judiciary.

SENATE—*Wednesday, August 16, 1972*

The Senate met at 10 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 Lord, our governor, whose glory is in all the world, we commend this Nation to Thy merciful care, that being guided by Thy providence, we may dwell secure in Thy peace. Grant to the President of the United States and to all in authority, wisdom and strength to know and to do Thy will. Fill them with the love of truth and righteousness, and make them ever mindful of their calling to serve this people in Thy fear; through Jesus Christ our Lord, who liveth and reigneth with Thee and the Holy Spirit, one God, world without end. Amen.

—COMMON PRAYER.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5065) to amend the Natural Gas Pipeline Safety Act of 1968.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9092) to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 13324) to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and for related purposes.

The enrolled bill was subsequently signed by the President pro tempore.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, August 15, 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 Committee on Labor and Public Welfare, the Committee on the Judiciary, and the Committee on Public Works may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

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

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

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

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

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

U.S. NAVY

The second assistant legislative clerk read the nomination of Rear Adm. Damon W. Cooper, U.S. Navy, to be vice admiral.

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

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 994, 995, 996, and 998.

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

INDIANA DUNES NATIONAL LAKESHORE

The Senate proceeded to consider the bill (S. 3811) to amend the act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes," approved November 5, 1966, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, line 8, after the word "than," strike out "$33,900,000" and insert "$32,600,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes" approved November 5, 1966 (80 Stat. 1312), is amended to read as follows:

"SEC. 10. There are hereby authorized to be appropriated not more than $32,600,000 for the acquisition of land and interests in land pursuant to this Act."

The amendment was agreed to.

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

PUBLIC HEALTH SERVICE ACT

The Senate proceeded to consider the bill (S. 3441) to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

SECTION 1. That section 306(a) of the Public Health Service Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for the fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976, and $34,000,000 for the fiscal year ending June 30, 1977."

SEC. 2. Section 309(a) of such Act is amended to read as follows:

"SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; and $20,000,000 for the fiscal year ending June 30, 1977."

SEC. 3. (a) Section 309(c) of such Act is amended to read as follows:

"(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"(1) comprehensive and multidisciplinary training in the field of public health; and

"(2) specialized consultative services and technical assistance in the field of public health."

(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"(e) In awarding grants made under subsection (c), the Secretary shall give primary consideration to the relative number of students enrolled in such schools.

"(f) There are authorized to be appropriated for carrying out the purposes of section (c), $21,000,000 for the fiscal year ending June 30, 1973; $24,500,000 for the fiscal year ending June 30, 1974; $28,000,000 for the fiscal year ending June 30, 1975; $31,500,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"(g) To enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate training in health care administration and management training, and for the purpose of strengthening or expanding such training in such institutions, there are hereby authorized to be appro-

priated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; $6,000,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.".

SEC. 4. Sections 306 and 309 of the Public Health Service Act are each amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

Mr. KENNEDY. Mr. President, I am delighted to bring to the Senate the bill S. 3441, to extend and improve the expiring provisions of the Public Health Service Act in respect to the support of the Nation's schools of public health. The authorities for Federal support of public health training are found in sections 306 and 309 of the Public Health Service Act. They provide for support of graduate or specialized training in public health as follows: First, traineeships for professional public health personnel; second, special project grants for graduate or specialized training in public health; and third, formula grants to support the schools themselves. Federal funds appropriated under these authorities have encouraged, stimulated, and enabled the schools of public health and a wide variety of other educational institutions to develop and train health personnel to provide leadership for and service in public and voluntary health agencies and other health service programs.

The traineeship program—section 306—was first enacted in 1956. Traineeships have been authorized for graduate or specialized training in public health for physicians, engineers, nurses, and other professional health personnel. These traineeships are awarded to the schools of public health for the purpose of increasing the Nation's qualified health manpower pool in the field of public health.

The project grants for graduate or specialized public health training—section 309(a)—was first enacted in 1960. Project grants are awarded competitively to the schools of public health and to other nonprofit institutions. This program was authorized in recognition of the need for a national effort to provide special institutional support to institutions having the capability to initiate, strengthen, and expand specialized public health training at the graduate level. These project grants have made possible innovative and expanded curricula in schools of medicine, dentistry, engineering, nursing, and public health. Through these grants, students have been permitted to broaden their educational experience to include actual clinical situations in various health and medical care settings and to increase their potential for dealing with the problems of current and future health care systems.

The formula grant program—section 309(c)—was initially enacted in 1956. It authorizes grants to assist the schools of public health to provide comprehensive professional training, specialized consultative services, and technical assistance in the fields of public health and in the administration of State and local public health programs.

The committee's bill, Mr. President, strengthens and extends through fiscal year 1977 each of these three programs. In addition, the committee's bill authorizes an additional project grant program for health care administration and management training—section 309(g). There is evidence of great expansion in the need for administrative and management personnel in the health care industry. In last year's comprehensive manpower legislation, the Congress authorized the support of the training of these kinds of professional health personnel in the schools of medicine, dentistry, osteopathy, pharmacy, veterinary medicine, podiatry, optometry, and nursing. Section 309(g) of the committee's bill is designed to permit the schools of public health to also play their vital role in respect to the training of additional numbers of health professionals who will be able to grapple with the very complex administrative and management functions that this Nation's health care industry demands.

Mr. President, when this legislation was first enacted under Public Law 85-544 in 1958, there were 11 schools of public health. Today there are 18. They are: The University of California at Berkeley, Yale, Tulane, Johns Hopkins, Harvard, Michigan, Minnesota, Columbia, North Carolina, Pittsburgh, Puerto Rico, UCLA, Loma Linda, Hawaii, Oklahoma, Texas, Washington, and Illinois.

Hearings were held on S. 3441 on July 27, 1972. At that time all of the witnesses testified in strong support of the rapid enactment of S. 3441 except for the administration. Those who appeared before the committee included the American Public Health Association; the Association of the Schools of Public Health; the Association of American Medical Colleges; the American Academy of Family Practice; the American Medical Association; the Student American Medical Association; the Medical Library Association; the Association of Research Libraries; and the Association for Hospital Medical Education. Their testimony was very helpful to the committee in its consideration of S. 3441.

Mr. President, given the great national need in this area, the cost of this bill is not high. The total cost of the bill through fiscal year 1977 is $340.5 million.

Mr. President, I urge Senators to give their enthusiastic support to the bill.

Mr. President, on behalf of the distinguished Senator from New York (Mr. JAVITS), I ask unanimous consent to have printed in the RECORD a statement by him on S. 3441.

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

STATEMENT BY SENATOR JAVITS

Although I cannot be present today because of other responsibilities in connection with the Republican National Convention, I urge Senators to support S. 3441, of which I am a cosponsor. The bill would extend authorities for Federal support of public health training—the oldest of the health manpower authorities administered by the Bureau of Health Manpower Education—with increased authorizations which would permit us to continue to encourage, stimulate, and enable schools of public health and a variety of other institutions to develop and train health personnel to provide leadership for, and service in, public and voluntary health agencies at the national, State, and local levels, as well as for emerging health care systems such as health maintenance organizations.

I believe the 18 accredited schools of public health constitute a national resource through their multidisciplinary training of health manpower in the diverse and specialized disciplines of public health.

It is essential that we continue our commitment of Federal support if our schools of public health are to extend to meet the ever increasing demands for health personnel in areas such as comprehensive health planning, organization, and delivery of health services; environmental control; population; maternal and child health; epidemiology; nutrition; gerontology, drug abuse, and alcoholism; health education of the public; licensure of health facilities; and many others.

The amendment was agreed to.

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

MEDICAL LIBRARIES ACT OF 1972

The Senate proceeded to consider the bill (S. 3752) to extend programs for assistance to medical libraries which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Medical Libraries Act of 1972".

EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

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

"(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $17,000,000 for the fiscal year ending June 30, 1975, $19,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977."

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

"In order to enable the Secretary to carry out the purposes of section 390(b)(2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, $4,000,000 for the fiscal year ending June 30, 1974, $6,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977."

(c)(1) Section 395(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

(2) Section 395(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

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

"SEC. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 3, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $11,500,000 for the fiscal year ending June 30, 1977."

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

"In order to enable the Secretary to carry out the purposes of section 390(b)(6) there are authorized to be appropriated $3,500,000

for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, $6,500,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $9,500,000 for the fiscal year ending June 30, 1977."

(f) The first sentence of section 398(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

Mr. KENNEDY. Mr. President, S. 3752, the Medical Library Assistance Act of 1972, will extend through June 30, 1977, the current authority contained in the Public Health Service Act to provide financial assistance for the construction of health library facilities; to support training of health librarians and other information specialists; to expand and improve health library services through the provision of grants for library resources; to support projects of research and development in the field of health communications; to support the development of a national system of regional medical libraries; and to support biomedical publications.

The original Medical Library Assistance Act was passed in 1965, and was last extended in 1970. S. 3752 is an extension and improvement of that act. Federal funds appropriated under the act have assisted in dealing with the shortages of health information facilities and resources, manpower, and technological development. Through its extramural programs, the National Library of Medicine has built a network of regional medical libraries; it has helped to strengthen the Nation's biomedical libraries, it has supported the training of needed manpower, and it has served as the focal point for the Nation's effort in the biomedical information science area.

Public hearings were held, Mr. President, before my subcommittee on July 27, 1972. All of the witnesses who testified, except the administration, urged the passage of S. 3752 as rapidly as possible. The committee was very impressed with the quality of the testimony presented to it. In all, the committee received testimony from the Medical Library Association, the Association of Research Libraries, the Association of Hospital Medical Education, the American Medical Association, the Association of American Medical Colleges, the American Academy of Family Practice, the American Public Health Association, and the Association of the Schools of Public Health.

Mr. President, I shall describe the seven specific programs authorized by the committee's bill:

First, grants are authorized to assist in the construction of medical libraries;

Second, grants are authorized to support the training of individuals and to assist institutions in the development of training programs in library science and in the field of the communication of information pertaining to sciences related to health;

Third, grants are authorized for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural advancements in the biomedical sciences;

Fourth, grants are authorized to carry out projects of research, investigations, and demonstrations in the field of medical library science. These grants include the development of new techniques, systems, and equipment for information processing, storage and retrieval;

Fifth, grants are authorized to support public or private nonprofit medical libraries for the purpose of establishing, expanding, and improving their basic library resources and services;

Sixth, grants are authorized for the purpose of supporting regional medical libraries throughout the Nation;

Seventh, grants are authorized to support biomedical scientific publications and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments.

Mr. President, this is an excellent bill, and its cost is modest when compared with the comprehensive range of programs supported by the National Library of Medicine. The total cost of the bill for fiscal years 1974 through 1977 is $181 million. The bill was reported to the Senate from the committee by a unanimous vote of 17 to 0. I urge Senators to vote in favor of this needed extension of the Medical Library Assistance Act, and I am hopeful that the House of Representatives will act on a similar bill in the very near future so that it can be enacted in 1972.

Mr. President, on behalf of the distinguished Senator from New York (Mr. JAVITS), I ask unanimous consent to have printed in the RECORD a statement by him on the Medical Library Assistance Act of 1965.

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

STATEMENT BY SENATOR JAVITS

Although I cannot be present today because of other responsibilities in connection with the Republican National Convention, I urge Senators to support S. 3752, of which I am a cosponsor.

The bill would extend the authority first provided by the Medical Library Assistance Act of 1965 which increased authorizations which would continue the support of vital health information resources and programs, and provide the tools and techniques which deal with the ever increasing volume of knowledge and information in the health sciences.

The legislation will provide the necessary flexible approach to meet the mass and complexity of health information and the magnitude of the problems involved in disseminating cumulative health sciences knowledge to health professionals, research scientists, educators and students.

The Nation's focal point for the collection and analysis of biomedical information is the National Library of Medicine at the National Institutes of Health. The legislation will permit the National Library of Medicine to continue to support medical libraries throughout the country and support the demonstrated successful system of regional libraries.

The amendment was agreed to.

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

JOHN J. YARNALL

The Senate proceeded to consider the resolution to refer the bill (S. 1594) for the relief of John J. Yarnall to the Chief Commissioner of the U.S. Court of Claims for a report thereon which had been reported from the Committee on the Judiciary with an amendment on page 1, line 2, after "John J.", strike out "Yarnell" and insert "Yarnall"; so as to make the resolution read:

Resolved, That the bill (S. 1994) entitled "A bill for the relief of John J. Yarnall, now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The title was amended, so as to read: "A resolution to refer the bill (S. 1594) for the relief of John J. Yarnall to the Chief Commissioner of the United States Court of Claims for a report thereon."

PHILIPPINE FLOODS AND U.S. ASSISTANCE

Mr. MANSFIELD. Mr. President, a short time ago, rains of seemingly Biblical proportions fell on the main island of Luzon in the Philippines. The floods which ensued put hundreds of farms and villages and much of the capital city of Manila under water, caused several hundred deaths, destroyed the basic rice crop and otherwise did untold damage to the Philippine Republic.

Rescue and relief efforts are reported to have been outstanding. The efforts of the Philippine Government and private Filipino organizations in this connection were supplemented by transport, medical, and other assistance from the U.S. armed services and the U.S. aid program.

The waters have now receded. The physical damage has surfaced. The Filipino people are now confronted with a Herculean task of cleanup. May I say, we have had some recent experience with floods and their cost in several of the Eastern Seaboard States, but in the Philippines, the flooding was many times more severe. The facilities for coping with the situation there, moreover, are far more limited and the reserves of food and other necessities are far less adequate.

It would be my expectation, Mr. President, that the administration will see to it that this Nation stands firmly with the Philippine Republic in this crisis. Whatever we can provide in the way of food, medicine, equipment, supplies, and other aid should be forthcoming, not only to help the Filipinos to restore the devastation but also to resume the interrupted momentum in economic and social development which the country has been undergoing in recent years. The continuance of that development is essen-

tial to preserve the prospects for freedom in this one independent and nonmilitarist state in Southeast Asia; that is correct, Mr. President, the Philippines is the one state in Southeast Asia with representative civilian government and where free press, free speech, and other democratic practices are pursued.

On that basis alone, we should give the most attentive consideration to the needs of the islands. There are other reasons, not the least of which is the longstanding special link between the United States and the Philippines, a tie which was forged in the mutual respect born of the common sacrifices of World War II. Speaking for myself, moreover, I am frank to state that I am gratified by the contrast between the outstandingly constructive role which the U.S. armed services was directed to play in flood work in the Philippines during the past few weeks and what they have been ordered to do day after day in Vietnam. Whatever the cost of helping to see the Philippines through this difficulty, I suspect that, in total, it is likely scarcely to equal a day's expenditures for the tragic destruction in which we are involved in Vietnam.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I wish to make it clear that the request of the joint leadership of the Committee on the Judiciary be allowed to meet today means a meeting of the full Judiciary Committee, which I understand has been called for 10:30 today.

Mr. SCOTT. Mr. President, if the distinguished majority leader would yield, no permission has so far been granted for any subcommittee of the Judiciary Committee to meet, and that is with special reference to the Subcommittee on Refugees and Escapees and the Juvenile Delinquency Subcommittee. No such request is pending.

Mr. MANSFIELD. The Senator is correct. However, under the rules, Senate committees may meet until the conclusion of morning business or until the pending or unfinished business is laid before the Senate.

Mr. SCOTT. Mr. President, I thank the Senator.

The PRESIDING OFFICER (Mr. Moss). The Senator is correct. Until pending or unfinished business is laid before the Senate for the day, the committees are free to meet.

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

QUORUM CALL

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

HOW SHALL WE PLAN FOR OUR LAND?

Mr. MOSS. Mr. President, across the Nation, from the smallest village to the most congested urban sprawl, the one problem common to us all, at every level of government, is how shall we plan for our land?

It has been estimated that only 3 percent of the Nation's land is used for urban purposes, but pressure for development will increase. To what extent should that development impinge upon the Nation's cropland and grazing land—58 percent—upon forest land—22 percent—parklands and public installations—5 percent—and the remaining desert, swamp, tundra, and other lands—12 percent.

Competing demands and uses for land are increasing every day—for housing, community development, recreation, agriculture, commerce, industry, mining, and open space. But the immutable fact remains: while our population grows, our supply of land remains constant.

Over the last two and a half years, the Committee on Interior and Insular Affairs has given careful consideration to S. 632 and other related measures pending before it which are designed to improve the land use planning and management capabilities of Federal, State, and local government. S. 632, as amended and ordered reported by the committee, represents what the committee believes to be the most realistic and sound of the provisions of the pending bills and the recommendations presented in the last two Congresses.

This bill was introduced on February 5, 1971, by the Senator from Washington (Mr. JACKSON), for himself and Senators ALLOTT, ANDERSON, BELLMON, BIBLE, CHURCH, GRAVEL, HATFIELD, HOLLINGS, JORDAN of Idaho, MAGNUSON, METCALF, MOSS, and STEVENS.

On June 15, it was favorably reported by a majority vote of the Interior and Insular Affairs Committee, and has had surprisingly little substantive opposition considering the amount of controversy this subject usually generates.

In an editorial of August 15, the Wall Street Journal said:

> It [S. 632] appears to have the support of most environmentalists as well as industry groups such as the National Association of Manufacturers and the National Association of Electric Companies.

And quoting again from the Wall Street Journal editorial:

> This bi-partisan backing from politicians and lobbies that often are at each others' throats suggests that there is a growing weariness among such interests with protracted hassles over the siting of vital services. Such delays are costly to the companies involved, particularly if they are blocked from using a facility after they have already invested heavily.

The bill recognizes State planning by providing and reinforcing Federal grants-in-aid and gives technical assistance to the States to help them develop last-use programs for non-Federal lands on the basis of Federal criteria and guidelines. Some revision of existing land-use policies is essential to avert environmental chaos in the next three decades when the Nation is expected to build as many new homes, schools, hospitals and other structures as have been built in the last three centuries.

A program of Federal financial assistance to reinforce State planning and implementation—subject to Federal criteria and guidelines—is common to previously enacted environmental statutes. For example, title III of the Water Resources Planning Act of 1965 authorized the Water Resources Council to grant State funds for "development and participation in the development of comprehensive water and related land resources plans and programs" and to approve the plans if in accord with specific criteria.

Similarly, the 1965 amendments to the Federal Water Pollution Control Act of 1956 required States to establish water quality standards and implementation plans for interstate and coastal waters—subject to the approval of the Secretary of Health, Education, and Welfare.

With administrative functions housed in the Environmental Protection Agency, the Solid Waste Disposal Act of 1965 authorized grants to States to survey solid waste disposal practices and develop solid waste disposal plans.

The Clean Air Amendments of 1970 also vested the Administrator of EPA with similar important functions—to approve required State plans for implementing and enforcing national air quality standards and to award Federal grants to States for development of those plans. As more bills become law, the States are receiving expanded responsibilities in planning and managing our environmental resources.

This bill is not a panacea for all of the Nation's land use problems, I share the concern of my good friend the Senator from Maine (Mr. MUSKIE), that we should in no way impair the great progress we are making with the air and water quality legislation which he has long championed and which I fully support.

I, too, have some substantive concerns that the legislation should not preclude a State from setting higher standards than those suggested by the Federal guidelines. In addition, provision for an ordering of priorities in land use on a national and a regional basis is essential. I have only to look at the Four Corners area of my own part of the country to urge upon you a serious consideration of the necessity for an ordering of national and regional priorities and, therefore, the great necessity for serious consideration of land use and of this bill.

There are other basic issues which have been raised by Senator MUSKIE and by

other distinguished Members of this body which are not simply jurisdictional in character. Amendments have been proposed by Senator RANDOLPH and will be proposed by others. I would urge your serious consideration of them and of the overall benefits to be derived from this bill. Action must be taken this year to give the States help in safeguarding land resources. Many States are marking time on land use planning while waiting for a Federal bill. So, we cannot afford to wait too long. This legislation is urgently needed and needed now.

The reason for my speaking up this morning is to ask for immediate consideration and urgent consideration of this proposal of planned use planning. Now is the time when we must move on a Federal level to enable the States to assume the responsibility at the State level with land use planning and proceed at once. The immutable truth is that they just are not making any more land. Our land is fixed in amount. What there is we have, and there will be no more. So what there is we must use properly, to the advantage of all of us, and we must preserve the environment in which we live.

If we are to continue to expand and grow, as we are today, not only in population, but also expanding and growing in housing, industry, and myriads of other things that go into our civilization, we must do something in an orderly manner to preserve for future generations the kind of environment and space in which life can be good and which we would all like to preserve.

I urge that we proceed with the land use planning bill and not become diverted into any kind of jurisdictional struggle over the bill, but that we do consider all amendments and suggestions carefully to improve areas in the bill. No bill is ever perfect, and should be subjected to examination by everyone in this body. I hope we can get on with the bill in the time that remains within this legislative session because it is urgent that we do something this year.

ORDER OF BUSINESS

Mr. ALLEN. Mr. President, will the Senator yield the remainder of his time to me?

Mr. MOSS. I am happy to yield the remainder of my time to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

ORDER FOR RECOGNITION OF SENATOR ALLEN WITH RESPECT TO H.R. 13915

Mr. ALLEN. Mr. President, I ask unanimous consent that, on Thursday or on Friday of this week when and if a message from the House with respect to H.R. 13915, or the antibusing legislation, or whatever bill designation, reaches the Senate, before the bill receives its first reading I be recognized for not to exceed 10 minutes for the purpose of making such requests, objections, motions, and comments as I may care to make with respect to such message.

This request has been cleared with the distinguished majority leader and the distinguished Republican leader. The reason for this request is that it is hoped that a time agreement will be worked out with respect to the interim agreement, Senate Joint Resolution 241, which is pending before the Senate as the unfinished business. If such a time agreement is reached the time would be under control and there would be no opportunity for the Senator from Alabama to get recognition.

So I make this request at this time.

The PRESIDING OFFICER. Does the Senator from Alabama wish to enter this order notwithstanding any other unanimous-consent agreements which may be operating at that time?

Mr. ALLEN. Yes.

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

Mr. ALLEN. I thank the Chair and I thank the distinguished Senator from Utah for yielding to me.

ORDER FOR RECOGNITION OF SENATOR TUNNEY VACATED

The PRESIDING OFFICER (Mr. Moss). Under the previous order the Senator from California (Mr. TUNNEY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have been asked by Mr. TUNNEY's office to vacate the order. Therefore, I ask unanimous consent that it be so vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 3 minutes.

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 (Mr. ALLEN). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 3824) to authorize appropriations for the fiscal year 1973 for the Corporation for Public Broadcasting and for making grants for construction of noncommercial educational television or radio broadcasting facilities, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H.R. 16254. An act making certain disaster relief supplemental appropriations for the fiscal year 1973, and for other purposes; and

H.J. Res. 1278. Joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were each read twice by their titles and referred to the Committee on Appropriations:

H.R. 16254. An act making certain disaster relief supplemental appropriations for the fiscal year 1973, and for other purposes; and

H.J. Res. 1278. Joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be permitted to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION RELATING TO USE OF THE CHARACTER "WOODSY OWL"

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT ON CERTAIN RESEARCH AND DEVELOPMENT PROCUREMENT ACTIONS

A letter from the Deputy Chief of Naval Materiel (Procurement and Production), transmitting, pursuant to law, a report on the Department of the Navy's research and development procurement actions of $50,000 and over, for the period July 1, 1971, through June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

PROGRESS REPORT OF COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a report of that Board, from its inception through June 30, 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED FEASIBILITY INVESTIGATIONS OF CERTAIN POTENTIAL WATER RESOURCE DEVELOPMENTS

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS RELATING TO THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens

(with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 21

"Relative to embargoes on products

"Whereas, The use of dangerous drugs has increased to an alarming proportion which has a far-reaching and disastrous effect on the physical, mental, and moral fiber of our society; and

"Whereas, The most dangerous of these drugs are derivatives of agricultural crops grown for profit in many areas of the world; and

"Whereas, Those countries where such crops are grown as well as those countries known to be places of processing and distribution centers for the usable concentrates have, according to the Federal Bureau of Narcotics, overtly condoned, or at least have been unduly lax in, the control of these products; and

"Whereas, In the best interests of all the people of the United States, it is imperative that such traffic cease forthwith; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to immediately take such action as is in their power to embargo all importation of all *products* from any country known to be directly or indirectly involved in dangerous drug production or traffic; and be it further

"Resolved, That all direct aid now extended by the United States to any such country be immediately terminated; and be it further

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLELLAN, from the Committee on Appropriations, without amendment:

H.R. 16254. A bill making supplemental appropriations for disaster relief for the fiscal year ending June 30, 1973, and for disaster relief for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1047); and

H.J. Res. 1278. A joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes (Rept. No. 92–1048).

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

S. 2483. A bill to provide a national program in order to make the international metric system the official and standard system of measurement in the United States and to provide for converting to the general use of such system within ten years after the date of enactment of this Act (Rept. No. 92–1067).

By Mr. McCLELLAN, from the Committee on the Judiciary, without amendment:

H.R. 9323. An act to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes (Rept. No. 92–1071).

By Mr. GURNEY, from the Committee on the Judiciary, without amendment:

S. 3490. A bill to authorize and request the President to issue annually a proclamation designating August 26 of each year as "Women's Rights Day" (Rept. No. 92–1049).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2816. A bill for the relief of Mary Danos Nayak (Rept. No. 92–1051);

S. 3835. A bill for the relief of Reynaldo Canlas Baecher (Rept. No. 92–1052);

H.R. 2394. An act for the relief of Antonio Benavides (Rept. No. 92–1053);

H.R. 2703. An act for the relief of Mrs. Concepcion Garcia Balauro (Rept. No. 92–1054);

H.R. 5158. An act for the relief of Maria Rosa Martins (Rept. No. 92–1055);

H.R. 5814. An act to amend section 2735 of title 10, United States Code, to provide for the finality of settlement effected under section 2733, 2734, 2734a, 2734b, or 2737 (Rept. No. 92–1056);

H.R. 9256. An act for the relief of Kyong Ok Goodwin (Nee Won) (Rept. No. 92–1057); and

H.R. 10713. An act for the relief of Wilma Busto Koch (Rept. No. 92–1058).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 12392. An act to amend title 28, United States Code, section 1491, to authorize the Court of Claims to implement its judgments for compensation (Rept. No. 92–1066).

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

S. 16. A bill to amend title IX of the Organized Crime Control Act of 1970 to provide civil remedies to victims of activities prohibited by said title, and for other purposes (Rept. No. 92–1070); and

S. 2087. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers killed in the line of duty (Rept. No. 92–1069).

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

H.R. 7375. An act to amend the statutory ceiling on salaries payable to United States magistrates (Rept. No. 92–1065), together with supplemental views.

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

S. 3583. A bill for the relief of Gerald Vincent Bull (Rept. No. 92–1059).

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

S. 173. A bill for the relief of Naoyo Campbell (Rept. No. 92–1060); and

S. 3252. A bill for the relief of Renato M. Dioquino (Rept. No. 92–1061).

By Mr. McCLELLAN, from the Committee on the Judiciary, with amendments:

S. 2567. A bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes (Rept. No. 92–1072);

H.R. 8389. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities (Rept. No. 92–1073), together with additional views; and

H.R. 9222. An act to correct deficiencies in the law relating to the crimes of counterfeiting and forgery (Rept. No. 92–1074).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3716. A bill to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower, and community mental health centers (Rept. No. 92–1064), together with individual views;

S. 3762. A bill to extend the program for health services for domestic agricultural migrant workers (Rept. No. 92–1063); and

S. 3858. A bill to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes (Rept. No. 92–1062).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 14370. An act to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes (Rept. No. 92–1050), together with additional and minority views.

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, in connection with the reporting of the revenue sharing bill I ask unanimous consent that Mr. Laurence N. Woodworth, chief of staff of the Joint Committee on Internal Revenue Taxation, has the privilege of the floor.

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

NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD ACT OF 1972—CONFERENCE REPORT (S. REPT. 92–1068)

Mr. KENNEDY, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House 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, submitted a report thereon, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. LONG, from the Committee on Finance:

Jack Franklin Bennett, of Connecticut, to be a Deputy Under Secretary of the Treasury;

Warren F. Brecht, of Connecticut, to be an Assistant Secretary of the Treasury; and

Frederic W. Hickman, of Illinois, to be an Assistant Secretary of the Treasury.

S. 3358—ORDER FOR A STAR PRINT

Mr. STEVENS. Mr. President, last June, hearings were held by the Senate Commerce Committee on S. 3358, a bill to prohibit the use of certain small vessels in U.S. fisheries. At these hearings, witnesses from the various Federal agencies concerned and from industry and other members of the private sector testified. As a result of those hearings, it was generally agreed that the bill should be substantially amended. It was also agreed as to the form those amendments should take.

At my request, General Counsel of the National Oceanic and Atmospheric Administration—NOAA—kindly agreed to assist in drafting the bill to my technical specifications.

As a result, I am now prepared to submit an amendment in the form of a substitute for the entire bill.

I ask unanimous consent that a star print be made of this bill as amended.

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

Mr. STEVENS. Mr. President, I further ask unanimous consent that the bill as an ended be printed in the CONGRESSIONAL RECORD at this point.

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

S. 3358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for a period of five years from the date of enactment of this Act, it shall be unlawful for any person on board any prohibited vessel to land or cause to be landed any fish in a port of the United States. Any prohibited vessel, when fishing, shall not be considered a vessel of the United States under the Act entitled "An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels of the United States and by persons in charge of such vessels", approved May 20, 1964 (16 U.S.C. 1081 *et seq.*).

SEC. 2. Any fish landed in contravention of this Act shall be liable to forfeiture. Any prohibited vessel seized for violation of this Act shall be liable to forfeiture. Any person or persons who knowingly takes, sells, transfers, purchases, or receives any fish landed in contravention of this Act shall be liable to a penalty of not more than $10,000 for each offense, in addition to any other penalty provided in law.

SEC. 3. Enforcement of this Act shall be the joint responsibility of the Secretary of Commerce, the Secretary of the Department in which the Coast Guard is operating and the Secretary of the Treasury.

SEC. 4. The provisions of this Act shall not apply to any vessel acquired prior to the date of enactment.

SEC. 5. The Secretary of Commerce, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating are authorized jointly and severally to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 6. Definitions.

(a) As used in this Act the term "prohibited vessel" means any vessel of less than 5 net tons which (1) was constructed in a foreign country for use in a fishery of that country, and (2) has been used in any such fishery, and (3) has been subsequently prohibited by such country from continuing to engage in such fishery.

(b) As used in this Act the term "fish" includes mollusks, crustaceans, and all other forms of marine animal or plant life.

(c) As used in this Act the term "offense" means each separate landing of fish in contravention of this Act.

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. METCALF (for himself and Mr. NELSON):

S. 3923. A bill to amend chapter 35 of title 44, United States Code, relating to the coordination of Federal reporting services, to provide for reports of corporate ownership. Referred to the Committee on Government Operations.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 3924. A bill to designate the Federal Office Building being constructed in Fitchburg, Mass., as the "Philip J. Philbin Federal Office Building." Referred to the Committee on Public Works.

By Mr. ERVIN (for himself and Mr. PEARSON):

S. 3925. A bill to be entitled "An Act to regulate the testimony of Newsmen in Federal Criminal Cases." Referred to the Committee on the Judiciary.

By Mr. DOMINICK (for himself, Mr. WILLIAMS, Mr. JAVITS, Mr. PELL, Mr. BOGGS, Mr. SCOTT, Mr. YOUNG, Mr. GRIFFIN, Mr. COOK, Mr. BEALL, and Mr. CASE):

S.J. Res. 260. A joint resolution to delay the effectiveness of certain amendments to the interest subsidy provisions of the guaranteed student loan program in the case of certain students. Considered and passed.

By Mr. MATHIAS:

S.J. Res. 261. A joint resolution to authorize and request the President to issue a proclamation designating September 7, 1972, as "Constellation Day" in commemoration of the launching in 1797 of the U.S. Frigate *Constellation*. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3923. A bill to amend chapter 35 of title 44, United States Code, relating to the coordination of Federal reporting services, to provide for reports of corporate ownership. Referred to the Committee on Government Operations.

CORPORATE OWNERSHIP REPORTING ACT

Mr. METCALF. Mr. President, I introduce for appropriate reference the Corporate Ownership Reporting Act—CORA.

This bill, if enacted, would require large companies to report quarterly, to the Library of Congress, the names and addresses of each person or institution empowered to vote 1 percent or more of the voting securities of the corporation.

The bill further provides for publication of these ownership reports by the Library, and sale of the ownership document by the Superintendent of Documents.

Only corporations with gross revenues of $10 million or more annually would be required to file CORA reports.

The bill would not require identification of the beneficial owners of stock, the people or institutions who receive the dividends—even though their investments may be sizable—unless such beneficial owner is also the proprietary owner who controls the voting rights of 1 percent or more of the stock.

Many of the stockholders of middle American have been separated from stock voting rights by a maze of trust agreements, proxies, mergers, and complex administrative proceedings. It is the intent of this legislation to pierce this maze and produce a corporate voting list.

Stockholders, regulators, and the public which we in Congress represent need to know the identity of the decision-makers in major corporations, the proprietary owners who control voting rights to significant amounts of stock. Stockholders need the information in order to make timely representation to principal voters well in advance of annual meetings.

Regulators need the information in order to enforce laws and regulation pertaining to the voting of securities.

The Congress needs the information in order to exercise its oversight over the regulatory commissions it established, and to evaluate the concentration of voting rights among relatively few institutional investors.

If this bill is enacted, it will be a Federal law that the above described corporations furnish the Librarian of Congress with the requisite corporate ownership information. This means that where corporations do not comply with such legal requirements, they can be subject to suits brought by the U.S. attorneys in Federal district courts to seek compliance both with respect to the act and to any orders of the courts related thereto. By the same token, corporations claiming injury by the operation or application of the act have the usual rights to challenge the information requirements.

There should be no doubt as to the powers of enforceability in this legislation.

In my June 28 speech to the Senate I announced my intention to introduce the Corporate Ownership Reporting Act during this session of Congress, so that interested parties may have ample opportunity to study the proposal prior to congressional hearings. At that time I described the inadequacy and in some cases the deceptiveness of present corporate ownership data, and the failure of regulatory commissions to require meaningful reports. I cited examples involving major airlines, electric utilities, agribusiness and major industrial concerns. I discussed the use of multiple nominees by banks and other institutional investors, the effect of which is to understate a bank's or insurance company's voting power in a corporation, sometimes reducing that voting power to invisibility in reports to Government regulators.

Since my Senate remarks of June 28, I have received from Chairman Dean Burch of the Federal Communications Commission a study, prepared by the American Bankers Association, which illustrates how voting rights by banks in broadcast companies have become concentrated, to an extent that was in gross violation of FCC regulations.

I shall summarize this situation because it adds to the case for this bill which I made in my remarks of June 28, which begins on page 22783 of the CONGRESSONAL RECORD.

Until this summer the FCC held that in most instances no individual or institution could vote more than 1 percent of the stock in a broadcast company. That was a sensible rule. Substantial authorities consider a 5-percent voting interest in a widely held company, or even a lesser amount in some circumstances, to be a controlling interest, if the other votes are scattered.

The FCC, unfortunately, did not enforce its 1-percent rule. It has not even required broadcast companies to file annual ownership statements. However, the American Bankers Association did undertake a study of the voting rights of 20 large bank trust departments in broadcast companies—or their parent compa-

nies—and networks. This survey, now 3 years old but to my knowledge the only study of its kind, shows the following:

A single bank voted 10 percent of the stock in Crowell-Collier.

Single banks voted 7 percent of the stock in American Broadcasting Co. and Corinthian Broadcast.

A single bank voted 6 percent of the stock in the Columbia Broadcasting System.

Single banks voted 5 percent of the stock in Storer Broadcasting, Downe Communications, and Travelers Corp.

Single banks voted 4 percent of the stock in Westinghouse, Taft Broadcasting, National Life and Accident, Metromedia, and General Tire and Rubber.

Mr. President, possibly some of our colleagues may wonder about the American Bankers Association reference to such companies as General Tire and Rubber, National Life and Accident, Travelers Corp., and Westinghouse as broadcast companies. These companies are, of course, conglomerates, with some broadcast subsidiaries.

The ABA study showed that two banks voted 9 percent of the stock in Time, Inc. It has broadcast subsidiaries along with Time, Life, Fortune, and Sports Illustrated, which are soon to be joined by a new magazine, Money.

The ABA report on bank voting control of Time, Inc. illustrates the extent to which major bank trust departments have acquired sole voting rights to hundreds of stock accounts. One bank reported sole voting rights to 360,137 shares of Time, Inc. and joint voting rights to 16,795 shares. Together the sole and joint voting rights amounted to 5.2 percent of the Time, Inc. stock. But these voting rights were divided among an estimated 256 different accounts.

In another instance, a bank reported having sole voting rights to 271,352 shares of Time, Inc., and joint voting rights to 37,257 shares, amounting to 4.3 percent of the total voting stock. These voting rights by the one bank were divided among 128 different accounts.

The FCC did not use the information in the ABA study to enforce the 1-percent ownership rule. Instead, the FCC changed its regulations this summer, so a bank can now vote up to 5 percent of a broadcast company's stock. But even the 5-percent rule is not being enforced. The FCC still does not require annual ownership reports from broadcasters, although it is trying to pull together ownership data, at my request. The FCC has given the banks 3 years in which to reduce their holdings to the new, more lenient limit. Given the lack of enforcement of the 1-percent limit, or the 5-percent limit, it would be surprising if the banks do not use the next 3 years to gather support for a yet higher limit on an individual bank's voting rights in the station or network, such as 10 percent, and for the cultivation of Commissioners who will again acquiesce.

Mr. President, I regard the collection and publication of a corporate voting list as a necessary tool in the operation of our democratic, capitalistic system. If people are going to work for reform within the system, they must know who the system is.

Chairman Burch of the FCC, when honored with an LL.D. by Trinity University in San Antonio last May, stated that—

> By diversifying ownership and control, we seek a system wherein no single voice and no single judgment dominates the mass communications media.

I concur in that statement, and suggest that the legislation which I today propose will help achieve that objective, which received a serious setback when the FCC decided in June, over the objections of Commissioners Johnson and Bartley, to permit increased ownership and control of the media by banks.

I ask unanimous consent to have printed at this point in the RECORD the text of the Corporate Ownership Reporting Act and my recent correspondence with two officials of Time, Inc.

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

S. 3923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Corporate Ownership Reporting Act."

SEC. 2. (a) Chapter 35 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 3512. Corporate ownership reports.

"(a) As used in this section—

"(1) the term 'corporation' means any business concern which has, during its most recent full fiscal year, gross income, as defined in section 61 of the Internal Revenue Code of 1954, in excess of $10,000,000; and

"(2) the term 'owner' means any person who directly or indirectly or acting through one or more persons has power to vote 1 per centum or more of any class of voting securities of a corporation.

"(b) Not later than July 31, 1974, and at quarterly intervals thereafter, each corporation doing business in the United States shall furnish to the Librarian of Congress a report containing the name and address of each owner of that corporation, together with the number and percentage of any class of the voting securities of the corporation which such owner is authorized to vote.

"(c) Notwithstanding any other provision of law, the Librarian of Congress shall prepare and cause to be printed quarterly a National Corporate Ownership List, consisting of all reports received by him. Copies of the National Corporate Ownership List shall be available for sale to the public by the Superintendent of Documents.

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"3512. Corporate ownership reports.".

TIME, INC.,
July 18, 1972.

Hon. LEE METCALF,
Senate Office Building,
Washington, D.C.

DEAR SENATOR METCALF: I see you are offering copies of the Nominee List, free of charge. I'd be most grateful if you would send me a copy of it.

I assume you realize that stock held by banks in nominee name is, in most cases, not owned by the bank but by individual clients of the banks. As a result, it has been impossible for companies to identify important stockholders when such information could be very useful.

Sincerely yours,

HENRY LUCE III,
Vice President, Corporate Planning.

JULY 31, 1972.

Mr. HENRY LUCE III,
Vice President, Corporate Planning,
Time, Inc., Rockefeller Center,
New York, N.Y.

DEAR MR. LUCE: In response to your 18 July request I am pleased to send you a free copy of the Nominee List.

If you prefer an original, with larger type, I am sure that the American Society of Corporate Secretaries, located conveniently at 9 Rockefeller Plaza, would provide you with a copy, now that the Society has reversed its previous policy of refusing to share the Nominee List with newsmen and regulators. The Society may, however, charge you $20.

I understand that banks do not usually own the stock which is in the name of their various nominees. I also realize that in many cases the banks vote such stock.

I certainly agree with you that it is important for companies to know who their important stockholders are. The Nominee List helps company officials find that out. I have done some of the research regarding Time, Inc. and included it in a recent Senate speech, which I enclose for your information.

These materials should help you elucidate the ownership of Time in your October statement, which I look forward to reading.

Let me know if I can be of further service.

Very truly yours,

LEE METCALF.

TIME, INC.,
August 3, 1972.

Hon. LEE METCALF,
Senate Office Building,
Washington, D.C.

DEAR SENATOR METCALF: I am writing to you in connection with your recent testimony before the Senate Small Business Subcommittee on Monopoly. At those hearings, you referred to the listing by Time Incorporated of its stockholders in the report the company filed under the Postal Reorganization Act.

Section 3685 of that Act provides, in part, that "each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service . . . and shall publish in such publication . . . information *in such form and detail* . . . as the Postal Service may require with respect to . . . the identity of the stockholders thereof." (Emphasis supplied.)

The Postal Service requires, in Form 3526 of July, 1971, the form on which such report was filed, that there be stated ". . . the names and addresses of the stockholders owning or holding one percent or more of total amount of stock. . . ." The instructions applicable to that requirement provide that the publisher include ". . . in cases where the stockholder . . . appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting."

Time Incorporated completed that form in accordance with those instructions, in precisely the same manner that it has been filing similar forms for years. Had the form, the instructions or the law required us to do more, we certainly would have complied.

Now that the question has been raised, we propose to write to each shareholder of record who, on August 28, 1972, owns more than one percent of the stock of the company and request that each inform us if he acts as

trustee or in any other fiduciary relation and if so, the names and addresses of the persons or corporations for whom he is so acting (see note). We shall then include in our report for 1972 whatever information we obtain in this manner. You understand, of course, that we have no means of requiring answers to our request, and the information we obtain may be incomplete. If further information of this nature should be required, it seems to us that it must come by a change in the law which would give us the means of acquiring that information.

We think it unfortunate that your testimony seemed to imply that there was some sort of questionable relationship between Time Incorporated and The Morgan Guaranty Trust Company. Of course there is nothing questionable about our relationship with that bank or with any other bank, whether or not acting in a fiduciary capacity.

Your testimony has placed us in a difficult public position over which we have no control. This letter represents our efforts to cope with that problem. We would be pleased to discuss this matter further if you so desire.

Sincerely yours,

ANDREW HEISKELL,
Chairman of the Board.

NOTE.—August 28, 1972, is the company's record date nearest to September 1, 1972.

AUGUST 9, 1972.

Mr. ANDREW HEISKELL,
Chairman of the Board, Time, Inc.,
Rockefeller Center, New York, N.Y.

DEAR MR. HEISKELL: I appreciate your 3 August letter regarding my Senate reference to principal stockholders of Time, Inc., and other corporations.

I am sending two enclosures which may be helpful to you.

The first is my Senate speech of 28 June. I call your particular attention to this paragraph:

"Let me emphasize that I do not propose identification of the beneficial owners of the stock, the people or institutions who receive the dividends, even though their investments are sizeable. What the public, the stockholders, the regulators need to know is the identity of the proprietary owners—the voters—of significant amounts of stock."

You state that you proposed to write each shareholder of record who holds more than one percent of the stock of the company, and ask them to identify the persons or corporations for whom they act as a trustee or in any other fiduciary capacity, and that you shall include this information in your report required under the Postal Reorganization Act.

That is of course your prerogative. It will, however, in my opinion, lead to unnecessary paperwork and expense without providing the identity of the proprietary owners who vote the principal blocks of stock.

My second enclosure elaborates on that point. It is that portion of a report by the American Bankers Association, furnished me by Chairman Burch of the Federal Communications Commission, which deals with voting strength in Time, Inc. by nineteen banks. You will see that one bank has sole voting rights to 360,167 shares of stock, and joint voting rights to 16,795 shares, comprising in total 5.2 percent of the shares voted. But these concentrated voting rights are divided among an estimated 256 accounts.

In another situation, as you can see, a bank has sole voting rights to 271,352 shares and joint voting rights to 37,257 shares. Together this amounts to 4.3 percent of the stock voted. But the voting rights of this bank are divided among 128 accounts.

If you wish to obtain and publish the names and addresses of the hundreds of beneficial owners of stock in your company, that is of course your privilege. If you choose to obtain and disclose voluntarily the names of those few institutions and individuals which have voting control of the principal blocks of stock, Time, Inc. will have made an important breakthrough in the establishment of the people's right to know.

Very truly yours,

LEE METCALF.

FROM AMERICAN BANKERS ASSOCIATION SURVEY OF 20 LARGE BANK TRUST DEPARTMENTS

		Time, Inc., bank voting control			
	Percent outstanding	Number of shares voted		Percent voted	Number of accounts
		Sole	Joint		
Number of shares:					
510,346	7.0	271,352	37,257	4.3	128
4,045	—.1	----------	3,550	—.1	6
8,004	.1	6,038	440	—.1	24
55	—.1	55	----------	—.1	1
95,257	1.3	14,261	22,632	.5	[1] 22
34,523	.5	10,454	1,200	.2	8
207,798	2.9	184,810	6,270	2.6	[1] 125
437,673	6.1	360,167	16,795	5.2	[1] 256
10,607	.1	8,883	----------	.1	18
14,530	.2	6,383	300	.1	14
8,599	.1	210	5,334	—.1	4
143,402	2.0	2,000	20,752	.3	8
1,081,720	15.0	64,758	----------	.9	[1] 46
204,094	2.8	111,987	50,314	2.2	[1] 125
8,007	0.1	7,919	88	0.1	3
125,772	1.7	88,290	26,190	1.6	[1] 120
58,757	.8	19,382	25,325	.6	160
775	—.1	100	600	—.1	2
2,950	—.1	----------	200	—.1	1

[1] Estimated.

Note: 19 hold; 8 hold 1 percent or more; 5 banks vote 15.9 percent.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 3924. A bill to designate the Federal Office Building being constructed in Fitchburg, Mass., as the "Philip J. Philbin Federal Office Building." Referred to the Committee on Public Works.

Mr. KENNEDY. Mr. President, today I join with Senator BROOKE to introduce a bill to designate the Federal office building being built in Fitchburg, Mass., as the Philip J. Philbin Federal Office Building.

Congressman Philbin served in the Massachusetts delegation as a Member of the House of Representatives from January 6, 1943, until January 2, 1971. In these 28 years, few, if any, Members of that body were more highly respected and esteemed, nor more beloved by the people he represented and the people he served with. Phil Philbin, representing the third congressional district, gave his personal attention to the needs and desires of all of his constituents. No pleas for assistance went unheeded; no request for advice was ever ignored. It is true that Congressman Philbin's office was a model to the rest of us in the Congress. Seldom in the history of Massachusetts has a person labored so selflessly and diligently for his constituents. For this dedicated service to the citizens he represented he will always be remembered; and it is for this reason that Senator BROOKE and I introduce this bill to honor his name.

Phil Philbin was a hard worker, a staunch believer in individual freedom and human dignity, and a dedicated and kindly man. His career began in 1921, when he served as an aide to the late Senator David I. Walsh. Twenty years later he began his own legislative career when he was first elected to the House of Representatives. Through the years, he gained stature and respect among his fellow representatives through his service on the Armed Services Committee, and he gained knowledge and expertise in the field of military appropriations. But Phil Philbin left more than a record of legislative achievement; he supported and supplemented the tradition of a representative leader.

Congressman Philbin was respected by his colleagues for his legislative leadership, as well as for his deep understanding of the legislative process. He was a national legislator who conducted himself in the highest tradition of dedicated public and personal service. Phil Philbin's public career was spent in great part in untiring efforts for the men and women who served in our Nation's armed services. Congressman Philbin's first concern was for the welfare of those who were serving the United States. He dedicated himself to bettering conditions under which servicemen and women worked and lived. His prime concerns were better housing, better pay, and better retirement benefits. Many of the improvements in the area of military justice were because of Phil Philbin's efforts.

In his daily life he reflected the richest qualities of human commitment and patriotic service. Phil Philibin's integrity, his devotion to his constituents and his country, the strength of his friendships, and the pleasantness of his personality represented the highest qualities of human life. In difficult and challenging times, Congressman Philbin met each situation in a spirit of challenge, never shirking public responsibility for personal comfort.

At this time, the people of Fitchburg wish to give tribute to the man who represented them so well for three decades. We want to join with them in honoring Philip J. Philbin by designating the new Federal building in Fitchburg to be named in his memory. We all realize that naming a building after any individual is not the only tribute we wish to pay him. The real tribute to Phil Philbin comes from the hearts of those he represented. The naming of the Federal building in Fitchburg for Phil Philbin is just the visible sign for the sense of loss of this dedicated Congressman and the sense of loyalty to his tradition of leadership.

The people fo Fitchburg may not always have agreed with Phil Philbin's judgment, but they did know their views would always get a fair hearing and intelligent study. Others may choose a life of personal gain or leisure; Phil Philbin chose a life of public service, performed on his job with diligence and commitment, and gained the respect and admiration of those he served so well. We can formally recognize this com-

mitment to public service by naming the Federal building in Fitchburg the Philip J. Philbin Federal Office Building.

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

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

S. 3924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building being constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on the Marrman Parkway, is hereby designated, and shall be known, as the "Philip J. Philbin Federal Office Building".

SEC. 2. Any law, rule, regulation, document, map, or record of the United States in which reference is made to the Federal office building referred to in the first section of this Act shall be held and considered to be a reference to the Philip J. Philbin Federal Office Building.

Mr. BROOKE. Mr. President, Senator KENNEDY and I have joined to introduce legislation naming the new Federal Office Building in Fitchburg, Mass., in honor of the late Representative Philip J. Philbin.

Phil Philbin represented the northern Worcester County area in the Congress for nearly three decades. He was a diligent and fair-minded public servant. He served the broad interests of this Nation as chairman of the House Armed Services Committee. And he represented his district well, never failing to tend to countless details of interest to his constituents.

He was a lifelong resident of Clinton, Mass., a lovely town just south of Fitchburg. It is largely as a result of his persistent efforts that a badly needed Federal office complex will be constructed in Fitchburg, housing the postal service and several Federal agencies. It is therefore especially fitting that this Federal office building be named in his honor. This proposal has the active support of Mayor Carleton E. Blackwell, of Fitchburg, and the countless residents who knew and cherished Phil Philbin during his many years of public service.

I hope that the Senate will give its prompt approval to this proposal.

By Mr. ERVIN (for himself and Mr. PEARSON):

S. 3925. A bill to be entitled "An Act To Regulate the Testimony of Newsmen in Federal Criminal Cases." Referred to the Committee on the Judiciary.

THE TESTIMONY OF NEWSMEN IN FEDERAL CRIMINAL CASES

Mr. ERVIN. Mr. President, on behalf of the distinguished Senator from Kansas (Mr. PEARSON) and myself, I introduce for appropriate reference a bill to be entitled "An act to regulate the testimony of newsmen in Federal criminal cases."

I ask unanimous consent that a copy of the bill be printed at this point in the body of the RECORD.

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

S. 3925

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

SECTION 1. As used in this statute, the term "Newsman" means any person who gathers information for dissemination to the public as news or pictures through the instrumentality of the press, a radio station, a television station, or any other medium of communications; and the pronouns he and him refer to any such person of either sex.

SEC. 2. A newsman shall be competent and compellable to testify as a witness in a criminal proceeding before a federal grand jury or a criminal action in a federal court in respect to information gathered by him for the purpose stated if these conditions concur in respect to such information: First, the information is based on the personal knowledge of the newsman rather than on hearsay communications received by him from others; second, the information tends to prove or disprove the commission of a crime allegedly committed by a third person which is being investigated by the grand jury or made the subject of prosecution in the court; and, third, testimony similar to the information is not readily obtainable from another source.

SEC. 3. When a newsman is subpoenaed to testify in a criminal proceeding before a federal grand jury or in a criminal action in a federal court, the newsman may move before the judge of the court in which the grand jury is sitting or in which the criminal action is pending to quash the subpoena on the ground that the testimony sought to be elicited from him under it does not satisfy the three conditions enumerated in the preceeding section. After notice to attorneys for the prosecution and defense, the judge shall hear and determine the motion of the newsman in camera and enter such order as may be necessary to protect the newsman against disclosing any information gathered by him for the purpose aforesaid which does not satisfy the conditions enumerated.

By Mr. MATHIAS:

S.J. Res. 261. A joint resolution to authorize and request the President to issue a proclamation designating September 7, 1972, as "Constellation Day" in commemoration of the launching in 1797 of the U.S. frigate *Constitution.* Referred to the Committee on the Judiciary

Mr. MATHIAS. Mr. President, the Congress recently sent to the President a measure to provide for the striking of medals commemorating the 175th anniversary of the launching of the U.S. frigate *Constellation.* In further commemoration of this anniversary, I am today introducing a joint resolution which would proclaim September 7, 1972, "Constellation Day."

The *Constellation* was the first frigate of the infant U.S. Navy to be put to sea, and gave much useful service in the undeclared war with France. Built in Baltimore and manned almost exclusively by Marylanders, she was the result of an act of March 27, 1794, which initiated the first building program for modern warships under Secretary of Navy Pickering and designer Joshua Humphreys. In 1799 the *Constellation* became the first American ship to capture a foreign warship, the French *Insurgent.* It was a major victory for the young Nation, and the *Constellation* was toasted as the "wooden walls of America."

Her captain, Thomas Truxtun, of Baltimore, became known for his training methods and discipline. The young David Porter served under Truxtun as a midshipman, and went on to become one of America's greatest naval heroes in the War of 1812.

Today, berthed in Baltimore Harbor, the *Constellation* serves as the base for a cadet training program, in keeping with Captain Truxtun's tradition. Plans call for it to become the center for a maritime-vocational-industrial program for high school dropouts under the Department of HEW and the city of Baltimore.

Mr. President, Baltimore is planning a full day's worth of activities in honor of the *Constellation* starting at 1:30 p.m. on September 7 on the Baltimore dock. The U.S. Navy Band will present the Spirit of Freedom later that evening. Other groups participating will be the Quantico Marine Band, the Old Guard Fife and Drum Corps, the First Army Band, and the Air Force Honor Guard Drill Team.

I would like to extend an invitation to all my colleagues to attend the festivities planned in Baltimore on September 7. The Soviet training ship *Tovarish* has been invited to sail to Baltimore and berth alongside the *Constellation,* with the American cadets serving as hosts.

The *Constellation* now stands as a shrine to the first successful defense of the fruits of the American Revolution, and it is my hope that many of you will find the time to join in the celebration of Constellation Day.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 32, the Conversion Research, Education, and Assistance Act.

S. 3669

At the request of Mr. JACKSON, the Senator from Nevada (Mr. BIBLE), the Senator from Tennessee (Mr. BROCK), the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. DOMINICK), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), and the Senator from Rhode Island (Mr. PASTORE), were added as cosponsors of S. 3669, the Criminal Justice Reform Act of 1972.

S. 3762

At the request of Mr. KENNEDY, the Senator from Colorado (Mr. DOMINICK), the Senator from Wisconsin (Mr. NELSON), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 3762, a bill to amend the Public Health Service Act to assist in the providing of health services to migrant health workers, and for other purposes.

S. 3858

At the request of Mr. KENNEDY, the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. HUGHES), the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. STEVENSON), the Senator from Ohio (Mr. TAFT), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3858, a bill to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes.

S. 3873

At the request of Mr. MCINTYRE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3873, a bill to amend the Occupational Safety and Health Act of 1970, to improve the administration of that act with respect to small business.

SENATE JOINT RESOLUTION 256

At the request of Mr. TUNNEY, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Joint Resolution 256, a joint resolution relating to the account of prisoners of war and missing in action servicemen in Southeast Asia.

TAX REFORM ACT OF 1972—AMENDMENT

AMENDMENT NO. 1441

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

Mr. MONDALE. Mr. President, I send to the desk an amendment to S. 3378, the Tax Reform Act of 1972.

Mr. President, I sponsored S. 3378 to indicate my support for the broad objectives of that bill: reform of our tax system to close loopholes unfairly benefiting special interests, and fair treatment for the ordinary taxpayer.

I said in connection with introduction of the bill last March that I disagree with several of its specific provisions, and believe that others require further study. The amendment which I submit today would correct a number of my concerns, and I believe, strengthen the bill.

Hearings should be conducted, of course, to see what other changes may be needed.

CONVERSION RESEARCH, EDUCATION, AND ASSISTANCE ACT OF 1972—AMENDMENTS

AMENDMENTS NO. 1442, 1443, AND 1444

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

Mr. DOMINICK submitted three amendments intended to be proposed by him to the bill (S. 32) to authorize the National Science Foundation to conduct research, education, and assistance programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes.

INTERIM AGREEMENT BETWEEN UNITED STATES AND U.S.S.R.—AMENDMENT

AMENDMENT NO. 1445

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

Mr. KENNEDY. Mr. President, I am submitting today an amendment to the Resolution of Approval of the Interim Agreement which would encourage the President to move from the present limitations on quantitative weapons to similar checks on the qualitative arms race. This amendment is cosponsored by Senator HART and Senator MATHIAS.

The amendment places Congress on record as being in favor of negotiating a comprehensive nuclear test ban treaty. It states that pursuant to the Declaration of Basic Principles signed by President Nixon and General Secretary Brezhnev, the Congress urges the President to announce a moratorium on underground nuclear testing to remain in effect so long as the Soviet Union abstains. The amendment also urges the President to set forth promptly a new proposal to the Soviet Union and other nations for a permanent treaty to end all nuclear weapons testing.

Mr. President, I ask unanimous consent that the text of the amendment be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, I have submitted a similar measure as a separate resolution, Senate Resolution 230, and it is now before the Foreign Relations Committee. But I believe the current debate over the next steps that the United States should take in the field of arms control must focus on the question of limiting qualitative improvements in the arms race.

Mr. President, I was pleased to note the news reports yesterday of the statement by the Soviet representative at the Geneva Disarmament Conference. The public declaration in favor of a ban on underground nuclear testing by the Soviet Union breaks a lengthy silence on the subject by the two superpowers.

Now is the time for the United States to respond to the challenge with a new initiative of our own. Therefore, yesterday I urged the President to announce a moratorium and to propose a new initiative at Geneva for a permanent treaty I ask unanimous consent for the full text of my statement to be inserted in the RECORD at the conclussion of my remarks along with the United Press International wire services report of the Soviet statement.

It is also noteworthy in this regard to recognize that other nations are strongly in favor of a permanent end to all nuclear weapons tests. The United Nations General Assembly last year passed unanimous resolutions supporting such action.

And only last month, Mrs. Alva Myrdal, chairman of the Swedish delegation to the Conference of the Committee on Disarmament, stated:

Logically, the next step to follow the limitation of the defensive super systems of ABM ought to be a freeze on the qualitative development of offensive weapons. A cessation of nuclear weapons tests then becomes of imminent urgency.

I ask unanimous consent to have the full text of Mrs. Myrdal's statement printed after the conclusion of my remarks.

Adoption of this amendment will represent Senate recognition of that urgency.

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

STATEMENT BY MINISTER OF STATE, MRS. ALVA MYRDAL

Mr. Chairman,

Already in my first intervention during this renewed session I took the opportunity to state that the Swedish Government has regarded the conclusion of the Moscow pact on nuclear missiles, which resulted from the bilateral SALT negotiations, as a very encouraging event. It should not only promote a relaxation of political tensions. It should also serve to preclude further wasteful acquisition of vast armament supplies in the fields comprised by the various agreements. Such a gratifying curtailment of a dangerous trend is of course most definitively achieved in regard to the ABM-system, on which the agreement is embedded in treaty form. However, it is also of a promising character in relation to the numerical freeze on offensive strategic missiles.

Logically, the next step to follow the limitation of the defensive super systems of ABM ought to be a freeze on the qualitative development of offensive weapons. A cessation of nuclear weapons tests then becomes of imminent urgency. We should therefore have the right to hope that the renewed series of SALT negotiations will start with this measure, which is of such crucial importance. Then we can believe that the arms limitations agreements will mean a definite halt of the nuclear arms race.

So far, the course of events has not seemed to be near attaining a full-stop to the arms race. Alarms are being raised among commentators, in political as well as military quarters, that the Moscow agreements of this spring have left the doors open for developments of greater potential danger than the ones they have so far succeeded in curbing. First, the Moscow agreements did not concern themselves with the number of nuclear warheads as such. Secondly, they did not bar modernization of missiles, nor such qualitative "improvements" as replacing the present generation of long range bombers or nuclear-armed submarines by future armadas with even more assured kill-efficiency. The new methods of using Laser and TV-guidance for conventional precision bombing, reported to be used in Indo-China, might presumably also be applied to nuclear bombing. Thus, what may well lie ahead is still another turn in the spiral of qualitative escalation of nuclear weapons systems.

Most imminent of the developments which will de-stabilize the strategic arms balance and open yet another phase of the arms race, thus threatening the security of all of us, is, of course, the multiplication of warheads for each missile through MRV and MIRV. It is here that our multilateral negotiations become directly concerned. In order to put up a bar against such developments the technical measure most indicated is none other than "the comprehensive test ban, which we in this Committee have studied—and delayed—for so long", to again use the same words as in my last statement.

Against this background it is disconcerting to find that the two superpowers have not expressed, in the extensive documents published on the Moscow agreements, any intention to start negotiations on a comprehensive test ban, which would seal off the possibility of pursuing nuclear tests underground. Such tests are, in the circumstances of today, truly ominous. They have helped to produce MIRV. They are now believed to be essential for the development of warheads for those ever more sophisticated nuclear weapon systems, the planning of which is still uninhibited.

Or, is it feasible to develop nuclear warheads for the Trident submarine or the B1 bomber without further testing? I put this question to the delegation of the US. If the answer is that tests must be made, then we must also press for an answer on a next question, central to the CCD: How many years will a CTB be virtually blocked by decisions to go ahead with such projects?

I will phrase a question with a similar bearing to the USSR delegation somewhat differently, given the different basis of information available. What are the requirements behind the intense testing activity observed lately? For the last 18 months we have our own observations or official announcements about at least 60 nuclear explosion tests—3 by China, 5 by France, 16 by the USA and not less than 36 by the USSR. What weapon systems are they concerned with? And what is the time perspective for ending activities?

The answers to these questions will tell whether I was right when I surmised in my statement of March 14th (CCD/PV. 549), that we might be forced to interpret the unwillingness of the major testing powers to negotiate a CTB as an unwillingness to stop testing.

In the situation after SALT I, it becomes more strongly than ever incumbent on the members of the CCD to take up the seemingly abandoned issue of the test ban and produce, urgently, an agreement to prohibit further testing of nuclear weapons, in all environments.

The implications of an unabated arms race are of concern not only to the superpowers. The statement of the Secretary General when he addressed this Committee on February 29 this year reminded us of what is at stake. "A comprehensive test ban treaty would strengthen the Treaty on the Non-Proliferation of Nuclear Weapons, which remains the foremost achievement thus far of the disarmament negotiations. It would be a major step towards halting what has been called "vertical proliferation", that is, the further sophistication and deployment of nuclear weapons, and would also strengthen the resolve of potential nuclear weapon states not to acquire nuclear weapons and thereby help to prevent the "horizontal proliferation" of such weapons.

On the other hand, if nuclear weapon tests by the nuclear powers continue, the future credibility and perhaps even the viability of the Non-Proliferation Treaty achieved after such painstaking effort may be jeopardized. I need not describe the greatly increased dangers that would confront the world in such event."

Mr. Waldheim's words are even more relevant today than five months ago.

Only two days ago, the distinguished Representative of Canada, Ambassador Ignatieff, reminded us of previous commitments and obligations to discontinue nuclear test explosions and to limit the nuclear arms race, commitments made in the Moscow test ban treaty of 1963 and in the NPT of 1968. He also quoted last year's Resolution 2828(C), in which the General Assembly gave top priority in the CCD to this issue of nuclear testing.

As Ambassador Ignatieff pointed out, numerous proposals have been advanced in this Committee over the years in order to stimulate action. For instance, today exactly a year ago I presented some new ideas for a possible treaty text, and shortly afterwards the Swedish delegation tabled a revised edition of its working paper from 1969, containing "suggestions as to possible provisions of a treaty banning underground nuclear weapon tests". The reason why we submitted a treaty draft was our hope that it would incite more specific negotiations in the Committee.

The salient feature of the Swedish draft is that it provides a firm decision, in one stroke, on a comprehensive ban but at the same time allows for gradual implementation. In order to achieve this, the detailed provisions, as well as later dead-lines for certain acts, related to the implementation and verification of the prohibition, would be laid down in three separate Protocols, annexed to the Treaty.

One important question to be dealt with in such a Protocol, concerns the future possibilities for licensing peaceful nuclear explosions. In order to facilitate such peaceful uses, some economically advantageous cratering explosions—which are now in effect prohibited—could conceivably then be licensed. A condition would of course be that safety, security and non-discrimination were guaranteed. This just said in order to point out one, although minor, of the positive aspects of a comprehensive test ban.

Mr. Chairman, some delegations would at this stage want to remind me that a CTB also has some drawbacks. They will raise the question of verification. I have repeatedly intimated that, at the present stage of accumulated knowledge this issue is a red herring to distract us from the decisive factor which is the lack of political will, reason and courage.

To look at what is agreed to be the main instrument for remote control, seismological monitoring has advanced so far, that one can correctly identify a sufficiently large proportion of explosions, so as to obtain an effective deterrence against attempts at clandestine testing. No objections on verification grounds can thus be raised against banning the type of tests which now constitutes the large majority. To monitor weak explosions more satisfactorily—which also should be included in the ban—some investments for improvement of observational facilities would be needed, but they are not large in relation to the issue. The few false alarms caused by earthquakes that would still occur, would then be handled by the challenge procedure incorporated in our treaty proposal (CCD/348). And they certainly represent an insignificant risk in comparison with continued testing.

But we should, of course, continue to improve monitoring facilities. We have dealt with this topic thoroughly before, in great detail in my statement of July 27 last year (CCD/PV.524). By way of further progress reports I want today to introduce some working papers. The first contains a list of Swedish research publications related to the monitoring of nuclear explosions (CCD/379). It is a companion paper to the recently tabled working paper with a list of Canadian publications in this field (CCD/378). Among the items listed in the Swedish paper are three so called event reports, which we have taken the liberty to circulate informally today. These are intended to be a contribution from our Hagfors Observatory to the international exchange of seismological data. The reports are highly technical, presenting available seismic records and other data in some detail for selected events among the earthquakes and the nuclear explosions. They are given in a standardized format and, which may be of some interest, the text and the diagrams are composed and printed almost entirely by a computer.

Another paper, also today informally circulated, entitled "Identification of underground nuclear explosions and earthquakes", summarizes the research that served as a background to my detailed intervention here on July 27 last year about the verification issue. The report contains references to some pertinent Swedish research reports, which were not published until after last summer's informal meeting with seismological experts. The summary report also contains a discussion of related work in other countries.

The Swedish investigations have produced precise, if simplified decision theoretical models of the identification and control in a test ban treaty, and also methods to assess the capabilities in this field. Their application to available data shows, as also summarized in the report, the large capabilities presently available.

It remains, however, to evaluate fully the large seismometric array stations in Montana, in Alaska and in Norway. At our seismological experts meeting last year we understood that such evaluations would be made by the US. We are in particular looking forward to the evaluation of the very large and well equipped NORSAR station in Norway, which we understand is underway in regard to its detection sensitivity and its discrimination sharpness.

A second working paper which I have the honour to introduce formally is Canadian-Swedish working paper CCD/380, distributed today. It describes an experiment in direct, international cooperation which was, I think fairly successful.

The sometimes very efficient method of identification by body and surface wave magnitudes has, as you know, been demonstrated down to 5 kt and less. Its practical applicability depends, however, on having enough of some rather sensitive equipment in the right places. In view of this difficulty it appeared advisable to our scientists and also to their Canadian counterparts to develop further the method of identification by means of the rather easily recorded short period body waves. The scientists eventually entered into direct cooperation and investigated what can be achieved by such short period discriminants, when data from the Yellowknife array in Canada and the Hagfors array in Sweden are used jointly. They also combined methods of analysis employed in the two scientific institutes.

The results described in the working paper show that the joint use of the Yellowknife and Hagfors data on Eurasian events significantly increased the probability for correct identification of explosions. At the false alarm rate of one in one hundred earthquakes, the probability for correct identification of explosions was estimated to be somewhat higher than 95%. This is a considerable improvement over the 75% estimated when only Hagfors data are used. The sharpness of this two-station short period discriminant appears indeed to be as good as that of the widely accepted method of discrimination by body and surface wave magnitudes.

The Canadian-Swedish cooperation leading to this result is therefore not only a source of satisfaction to us but also an example of how close international cooperation can further the complete test ban case.

We have stated repeatedly that the regional differences in short period discrimination are important. This is confirmed in a recent scientific paper, where Japanese scientists describe discrimination by certain short period data routinely recorded for such purposes in Japan. The discriminaton ob-

tained by this method is very sharp indeed for events in some regions in Eurasia but appears to be less so for some event in some other regions. This again points to the importance of the joint use of data from widely separate stations.

We therefore welcomed a recent invitation by the Japanese Government to Swedish and Canadian experts to cooperate closely with Japanese identification experts and to use Japanese data jointly with Canadian and Swedish data in research in the field of identification of explosions and earthquakes. The distinguished Representative of Japan, Ambassador Nisibori, last week tabled a working paper outlining an agreement on such tripartite cooperation reached in a recent meeting in Japan of Japanese, Canadian and Swedish experts (CCD/376). The Swedish Government is grateful to the Government of Japan for this initiative.

All the endeavours made to improve verification capabilities, some of which have just been mentioned, would greatly benefit from some specific cooperation from the testing powers. In particular I want to direct some questions to the US delegation. On July 23 last year a representative of the US Government stated at a Congressional hearing (Dr. Walske before Senator Muskie's Sub Committee on Arms Control, International Law and Organization) that the US expects to encounter three unidentified events in the Soviet Union at magnitudes above 4.5 and 25 such events at magnitudes above 4. These numbers were offered as an explanation of the US attitude on CTB verification, that "some on-site inspection" is required. We and, I think, also other delegations here would appreciate learnings from the US delegation about the technical details behind these numbers, how they were defined, which events they were related to, what observations were employed. Such information would do much to focus properly the scientific investigations by other States to help us understand the US objections correctly.

This question widens to become one of greater political significance. It corresponds to the sixth and last in my catalogue of questions on May 4, last year, questions as yet unanswered by the testing powers. I then asked them to state their present positions as to on-site inspection obligatory on the one hand and by challenge or by invitation on the other. In the records from the just mentioned very interesting hearings the phrase is used: "a comprehensive test ban treaty with adequate safeguards" (p. 102). Now, we must ask, what exactly is adequate, in technical terms?

Mr. Chairman, I have, according to tradition, dwelt on the seismological means for verifying a comprehensive test ban. We all know, however, that other means also exist, assisting in building up "adequate safeguards", and that particularly the major testing powers have access to observations from satellites, which are becoming increasingly more informative. The time seems to have come when we—who are all so concerned with a test ban and its verification—should be allowed to share this knowledge. I consequently urge the delegations of US and USSR to present a report to us with information as to the monitoring capabilities of satellites in respect to nuclear testing. Why not arrange a demonstration with pictures and some comments, for the benefit of bringing all members of the CCD up to date on the true state of the art of verification?

Mr. Chairman, in the beginning of my statement I said that logically, negotiations on a test ban should constitute the very first step in a second series of SALT. But logic evidently is a weak weapon, when powers are bargaining from a position of strength. However, the "moratorium" of 5 years which is provided for by the interim Moscow agreement on strategic offensive arms, could at least be coupled with a corresponding moratorium on nuclear weapon testing. The distinguished Representative of Canada in his statement two days ago specifically referred to a moratorium solution. I could support it, as a kind of second best, but I want also to point out that concluding a comprehensive treaty, according to the Swedish draft, which provides a review Conference after 5 years and a withdrawal clause, would in reality amount to very much the same thing, although one with a somewhat stronger claim on perpetuation.

All I have said to-day, and what so many of my colleagues have said, attempts to bring the testing powers to understand how earnest we are about this question of cessation of nuclear weapons tests. The UN General Assembly has also (in Resolution XXVI/2828C) laid upon the nuclear weapons states in the CCD the responsibility to make specific proposals for an underground test ban. We have the right to ask that such proposals should be forthcoming very soon, as an account of them has to be included in our report to the UN.

EXHIBIT 1

AMENDMENT No. 1445

At the end of the resolution, add a new section as follows:

SEC. —. Pursuant to paragraph six of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Brezhnev at Moscow on May 29, 1972, which states that "The parties will continue their efforts to limit armaments on a bilateral as well as on a multilateral basis": Congress urges the President of the United States (1) to propose an immediate moratorium on underground nuclear weapons testing to remain in effect so long as the Soviet Union abstains and (2) to set forth promptly a new proposal to the Government of the Union of Soviet Socialist Republics and other nations for a permanent treaty to ban all nuclear weapons tests.

FURTHER CONTINUING APPROPRIATIONS, 1973—AMENDMENT

AMENDMENT NO. 1446

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

Mr. CURTIS (for himself, Mr. BAKER, Mr. BELLMON, Mr. BUCKLEY, Mr. DOLE, Mr. DOMINICK, Mr. EASTLAND, Mr. FANNIN, Mr. GOLDWATER, Mr. HANSEN, Mr. HATFIELD, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. JORDAN of North Carolina, Mr. PACKWOOD, Mr. PEARSON, Mr. ROTH, Mr. TAFT, Mr. THURMOND, Mr. TOWER, and Mr. SAXBE) submitted an amendment intended to be proposed to the joint resolution (H.J. Res. 1278) making further continuing appropriations for the fiscal year 1973, and for other purposes.

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT—AMENDMENT

AMENDMENT NO. 1447

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

Mr. DOMINICK (for himself, Mr. BEALL, Mr. PACKWOOD, and Mr. TAFT) submitted an amendment intended to be proposed by them jointly to the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1406

At the request of Mr. JACKSON, the Senator from Idaho (Mr. JORDAN) and the Senator from Arizona (Mr. FANNIN) were added as cosponsors of amendment No. 1406 intended to be proposed to the joint resolution (S.J. Res. 241) authorizing the President to approve an interim agreement between the United States and the Union of Soviet Socialist Republics.

NOTICE OF HEARING CONCERNING THE ELIGIBILITY OF CERTAIN FRUIT FOR MARKETING ORDERS

Mr. JORDAN of North Carolina. Mr. President, I hereby announce the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices will hold a hearing Thursday, September 7, on S. 1241 and H.R. 14015, to make pears for canning and freezing eligible for marketing orders. The hearing will be in room 324, Old Senate Office Building, beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

THE GRAVEL AND BREWSTER CASES: AN ASSAULT ON CONGRESSIONAL INDEPENDENCE

Mr. ERVIN. Mr. President, over a month ago the Supreme Court handed down two decisions, *United States* v. *Gravel*, 40 U.S.L.W. 5053 (U.S. June 29, 1972) and *United States* v. *Brewster*, 40 U.S.L.W. 5016 (U.S. June 29, 1972). I withheld any comment on these decisions until I had had sufficient time to assess what the Court had actually decided and the practical implication of these decisions. I have reached the conclusion, which I intend to demonstrate, that the Court's action presents a clear and present threat to the continued independence of Congress as a coordinate branch of Government. In doing so, I intend no personal attack, but exercise my right as a citizen and as a U.S. Senator to comment upon the actions of the Supreme Court. As Justice Frankfurter once observed, such constructive criticism can be of great value to the Court:

> Judges as persons, or courts as institutions, are entitled to no greater immunity from criticism than other persons or institutions . . . [J]udges must be kept mindful of their limitations and of their ultimate public responsibility by a vigorous stream of criticism expressed with candor however blunt.

On March 23 the Senate adopted Senate Resolution 280 authorizing a commit-

tee of Senators to file an amicus curiae brief in the Supreme Court in the Gravel case. The Senate took this action because the case involved an interpretation of article I, section 6, of the Constitution, the so-called speech or debate clause. This provision of the Constitution is of vital concern to the Senate because it is a bulwark of the separation of powers between the three branches of Government, protecting Members of Congress from intimidation by the Executive or the judiciary through the device of judicial inquiry into legislative activity. In the words of the resolution, the Senate feared that the Supreme Court in deciding the case might "impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole."

The Senate's fears were well founded, for on June 29 the Supreme Court did just that. In handing down its decisions in Gravel and Brewster, which also involved an interpretation of the speech or debate clause, the Court attempted the first broad-scale restriction in the scope of the protection provided Members of Congress by the clause since the adoption of the Constitution. In these cases the new majority on the Court has tinkered with the very heart of the Constitution. I fear that these decisions may open the door to intimidation of Congress by the other two branches of Government. The decisions do indeed impair the constitutional independence and prerogatives of every individual Senator and of the Senate as a whole to a degree none of us anticipated when the resolution was adopted.

Since its framing, the Constitution has clothed Members of Congress with the "speech or debate" immunity so that they might conduct the public's business with candor and independence. The Court's recent decisions have so restricted this immunity that Members of Congress can no longer independently acquire information on the activity of the executive branch nor inform their constituents of their findings without risking criminal prosecution. Indeed as a result of these decisions it is even possible that in certain situations a Member's speech or vote on the floor may subject him to inquiry and intimidation by the executive or judicial branch. These two decisions represent important defeats for Congress and constitute a further deterioration of its power and independence in relation to the executive and judicial branches.

THE COURT'S VIEW OF THE POLICY AND ORIGINS OF THE "SPEECH OR DEBATE" CLAUSE

The Framers placed the "speech or debate" clause in the Constitution to remedy a very specific evil. Fresh in their minds was the history of harassment by English kings and their judges of Members of Parliament who spoke out in the course of their legislative activities in a manner embarrassing to the Crown. The legislative immunity grows out of that turbulent period in English history marked by the Glorious Revolution and the beheading of Charles the First. Indeed, one reason Charles the First lost his head was his imprisonment of Members of Parliament who opposed his overseas military campaigns.

Justice Frankfurter related the history and origins of legislative immunity to the "speech or debate" clause in his excellent opinion in the case of *Tenney* v. *Brandhove*, 341 U.S. 367, 372 (1971):

> In 1668, after a long and bitter struggle, Parliament finally laid the ghost of Charles I, who had prosecuted Sir John Elliot and others for "seditious" speech in Parliament. . . . In 1689, the Bills of Rights declared in unequivocal language: "That the Freedom of Speech, and Debate or proceeding in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament." 1 Wm. & Mary Sess. 2, Ch. 2.
>
> Freedom of speech and action in the legislature was taken as a matter of course by those who severed the Colonies from the crown and founded our Nation. It was deemed so essential for representatives of the people that it was written into the Articles of Confederation and later into the Constitution. . . .
>
> The reason for the privilege is clear. It was well summarized by James Wilson, an influential member of the Committee of Detail which was responsible for the provision in the Federal Constitution. "In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of everyone, however powerful, to whom the exercise of that liberty may occasion offence." II Works of James Wilson (Andrews ed. 1896) 38.

Until the advent of the present activist majority, the Supreme Court has relied heavily upon this history to derive the meaning of the clause. When I refer to a court as "activist" I mean a court which ignores the history or policy or settled precedents behind a particular clause of the Constitution or statute which it is interpreting. The Supreme Court can be labeled "activist" whether it is popularly considered "liberal," as was the Warren court, or as conservative. And whether as a liberal activist Court or as a conservative activist Court, the vice is the same. An activist Court puts its own views on what the Justices believe the Constitution should say above what the Constitution in fact does say. When the Court does this, whether by a 5–4 vote or even by a 9–0 vote, it is placing itself above the Constitution. It is not interpreting and applying, but rewriting.

An unfortunate example of an activist Court at work is found in the majority opinion in Brewster, written by Chief Justice Burger who was joined by Justices Stewart, Marshall, Blackmun, Powell, and Rehnquist. There the majority concluded that the English history which gave rise to article I, section 6 of the Constitution was no longer dispositive in interpreting the "speech or debate" clause. It was satisfied that "our history does not reflect a catalog of abuses at the hands of the Executive that gave rise to the privilege in England." The Court has conveniently rewritten American history. As Senator GRAVEL's brief explained to the Court, during the infamous "alien-sedition" period the Federalist administration used the judiciary to intimidate anti-Federalist Congressmen. For example, in 1798 Matthew Lyon, a key Member of Congress, was convicted and sentenced before a biased Federalist judge who was motivated by purely partisan political considerations. The judge would not even allow Lyon time to prepare his defense. In 1797 a grand jury under the supervision of another Federalist judge, conducted an inquisition of an anti-Federalist Congressman for sedition in sending a newsletter to his constituents critical of the administration's war policy. Thomas Jefferson considered the grand jury's action to be a blatant violation of the "speech or debate" clause and suggested that the grand jurors should be arrested and imprisoned for this "great crime wicked in its purpose, and mortal in its consequences."

Of course, even if the Court were correct about its history, its statement would be of little comfort. My fears would not be allayed by the knowledge that until now most administrations have exercised great restraint in hauling legislators they do not like into court. Effective separation of powers between branches of government must rest not only upon good faith and great expectations, but also on the firm bedrock of the Constitution.

Every Court until this one has been sobered by this history and has been sensitive to the critical role that the Court plays in our constitutional system when it applies this clause. Every other Court has recognized that when it is called upon to interpret the meaning of this clause the Court acts as the guardian of a truly independent legislative branch, composed of Members who feel free to engage in robust and candid debate and action in regard to the other branches of government—Members who are only responsible in their actions to the Congress itself and to their constituents and not to the executive branch. Therefore, in the past, when a Federal court has been asked to interpret the clause it has viewed as its primary responsibility the preservation of an independent legislature.

The present Court is the first to conclude that this scheme for policing misbehavior by Members of Congress is unworkable, that Congress and the constituents are incapable or reluctant to punish misbehavior, and that the Judiciary and the Executive must fill the breach. Where earlier Courts avoided any interpretation that might allow intimidation of Members of Congress, the majority in Brewster virtually ignores this consideration. Instead, it writes much about the supposed procedural advantages that Congressmen will enjoy in the Federal courts, and it questions the integrity and fairness of this body by suggesting that justice will not be done if we rely on the Senate's explicit duty under the Constitution to discipline its own Members. According to the majority:

> It is also suggested that even if we interpreted the Clause broadly so as to exempt from all inquiry all matters having any relationship to the legislative process, miscon-

duct of Members would not necessarily go unpunished because each House is empowered to discipline its Members. Article I, § 5, does indeed empower each House to "determine the rules of its Proceedings, punish its Members for disorderly behavior, and with the concurrence of two thirds, expel a Member," but Congress is ill-equipped to investigate, try, and punish its Members for a wide range of behavior that is loosely and incidentally related to the legislative process.

In its opinion—

The accused Member is judged by no specifically articulated standards and is at the mercy of an almost unbridled discretion of the charging body that functions at once as accuser, prosecutor, judge and jury from whose decision there is no established right of review.

This demonstrates that the Justices who joined in the majority believe that a better scheme of disciplining Members would be to subject them to the process of criminal law. This is evidently the way they balance the conflicting interests involved. But these Justices ignore the simple fact that the Founding Fathers have already made an explicit choice. Their decision, expressed in the clear words of the Constitution, was to have legislators forgo any such supposed procedural advantages in favor of allocating the jurisdiction to discipline to the Congress and to the voters. This, unfortunately, is an example of how a Court ignores the explicit words and policy of the Constitution in favor of what the Justices believe it would have been better for the Constitution to provide. Not only is the Court's concern about the due process rights of Congressmen irrelevant, but it results in the emasculation of the "speech or debate" clause. Indeed, most Members of Congress would much prefer to be tried by the Congress or their constituents for their alleged misbehavior, as provided in the Constitution, than by a "vindictive Executive or a hostile Judiciary."

Earlier Courts, concerned about the continued independence of Congress, have felt it necessary to give the clause the broadest possible interpretation. Chief Justice Burger, in his majority opinion in Brewster, was not concerned with these prior judicial expressions. He felt that:

The contention for a broader interpretation of the privilege draws essentially on the flavor of the rhetoric and the sweep of the language used by the courts, not on the precise words used in any prior case, and surely not on the sense of those earlier cases, fairly read.

He thus rationalized away the important policies and principles by which the clause has been understood by all Supreme Courts until this one by the simple and unconvincing device of labeling the Court's past precedents as mere rhetoric and sweeping language.

This Court, clearly unconcerned about traditional policy considerations, has utilized a mechanistic logic. Having decided upon its conclusion that any allegedly misbehaving Congressman belongs in the Federal courts, it has attempted to justify its conclusions via arbitrary legal distinctions and conclusionary labels. For example, in Gravel, Justice White, writing for a majority composed of himself, the Chief Justice, and Justices Blackmun, Powell, and Rehnquist, decided that the clause did not apply and that the junior Senator from Alaska and his aide did not deserve the protections of the Constitution. In doing so the majority contrived an arbitrary definition of "legislative activity." It proceeded to denominate the Senator's activity—investigating the Executive branch and informing the American people of the facts—as "nonlegislative," even though it was activity that legislators do every day, as part of Congress' legislative oversight function, and even though it involved a question that has dominated our national and legislative concern for years—the war in Vietnam.

Before engaging in detailed critique of the Court's emasculation of the "speech or debate" clause, let me review the facts that precipitated these decisions.

THE FACTUAL SETTING

The Brewster case involved the alleged solicitation and acceptance of a bribe by former U.S. Senator Daniel B. Brewster, of Maryland. A 1969 indictment charged that Senator Brewster as a member of the Senate Post Office and Civil Service Committee had been influenced in his actions on legislation proposing changes in postal rates as a result of a $24,000 bribe from the mail-order company of Spiegel Inc. The district judge dismissed the indictment against the former Senator on the ground that he was immune from prosecution under the "speech or debate" clause. The Supreme Court reversed by simply concluding that the bribery could be proved without relying on the evidence of protected activity, that is, the vote on the postal rates.

The Gravel case involved Senator MIKE GRAVEL's reading of the "Pentagon Spiegel, Inc. The district judge dismissed lic Works Subcommittee on Public Buildings and Grounds and the inclusion of the documents in the subcommittee record. The case arose out of the attempt by a Federal grand jury in Boston to inquire into the matters relating to the public disclosure of the papers, and its subpena of an aide to the Senator. Senator GRAVEL moved to intervene in the aide's motion to quash the subpena—asserting immunity under the "speech or debate" clause on behalf of the aide.

Although the Senator failed to quash the subpena against his aide, the lower Federal courts granted a protective order precluding questioning of the Senator or any member of his staff about the subcommittee meeting, including the acquisition and subsequent publications by Beacon Press of the papers and the proceedings before the subcommittee. The court of appeals based its order on its conclusion that the aide and Senator GRAVEL enjoy similar immunities under the clause and on a common law privilege akin to that accorded executive and judicial officials to protect them from liability for official conduct.

THE ISSUES BEFORE THE COURT

There were several different issues before the court in each of these two cases. However, the fundamental question facing the court in both cases was the same, a question of jurisdiction—whether inquiry into certain behavior by Members of Congress could be conducted by the executive and judicial branches or whether the separation of powers concept and the "speech or debate" clause require that the inquiry remain the exclusive responsibility of the legislative branch. Since both cases involve this general question, since the same Justices determined the outcome in both cases, and since both cases were considered and handed down at the same time, we must consider both the decisions as an integrated whole.

The overall question of what activity falls within the clause and within the exclusive jurisdiction of Congress took three forms in these cases.

First, in the Gravel case, the Court had to decide whether aides to Members of Congress enjoy the same immunity under the clause as the Member himself.

Second, in Gravel and to a certain extent in Brewster, the Court had to determine exactly what was "legislative activity" and thereby protected by the clause. More precisely, the Court had to determine whether a Member was engaged in legislative activity when he acquired information on the activities of the Executive and informed his constituents of his findings.

Finally, in Brewster the Court was concerned with the extent to which a Federal court could indirectly question a Senator on concededly protected activity—the casting of vote—without violating the clause.

The Court decided the first issue—whether aids enjoyed the same immunity as their legislator-employer—in the affirmative. Although the Court refused to recognize the common law privilege created by the court of appeals in the Gravel case, it did conclude for constitutional reasons that the immunity of an aide is identical to that of the Senator. In the Court's words the clause provides immunity to the aide where his conduct would be a protected legislative act if performed by the Member himself. However, this concession by the Court is of little significance because what the Court gave with one hand it more than took away with the other. While the Court concluded that an aide enjoyed immunity equal to that of his Senator, it so restricted the immunity enjoyed by the Senator as to make it largely worthless to the Senator or his aide. It decided in the Gravel case that the acquisition of information in preparation for a legislative hearing and the publication of the hearing thereafter are not protected activities. And, in Brewster, it held that even a protected activity such as voting is still subject to inquiry by the Court or the executive branch.

Under these decisions, no activity is protected except the narrowly defined casting of a vote or the giving of a speech before the House or in committee. No

preparatory acts leading up to a protected activity any longer are immune under the clause. A Senator is unprotected when he obtains information for use in a speech or a hearing or when he attempts to bring the result of his legislative activity or that of the whole body to the attention of the public. Further, even the narrow range of activity still protected after these decisions—voting and speaking on the floor—are subject to question if the executive or the judiciary can find a possibility of an illegal act. So, in effect, not even voting and official speaking are any longer covered by the clause.

ACQUISITION OF INFORMATION AND PUBLICATION OF FINDINGS BY MEMBERS OF CONGRESS

The critical issue before the Court in Gravel was whether the acquisition of the Pentagon Papers and the publication of the committee record were beyond inquiry. The Court decided these vital issues in favor of itself and the executive branch and against the Congress. In the Court's view alleged misbehavior involving acquisition and publication of information by a Congressman is no longer to be policed just by the Congress and the voters but now falls within the jurisdiction of the Federal courts. The Court specifically held that while a Member cannot be asked about a committee meeting or hearing he can be questioned on how he obtained materials for the hearing and how he secured unofficial publication of the proceedings of the hearing or meeting.

In Gravel the Court excluded acquisition and republication from the protection of the "speech or debate" clause because these matters did not fall within its new artificial definition of "legislative activity." According to the Court the only activity which is "legislative" and therefore entitled to protection is that which is "an integral part of the deliberative and communicative process by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." In other words, five of the Justices of the Supreme Court, none of whom has spent any time in Congress, have concluded that the acquisition of information for hearings and the communication of the results of hearings to the public are not "integral" parts of the legislative process.

This definition of "legislative activity" reflects a lack of appreciation of the things essential to the legislative process. As we all know, the formulation, consideration, and passage of legislation involves much more than the introduction of a bill, a few speeches, and a vote. The Washington Post in an editorial critical of these decisions on July 15 made this point quite forcefully:

> This decision is extremely troubling because it declares, in effect that the only communications essential to the legislative process are those among congressmen. This relegates to a lesser realm the constant, churning traffic in ideas and opinions between congressmen and citizens. Yet this communication is central to the idea and functioning of representative government, not peripheral as the court seems to think.

To my mind, Chief Justice Parsons had a much more realistic view of the legislative process when he defined the scope of activity protected by legislative privilege in the seminal case of *Coffin* v. *Coffin*, 4 Mass. 1, 27 (1808):

> For every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

According to Chief Justice Parsons, "legislative activity" is what we as Members of Congress do as representatives of our constituents. If we feel that we are representing our constituents by investigating the executive branch's conduct of a foreign war, as anti-Federalist Congressmen did during Federalist administrations in the late 1700's, that is legislative activity and beyond inquiry in a Federal court. If we want to inform our constituents of the findings in our investigations, that is also legislative activity and beyond inquiry by a Federal court. Of course, we are not unaccountable in making this judgment or in the performance of these legislative activities. Our constituents can vote us out of office if they decide that such activity does not represent their interests. And the Senate can establish rules and penalize us for activity it deems inappropriate. But the Supreme Court can contrive no definition which will convince me that it is appropriate for any Federal court or grand jury to inquire into such legislative activity as obtaining information about the functioning of the executive branch and informing the public of the actions of its Government.

What I have just stated has been the unquestioned law of this land for almost two centuries. Indeed the Supreme Court has frequently relied on Justice Parson's formulation (e.g., *Kilbourne* v. *Thompson*, 103 U.S. 168 (1880)).

There is very disturbing language in these opinions, language which illustrates a lack of appreciation of what is essential to the legislative function. Although the Brewster decision does not turn on what is and what is not legislative activity, the majority felt compelled to expound on the subject. Despite the fact that it is all dicta, the Court's reasoning reveals its attitude toward Congress and perhaps explains the real reason why the Court stripped Congress of immunity for acquisition and publication in Gravel.

It was in the context of this unnecessary dicta in Brewster that the Court expressed its view that Congress is incapable of discipling its own Members in a wise manner and that Congress could not provide all the protections that a Federal court could in disciplining misbehavior.

But to my mind, the most serious affront to this body occurred in the Court's categorization in Brewster between protected and nonprotected activity. Going beyond the definition it adopted in Gravel as to what is and what is not legislative activity, the Court further distinguishes between what it believes to be "political" activity and "legislative" activity. The majority would not protect what it calls political activity or "errands" performed by Congressmen:

> These include a wide range of legitimate "errands" performed for constituents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called "news letters" to constituents, news releases, speeches delivered outside the Congress. . . . They are performed in part because they have come to be expected by constituents and because they are a means of developing continuing support for future elections.

In essence, the majority believes that those activities we do on behalf of our constituents are for our own personal advancement, that is, for increasing our chances of reelection. It regards them as "political" and therefore not entitled to protection. It demeans many legitimate acts we perform in our representative capacity or as ombudsmen between the people and their government by labeling them as "errands" and assuming that they are performed for base political reasons.

Of course, the offensiveness of the Court's reasoning pales in comparison to the effect of the decision upon the scope of protection provided by the clause. As a result of these decisions the only activities which are protected from inquiry are the actual proceedings in committee and on the floor of the Congress. And even these activities are not fully protected, as I will make clear in a moment.

The effect of that narrow view of the clause is to cut off the Congress from all access to critical information about the doings of the executive branch and to hinder the vital function of publicizing executive action for the benefit of the public's knowledge. In holding that the Boston grand jury could inquire into Senator GRAVEL's acquisition of materials for his hearing, the Court effectively blinds Congress to all information except that officially disclosed by the Executive. A Government bureaucrat who decides to withhold a document or label it "top secret," whether it be a battle plan or a report on corruption in the administration, renders Congress helpless. For as a result of these decisions, neither a Member of Congress nor his aide may obtain a copy of the document or inform the American people of its contents without risking criminal prosecution. Coupled with the increasing difficulty that Congress meets in getting necessary information from the administration because of its assertion of executive privilege, these decisions will severely limit the effective functioning of the legislative branch, and further serve to increase the dominance of the Executive.

Ironically, as these decisions severely limit the constitutional powers of Congress, the privilege enjoyed by the Executive—a privilege which exists as a matter of practice only and which is without explicit constitutional authority—continues to expand.

The basis for the exercise of executive

privilege is executive fiat. Even the most avid proponents of executive privilege concede that it is a manufactured privilege not expressly conferred by the Constitution or by statute. They justify the existence of such a privilege by asserting it to be an implicit constitutional prerogative. This Executive practice has traditionally been a personal privilege extended to the President to protect confidential communications between himself and his personal advisors, just as congressional immunity has protected the personal relationship between a Senator and his aide, and as such has been invoked infrequently. It is only this administration which has conspicuously expanded executive privilege beyond its original scope and meaning, and at the same time moved to have congressional immunity narrowly construed.

We are all familiar with White House refusals to release information or to allow the appearance of witnesses before committee hearings using some form of claim of executive privilege.

Two recent instances clearly indicate the bounds of executive privilege which the President has claimed for the executive branch. During the negotiations involved in Mr. Peter Flanigan's appearance before the Judiciary Committee, Mr. John Dean, counsel to the President, asserted on behalf of Mr. Flanigan that "members of the President's immediate staff not appear and testify before congressional committees," regardless of the subject matter of the inquiry. Then, 3 weeks ago, at hearings to consider statutory authority for the Executive Office's Council on International Economic Policy before the Senate Foreign Relations Committee, Mr. Frank C. Carlucci, Assistant Director of OMB, further expanded the scope of executive privilege. He asserted that the administration would look with disfavor upon any attempt to require the Executive Director of the Council to be available for questioning by Congress "because of the nature of his position." It is not without significance that Mr. Flanigan is at present the Executive Director of the Council.

Both administration spokesmen clearly indicate that it is the individual and the position which are to be protected, and no longer merely personal information or the individual's privileged function as a personal adviser to the President. The governing principle now appears to be that once an "Assistant to the President" has been annointed with presidential immunity, he can perform a myriad of tasks within the White House and the Federal Government free from any formal system of accountability. Regardless of the nature of an inquiry, the protection now claimed through the invocation of executive privilege is complete and eternal, concealing even those activities beyond the scope of his privileged relationship.

As heavyhanded as these claims of executive privilege have been, the legislative branch has not yet forced a confrontation with the President over the invocation of the privilege. Despite abuses, Congress has acceded to the demands of the Executive and has not sought to limit or define another branch's privileges or immunities. It is indeed unfortunate that the other branches lack the same respect for Congress. We should not remain silent and permit this concerted effort of the Executive to subordinate the legislative branch to its control while completely insulating itself from congressional and public scrutiny. Congress should remind this administration that its expanded version of executive privilege exists by our deference. What Congress gives by deference it can take away.

Despite the recent expansion of executive privilege and the refusals which have frustrated the effort by Congress to oversee the activities of the Executive, there was yet one avenue open by which Members of Congress could continue to obtain information embarrassing to the administration. That was when disaffected employees leaked information to Congress. However, the holding in the Gravel case, stripping immunity for obtaining such information and for publication of the committee record, will discourage all but the most courageous informant from giving legislators the information Congress and the public needs. And by the removal of legislative immunity from publications, broadcasts, or speeches which seek to inform the public of legislative views, Congress is made not only blind, but now mute as well. Although words spoken in debate or in hearings are themselves immune, as are the publication of these words in committee prints or the CONGRESSIONAL RECORD, no republication is protected. The only way the public can learn of information the Executive seeks to keep from the people is by reading the actual legislative reports themselves. A Member, his aides, or a private publisher who seeks to reprint, summarize, or explain the contents of an official congressional document dealing with executive activity does so now at the risk of possible harassment by the executive branch through grand jury inquiries and threatened criminal prosecution.

In brief summary, the effect of the Court's rulings that acquisition and publication by a legislator are not protected by the "speech or debate" clause is a drastic double blow to the concept of separation of powers, and to the governmental process. The Court has not only cut off the Congress from the Executive, but it has cut off the people from the Congress.

SPEAKING AND VOTING ON THE FLOOR OR IN COMMITTEE

As disturbed as I am about the ruling in Gravel and dicta in Brewster stripping immunity from acquisition and republication, I fear that the Court may have sounded the death knell for the "speech or debate" clause in its holding in Brewster permitting indirect inquiry into the motives for a Member's actual speech or vote on the floor or in committee. The Court in Brewster split over whether inquiry into a nonlegislative act—bribery in this case—could be conducted without indirectly bringing into question a legislative act—the casting of a vote in committee or on the floor. Justice White who wrote the majority opinion in Gravel thought that inquiry into the former was for all practical purposes an inquiry into the latter and filed a vigorous dissent in Brewster.

In writing the majority opinion in Brewster, Chief Justice Burger was faced with Justice Harlan's fine opinion in the case of the *United States* v. *Johnson*, 383 U.S. 169, a 1966 case with facts almost identical to Brewster. In that case the Court frustrated a prosecution of a Congressman for giving a speech in return for a bribe, while in Brewster the prosecution was for the casting of a vote in return for a bribe. Justice Burger distinguished the cases by concluding that the Johnson court would have been satisfied if the Government had proven the bribe and a promise to give a speech without offering the speech as evidence of the bribe. Therefore, the Chief Justice reasoned, the prosecution in Brewster could proceed if the Government would offer only the promise to vote and not the vote itself. Ironically, almost the same argument was offered by the Justice Department in the Johnson case and was explicitly rejected by Justice Harlan.

In Justice White's view an inquiry into the bribery would of necessity touch upon matters which are, beyond question, within the scope of the privilege—that is the vote itself and the Senator's motives in casting the vote. In the Justice's own words:

> Insofar as it charged crimes under 18 U.S.C. § 201(c)(1), the indictment fares little better. That section requires proof of a corrupt arrangement for the receipt of money and also proof that the arrangement was in return for the defendant 'being influenced in his performance of any official act . . .'. Whatever the official act may prove to be, the Government cannot prove its case without calling into question the motives of the Member in performing that act, for it must prove that the Member undertook for money to be influenced in that performance.

White recognized the Chief Justice's logic for what it was—mechanistic and artificial—a logic which fails to recognize the funadmental principle underlying the "speech or debate" clause.

White feared that the Court's narrow interpretation of the clause would lead to intimidation of Congress by the executive branch. He explained the possibility of abuse following from the Court's view of the clause as articulated in Brewster by posing a hypothetical.

> Let us suppose that the Executive branch is informed that private interests are paying a Member of Congress to oppose administration-sponsored legislation. The Congressman is chairman of a key committee where a vote is pending. A representative from the Executive department informs the Congressman of the allegations against him, hopes the charges are not true and expresses confidence that the committee will report the bill and that the Member will support it on the floor. The pressure on the Congressman, corrupt or not, is undeniable. He will clearly fare better in any future criminal prosecution if he answers the charge of corruption with evidence that he voted contrary to the alleged bargain. Even more compelling is the likelihood that

he will not be prosecuted at all if he follows the administration's suggestion and supports the bill. Putting aside the potential for abuse in ill-conceived, mistaken or false accusations, the Speech or Debate Clause was designed to prevent just such an exercise of Executive power. It is no answer to maintain that the potential for abuse does not inhere in a prosecution for a completed bribery transaction where the legislative act has already occurred. A corrupt vote may not be made the object of a criminal prosecution because otherwise the Executive would be armed with power to control the vote in question, if forewarned, or in any event to control other legislative conduct.

Justice White went on to describe how an otherwise innocent financial relationship between a Member of Congress and his constituents and contributors might subject him to intimidation by a malevolent Executive:

A legislator must maintain a working relationship with his constituents not only to garner votes to maintain his office but to generate financial support for his campaigns. He must also keep in mind the potential effect of his conduct upon those from whom he has received financial support in the past and those whose help he expects or hopes to have in the next campaign. An expectation or hope of future assistance can arise because constituents have indicated that support will be forthcoming if the Member of Congress champions their point of view. Financial support may also arrive later from those who approve of a Congressman's conduct and have an expectation it will continue. Thus, mutuality of support between legislator and constituent is inevitable. Constituent contributions to a Congressman and his support of constituent interests will repeatedly coincide in time or closely follow one another. It will be the rare Congressman who never accepts campaign contributions from persons or interests whose view he has supported, or will support, by speech making, voting or bargaining with fellow legislators.

All of this, or most of it, may be wholly within the law and consistent with contemporary standards of political ethics. Nevertheless, the opportunities for an executive, in whose sole discretion the decision to prosecute rests under the statute before us, to claim that legislative conduct has been sold are obvious and undeniable. These opportunities, inherent in the political process as it now exists, create an enormous potential for executive control of legislative behavior by threats or suggestions of criminal prosecution—precisely the evil which the Speech or Debate Clause was designed to prevent.

WARFARE BETWEEN BRANCHES?

Mr. President, we can look upon these decisions fatalistically and in a mood of resignation. We can simply conclude that the unbridled expansion of executive privilege and the withering of legislative privilege are part of an inevitable trend of aggrandizement of power in the Presidency evidenced throughout American history. We can be content to let pass this infringement on the constitutional rights and the effectiveness of Congress. But if we do so, we profane our oaths to uphold the Constitution, and indeed we may preside over the funeral of our system of government.

If we do not react rationally and firmly to the constitutional crisis wrought by the executive and judicial branches of government, I can foresee a day when relations between the branches may deteriorate into open warfare. If we do not act now, some future Congress will finally realize that it is isolated from the executive and the people and subject to intimidation by the executive and judiciary. In other words, we will find ourselves in the same condition as Parliament found itself under the reign of Charles the First. That crisis led to revolution in 1640 and a total restructuring of the English system of government. Continued inaction on our part may lead to consequences no less grave for our constitutional system. As Woodrow Wilson once warned, warfare between branches would be fatal to the continuation of democratic government.

It is for these reasons that I have begun to study several possible legislative alternatives to mitigate the effect of the Gravel and Brewster cases. Congress has the power to regulate its own access to documents prepared by the executive branch at taxpayers' expense. Perhaps Congress should consider legislation prohibiting the executive branch from withholding from Congress information vital to its oversight function. Congress also has the power to restrict the jurisdiction of Federal courts in such a manner as to forbid the courts from impaneling grand juries for the purpose of harassing Members of Congress who attempt to inform themselves and the public of the activities of the executive branch.

I am anxious to hear suggestions from other Members who share my concern. It is important that the Senate act swiftly but deliberately to defend against these grave threats to its independence and prerogatives by this administration and the new majority on the Court.

Mr. President, I ask unanimous consent that these Supreme Court opinions be printed at this point in the RECORD.

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

UNITED STATES AGAINST BREWSTER

(Appeal from the United States District Court for the District of Columbia Circuit; No. 70-45. Argued October 18, 1971—Reargued March 20, 1972—Decided June 29, 1972)

Appellee, a former United States Senator, was charged with the solicitation and acceptance of bribes in violation of 18 U.S.C. §§ 201(c)(1) and 201(g). The District Court, on appellee's pretrial motion, dismissed the indictment on the ground that the Speech or Debate Clause of the Constitution shielded him "from any prosecution for alleged bribery to perform a legislative act." The United States field a direct appeal to this Court under 18 U.S.C. § 3731, which appellee contends this Court does not have jurisdiction to entertain because the District Court's action was not "a decision or judgment setting aside, or dismissing" the indictment but was instead a summary judgment on the merits based on the fact of the case. *Held:*

1. This Court has jurisdiction under 18 U.S.C. § 3731 to hear the appeal, since the District Court's order was based upon its determination of the constitutional invalidity of 18 U.S.C. §§ 201(c)(1) and 201(g) on the facts as alleged in the indictment. Pp. 3-6.

2. The prosecution of appellee is not prohibited by the Speech or Debate Clause. Although that provision protects members of Congress from inquiry into legislative acts or the motivation for performance of such acts, *United States* v. *Johnson*, 383 U.S. 169, 185, it does not protect all conduct *relating* to the legislative process. Since in this case prosecution of the bribery charges does not necessitate inquiry into legislative acts or motivation, the District Court erred in holding that the Speech or Debate Clause required dismissal of the indictment. Pp. 6-27.

Reversed and remanded.

BURGER, C. J., delivered the opinion of the Court, in which STEWART, MARSHALL, BLACKMUN, POWELL, and REHNQUIST, JJ., joined. BRENNAN, J., filed a dissenting opinion, in which DOUGLAS, J., joined. WHITE, J., filed a dissenting opinion, in which DOUGLAS and BRENNAN, JJ., joined.

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

UNITED STATES AGAINST BREWSTER

This direct appeal from the District Court presents the question whether a Member of Congress may be prosecuted under 18 U.S.C. §§ 201(c)(1), 201(g), for accepting a bribe in exchange for a promise relating to an official act. Appellee, a former United States Senator, was charged with five counts of a 10-count indictment.[1] Counts one, three, five, and seven alleged that on four separate occasions, appellee, while he was a Senator and a member of the Senate Committee on Post Office and Civil Service.

"directly and indirectly, corruptly asked, solicited, sought, accepted, received and agreed to receive [sums] . . . in return for being influenced in his performance of official acts in respect to his action, vote, and decision on postage rate legislation which might at any time be pending before him in his official capacity . . . in violation of Sections 201 (c)(1) and 2, Title 18, United States Code."[2]

Count nine charged that appellee

"directly and indirectly, asked, demanded, exacted, solicited, sought, accepted, received and agreed to receive [a sum] . . . for and because of official acts performed by him in respect to his action, vote and decision on postage rate legislation which had been pending before him in his official capacity . . . in violation of Sections 201(g) and 2, Title 18, United States Code."[3]

Before a trial date was set, the appellee moved to dismiss the indictment on the ground of immunity under the Speech or Debate Clause, Art. I, § 6, of the Constitution, which provides:

"for any Speech or Debate in either House, they [Senators or Representatives] shall not be questioned in any other Place."

After hearing argument, the District Court ruled from the bench:

"Gentlemen, based on the facts of this case, it is admitted by the Government that the five counts of the indictment which charge Senator Brewster relate to the acceptance of bribes in connection with the performance of a legislative function by a Senator of the United States.

"It is the opinion of this Court that the immunity under the Speech and [*sic*] Debate Clause of the Constitution, particularly in view of the interpretation given that Clause by the Supreme Court in *Johnson*, shields Senator Brewster, constitutionally shields him from any prosecution for alleged bribery to perform a legislative act.

"I will, therefore, dismiss the odd counts of the indictment, 1, 3, 5, 7, and 9, as they apply to Senator Brewster."

The United States filed a direct appeal to this Court, pursuant to 18 U.S.C. § 3731 (Supp. V, 1970).[4] We postponed considera-

Footnotes at end of article.

tion of jurisdiction until hearing the case on the merits. 401 U.S. 935 (1971).

I

The United States asserts that this Court has jurisdiction under 18 U.S.C. § 3731 (Supp. V, 1970) to review the District Court's dismissal of the indictment against appellee. Specifically, the United States urges that the District Court decision was either "a decision or judgment setting aside, or dismissing [an] indictment . . . or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment . . . is founded" or a "decision or judgment sustaining a motion in bar, when the defendant has not been put in jeopardy." If the District Court decision is correctly characterized by either of those descriptions, this Court has jurisdiction under the statute to hear the United States' appeal.

In *United States* v. *Knox*, 396 U.S. 77 (1969), we considered a direct appeal by the United States from the dismissal of an indictment that charged the appellee in that case with violating 18 U.S.C. § 1001, a general criminal provision punishing fraudulent statements made to any federal agency. The appellee, Knox, had been accused of willfully understating the number of employees accepting wagers on his behalf when he filed a form which persons engaged in the business of accepting wagers were required by law to file. The District Court dismissed the counts charging violations of § 1001 on the ground that the appellee could not be prosecuted for failure to answer the wagering form correctly since his Fifth Amendment privilege against self-incrimination prevented prosecution for failure to file the form in any respect. We found jurisdiction under § 3731 to hear the appeal in *Knox* on the theory that the District Court had passed on the validity of the statute on which the indictment rested. 396 U.S., at 79 n. 2. The District Court in that case held that "§ 1001, as applied to this class of cases, is constitutionally invalid."

The counts of the indictment involved in the instant case were based on 18 U.S.C. § 201, a bribery statute. Section 201 applies to "public officials," and that term is defined explicitly to include Members of Congress as well as other employees and officers of the United States. Subsections (c)(1) and (g) prohibit the accepting of a bribe in return for being influenced in or performing an official act. The ruling of the District Court here was that "the Speech or Debate Clause of the Constitution, particularly in view of the interpretation given . . . in *Johnson*, shields Senator Brewster . . . from any prosecution for alleged bribery to perform a legislative act." Since § 201 applies only to bribery for the performance of official acts, the District Court's ruling is that, as applied to Members of Congress, § 201 is constitutionally invalid.

Appellee argues that the action of the District Court was not "a decision or judgment setting aside, or dismissing" the indictment, but was instead a summary judgment on the merits. Appellee also argues that the District Court did not rule that § 201 could never be constitutionally applied to a Member of Congress, but that "based on the facts of this case" the statute could not be constitutionally applied. Under *United States* v. *Sisson*, 399 U.S. 267 (1970), an appeal does not lie from a decision that rests, not upon the sufficiency of the indictment alone, but upon extraneous facts. If an indictment is dismissed as a result of a stipulated fact or the showing of evidentiary facts outside the indictment, which facts would constitute a defense on the merits at trial, no appeal is available. See *United States* v. *Findley*, 439 F. 2d 970 (CA1 1971). Appellee claims that the District Court relied on factual matter other than facts alleged in the indictment.

An examination of the record, however, discloses that, with the exception of a letter in which the United States briefly outlined the theory of its case against appellee, there were no "facts" on which the District Court could act other than those recited in the indictment. Appellee, contends that the statement "based on the facts of this case," used by the District Judge in announcing his decision, shows reliance on the Government's outline of its case. We read the District Judge's reference to "facts," in context, as a reference to the facts alleged in the indictment and his ruling as holding that Members of Congress are totally immune from prosecution for accepting bribes for the performance of official, *i.e.*, legislative, acts by virtue of the Speech or Debate Clause. Under that interpretation of § 201, it cannot be applied to a Member of Congress who accepts bribes that relate in any way to his office. We conclude, therefore, that the District Court was relying only on facts alleged in the indictment and that the dismissal of the indictment was based on a determination that the statute on which the indictment was drawn was invalid under the Speech or Debate Clause. As a consequence, this Court has jurisdiction to hear the appeal.

II

The immunities of the Speech or Debate Clause were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators. The genesis of the Clause at common law is well known. In his opinion for the Court in *United States* v. *Johnson*, 383 U.S. 169 (1966), Mr. Justice Harlan canvassed the history of the Clause and concluded that it

"was the culmination of a long struggle for parliamentary supremacy. Behind these simple phrases lies a history of conflict between the Commons and the Tudor and Stuart monarchs during which successive monarchs utilized the criminal and civil law to suppress and intimidate critical legislators. Since the Glorious Revolution in Britain, and throughout United States history, the privilege has been recognized as an important protection of the independence and integrity of the legislature." *Id.*, at 178 (footnote omitted).

Although the Speech or Debate Clause's historic roots are in English history, it must be interpreted in light of the American experience and in the context of the American constitutional scheme of government rather than the English parliamentary system. We should bear in mind that the English system differs from ours in that their Parliament is the supreme authority, not a coordinate branch. Our speech or debate privilege was designed to preserve legislative independence, not supremacy.[5] Our task, therefore, is to apply the Clause in such a way as to insure the independence of the legislature without altering the historic balance of the three co-equal branches of Government.

It does not undermine the validity of the Farmers' concern for the independence of the legislative branch to acknowledge that our history does not reflect a catalog of abuses at the hands of the Executive that gave rise to the privilege in England. There is nothing in our history, for example, comparable to the imprisonment of a Member of Parliament in the Tower without a hearing and, owing to the subservience of some royal judges to the Seventeenth and Eighteenth Century English Kings, without meaningful recourse to a writ of habeas corpus.[6] In fact, on only one previous occasion has this Court ever interpreted the Speech or Debate Clause in the context of a criminal charge against a Member of Congress.

(a) In *United States* v. *Johnson*, *supra*, the Court reviewed the conviction of a former Representative on seven counts of violating the federal conflict of interest statute, 18 U.S.C. § 281 (1964), and on one count of conspiracy to defraud the United States, 18 U.S.C. § 371 (1964). The Court of Appeals had set aside the conviction on the count for conspiracy to defraud as violating the Speech or Debate Clause. Mr. Justice Harlan, speaking for the Court, 383 U.S., a 183, cited the oft-quoted passage of Mr. Justice Lush in *Ex parte Wason*, LR 4 Q. B. 573 (1869):

"I am clearly of the opinion that we ought not to allow it to be doubted for a moment that the motives or intentions of members of either House cannot be inquired into by criminal proceedings *with respect to anything they may do or say in the House*." *Id.*, at 577 (emphasis added).

In *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881), the first case in which this Court interpreted the Speech or Debate Clause, the Court expressed a similar view of the ambit of the American privilege. There the Court said the Clause is to be read broadly to include anything "generally done in a session of the House by one of its members in relation to the business before it." *Id.*, at 204. This statement, too, was cited with approval in *Johnson*, 383 U.S. at 179. Our conclusion in *Johnson* was that the privilege protected members from inquiry into legislative acts or the motivation for actual performance of legislative acts. *Id.*, at 185.

In applying the Speech or Debate Clause, the Court focused on the specific facts of the *Johnson* prosecution. The conspiracy to defraud count alleged an agreement among Representative Johnson and three codefendants to obtain the dismissal of pending indictments against officials of savings and loan institutions. For these services, which included a speech made by Johnson on the House floor, the Government claimed Johnson was paid a bribe. At trial, the Government questioned Johnson extensively, relative to the conspiracy to defraud count, concerning the authorship, of the speech, the factual basis for certain statements made in the speech, and his motives for giving the speech. The Court held that the use of evidence of a speech to support a count under a broad conspiracy statute was prohibited by the Speech or Debate Clause. The Government was, therefore, precluded from prosecuting the conspiracy count on retrial, insofar as it depended on inquiries into speeches made in the House.

It is important to note the very narrow scope of the Court's holding in *Johnson*:

"We hold that a prosecution under a general criminal statute dependent on such inquires [into the speech or its preparation] necessarily contravenes the Speech or Debate Clause. We emphasize that our holding is limited to prosecutions involving circumstances such as those presented in the case before us." 383 U.S., at 184–185.

The opinion specifically left open the question of a prosecution, which though possibly entailing some reference to legislative acts, is founded upon a "narrowly drawn" statute passed by Congress in the exercise of its power to regulate its Members' conduct. Of more relevance to this case, the Court in *Johnson* emphasized that its decision did not affect a prosecution which, though founded on a criminal statute of general application, "does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them." *Id.*, at 185. The Court did not question the power of the United States to try Johnson on the conflict of interest counts, and it authorized a new trial on the conspiracy count, provided

Footnotes at end of article.

that all references to the making of the speech were eliminated.[7]

Three members of the Court would have affirmed Johnson's conviction. Chief Justice Warren, joined by Mr. JUSTICE DOUGLAS and MR. JUSTICE BRENNAN, concurring in part and dissenting in part, stated:

"After reading the record, it is my conclusion that the Court of Appeals erred in determining that the evidence concerning the speech infected the jury's judgment on the [conflict of interest] counts. The evidence amply supports the prosecution's theory and the jury's verdict on these counts—that the respondent received over $20,000 for attempting to have the Justice Department dismiss an indictment against his [present] co-conspirators, without diclosing his role in the enterprise. This is the classic example of a violation of § 281 by a Member of the Congress. . . . The argument of government counsel and the court's instructions separating the conspiracy from the substantive counts seem unimpeachable. The speech was a minor part of the prosecution. There was nothing in it to inflame the jury and the respondent pointed with pride to it as evidence of his vigilance in protecting the financial institutions of his State. The record further reveals that the trial participants were well aware that a finding of criminality on one count did not authorize similar conclusions as to other counts, and I believe that this salutary principle was conscientiously followed Therefore, I would affirm the convictions on the substantive counts." [Footnote omitted.]

Johnson thus stands as a unanimous holding that a Member of Congress may be prosecuted under a criminal statute provided that the Government's case does not rely on legislative acts or the motivation for legislative acts. A legislative act has consistently been defined as an act generally done in Congress in relation to the business before it. In sum, the Speech or Debate Clause prohibits inquiry only into those things generally said or done in the House in the performance of official duties and the motivation for those acts.

It is well known, of course, that Members of the Congress engage in many activities other than the purely legislative activities protected by the Speech and Debate Clause. These include a wide range of legitimate "errands" performed for constituents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called "news letters" to constituents, news releases, speeches delivered outside the Congress. The range of these related activities has grown over the years. They are performed in part because they have come to be expected by constituents and because they are a means of developing continuing support for future elections. Although these are entirely legitimate activities, they are political in nature rather than legislative, in the sense that term has been used by the Court in prior cases. But it has never been seriously contended that these political matters, however appropriate, have the protection afforded by the Speech or Debate Clause. Careful examination of the decided cases reveals that the Court has regarded the protection as reaching only those things "generally done in a session of the House by one of its members in relation to the business before it," *Kilbourn* v. *Thompson*, supra, at 204, or things "said or done by him as a representative, in the exercise of the functions of that office," *Coffin* v. *Coffin*, 4 Mass. 1, 27 (1808).

(b) Appellee argues, however, that in *Johnson* we expressed a broader test for the coverage of the Speech or Debate Clause. It is urged that we held that the Clause protected from Executive or Judicial inquiry all conduct "related to the due functioning of the legislative process." It is true that the quoted words appear in the *Johnson* opinion, but appellee takes them out of context; in context they reflect a quite different meaning from that now urged. Although the indictment against Johnson contained eight counts, only one count was challenged before this Court as in violation of the Speech or Debate Clause. The other seven counts concerned Johnson's attempts to influence members of the Justice Department to dismiss pending prosecutions. In explaining why those counts were not before the Court, Mr. Justice Harlan wrote:

"No argument is made, nor do we think that it could be successfully contended, that the Speech or Debate Clause reaches conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise *related to the due functioning of the legislative process*. It is the application of this broad conspiracy statute to an improperly motivated speech that raises the constitutional problem with which we deal." 383 U.S., at 172. (Emphasis added; footnotes omitted.)

In stating that those things "in no wise related to the due functioning of the legislative process" were *not* covered by the privilege, the Court did not in any sense imply as a corollary that everything that "related" to the office of a member was shielded by the Clause. Quite the contrary, in *Johnson* we held, citing *Kilbourn* v. *Thompson*, that only acts generally done in the course of the process of enacting legislation were protected.

Nor can we give *Kilbourn* a more expansive interpretation. In citing with approval, 103 U.S., at 203, the language of Chief Justice Parsons of the Supreme Judicial Court of Massachusetts in *Coffin* v. *Coffin*, 4 Mass. 1 (1808), the *Kilbourn* Court gave no thought to enlarging "legislative acts" to include illicit conduct outside the House. The *Coffin* language is:

"[The Massachusetts legislative privilege] ought not to be construed strictly, but liberally that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature and in the execution of the office. And I would define the article as securing to every member exemption from prosecution, *for every thing said or done by him, as a representative, in the exercise of the functions of that office*, without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules. I do not confine the member to his place in the House; and I am satisfied that there are cases in which he is entitled to this privilege, when not within the walls of the representatives' chamber." *Id.*, at 27 (emphasis added).

It is suggested that in citing these words, which were also quoted with approval in *Tenney* v. *Brandhove*, 341 U.S. 367, 373–374 (1951), the Court was interpreting the sweep of the Speech or Debate Clause to be broader than *Johnson* seemed to indicate or than we today hold. Emphasis is placed on the statement that "there are cases in which [a Member] is entitled to this privilege when not within the walls of the representatives' chamber." But the context of *Coffin* v. *Coffin* indicates that in this passage Chief Justice Parsons was referring only to legislative acts, such as committee meetings which take place outside the physical confines of the legislative chamber. In another passage, the meaning is clarified:

"If a member . . . be out of the chamber, sitting in committee, executing the commission of the house, it appears to me that such member is within the reason of the article and ought to be considered within the privilege. The body of which he is a member, is in session, and he, as a member of that body, is in fact discharging the duties of his office. He ought, therefore, to be protected from civil or criminal prosecutions for every thing said or done by him in the exercise of his functions as a representative, in committee, either in debating, in assenting to, or in draughting a report." [8] 4 Mass., at 28.

In no case has this Court ever treated the Clause as protecting all conduct *relating* to the legislative process.[9] In every case thus far before this Court, the Speech or Debate Clause has been limited to an act which was clearly a part of the legislative process—the *due* functioning of the process.[10] Appellee's contention for a broader interpretation of the privilege draws essentially on the flavor of the rhetoric and the sweep of the language used by courts, not on the precise words used in any prior case, and surely not on the sense of those cases, fairly read.

(c) We would not think it sound or wise, simply out of an abundance of caution to doubly insure legislative independence, to extend the privilege beyond its intended scope, its literal language, and its history, to include all things in any way related to the legislative process. Given such a sweeping reading, we have no doubt that there are few activities in which a legislator engages that he would be unable somehow to "relate" to the legislative process. Admittedly, the Speech or Debate Clause must be read broadly to effectuate its purpose of protecting the independence of the Legislative branch, but no more than the statutes we apply, was its purpose to make Members of Congress super-citizens, immune from criminal responsibility. In its narrowest scope, the Clause is a very large, albeit essential, grant of privilege. It has enabled reckless men to slander and even destroy others with impunity, but that was conscious choice of the Framers.[11]

The history of the privilege is by no means free from grave abuses by legislators. In one instance, abuses reached such a level in England that Parliament was compelled to enact curative legislation.

"The practice of granting the privilege of freedom from arrest and molestation to members' servants in time became a serious menace to individual liberty and to public order, and a form of protection by which offenders often tried—and they were often successful—to escape the penalties which their offenses deserved, and which the ordinary courts would not have hesitated to inflict. Indeed the sale of 'protections' at one time proved a source of income to unscrupulous members and those 'parliamentary indulgences' were on several occasions obtainable at a fixed market price." C. Wittke, The History of English Parliamentary Privilege, 39 (1921).

The authors of our Constitution were well aware of the history of both the need for the privilege and the abuses that could flow from too sweeping safeguards. In order to preserve other values, they wrote the privilege so that it tolerates and protects behavior on the part of Members not tolerated and protected when done by other citizens, but the shield does not extend beyond what is necessary to preserve the integrity of the legislative process. Moreover, unlike England with no formal, written constitutional limitations on the monarch, we defined limits on the co-ordinate branches, providing other checks to protect against abuses of the kind experienced in that country.

It is also suggested that even if we interpreted the Clause broadly so as to exempt from inquiry all matters having any relationship to the legislative process, misconduct of Members would not necessarily go unpunished because each House is empowered to discipline its Members. Article I, § 5, does indeed empower each House to "determine the rules of its Proceedings, punish its Members for disorderly behavior, and, with the concurrence of two thirds,

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expel a Member," but Congress is ill-equipped to investigate, try, and punish its Members for a wide range of behavior that is loosely and incidentally related to the legislative process. In this sense the English analogy on which the dissents place much emphasis, and the reliance on *Ex parte Wason*, L. R. 4 Q. B. 573 (1869), are inapt. Parliament is itself "The High Court of Parliament"—the highest court in the land—and its judicial tradition better equips it for judicial tasks.

"It is by no means an exaggeration to say that [the judicial characteristics of Parliament] colored and influenced some of the great struggles over legislative privilege in and out of Parliament to the very close of the nineteenth century. It is not altogether certain whether they have been entirely forgotten even now. Nowhere has the theory that Parliament is a court—the highest court of the realm, often acting in a judicial manner—persisted longer than in the history of privilege of Parliament." C. Wittke, The History of English Parliamentary Privilege, 14 (1921).

The very fact of the supremacy of Parliament as England's highest tribunal explains the long traditions precluding trial for official misconduct of a member in any other and lesser tribunal.

In Australia and Canada, "where provision for legislative free speech or debate exists but where the legislature may not claim a tradition as the highest court of the realm, courts have held that the privilege does not bar the criminal prosecution of legislators for bribery." Note, The Bribed Congressman's Immunity from Prosecution, 75 Yale L. J. 335, 338 (1965) (footnote omitted). Congress has shown little inclination to exert itself in this area.[12] Moreover, if Congress did lay aside its normal activities and take on itself the responsibility to police and prosecute the myriad activities of its Members related to but not directly a part of the legislative function, the independence of individual Members might actually be impaired.

The process of disciplining a Member in the Congress is not without countervailing risks of abuse since it is not surrounded with the panoply of protective shields that are present in a criminal case. An accused Member is judged by no specifically articulated standards [13] and is at the mercy of an almost unbridled discretion of the charging body that functions at once as accuser, prosecutor, judge, and jury from whose decision there is no established right of review. In short a Member would be compelled to defend in what would be comparable to a criminal prosecution without the safeguards provided by the Constitution. Moreover, it would be somewhat naive to assume that the triers would be wholly objective and free from considerations of party and politics and the passions of the moment.[14] Strong arguments can be made that trials conducted in a Congress with an entrenched majority from one political party could result in far greater harassment than a conventional criminal trial with the wide range of procedural protections for the accused, including indictment by grand jury, trial by jury under strict standards of proof with fixed rules of evidence, and extensive appellate review.

Finally, the jurisdiction of Congress to punish its Members is not all-embracing. For instance, it is unclear to what extent Congress would have jurisdiction over a case such as this in which the alleged illegal activity occurred outside the chamber, while the appellee was a Member, but was undiscovered or not brought before a grand jury until after he left office.[15]

The sweeping claims of appellee would render Members of Congress virtually immune from a wide range of crimes simply because the acts in question were peripherally related to their holding office. Such claims are inconsistent with the reading this Court has given, not only to the Speech and Debate Clause, but also to the other legislative privileges embodied in Art. I, § 6. The very sentence in which the Speech and Debate Clause appears provides that Members "shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their attendance at the Session of their Respective Houses. . . ." In *Williamson* v. *United States*, 207 U.S. 425 (1908), this Court rejected a claim, made by a Member convicted of subordination of perjury in proceedings for the purchase of public lands, that he could not be arrested, convicted, or imprisoned for any crime that was not treason, felony, or breach of the peace in the modern sense, *i.e.*, disturbing the peace. Mr. Justice Edward Douglass White noted that when the Constitution was written the term "Breach of the Peace" did not mean, as it came to mean later, a misdemeanor such as disorderly conduct but had a different 18th century usage, since it derived from breaching the King's peace and thus embraced the whole range of crimes at common law. Quoting Lord Mansfield, he noted, with respect to the claim of parliamentary privilege, "The laws of this country allow no place or employment as a sanctuary for crime. . . . *Id.*, at 439.

The subsequent case of *Long* v. *Ansell*, 293 U.S. 76 (1934), held that a Member's immunity from arrest in civil cases did not extend to civil process. Mr. Justice Brandeis wrote for the Court:

"Clause 1 [of Article I, § 6] defines the extent of the immunity. Its language is exact and leaves no room for construction which would extend the privilege beyond the terms of the grant." *Id.*, at 82.

We recognize that the privilege against arrest is not identical with the Speech or Debate privilege, but it is closely related in purpose and origin. It can hardly be thought that the Speech or Debate Clause totally protects what the sentence preceding it has plainly left open to prosecution, i.e., all criminal acts.

(d) MR. JUSTICE WHITE suggests that permitting the Executive to initiate the prosecution of a Member of Congress for the specific crime of bribery is subject to serious potential abuse that might endanger the independence of the legislature—for example, a campaign contribution might be twisted by a ruthless prosecutor into a bribery indictment. But, as we have just noted, the Executive is not alone in possessing power potentially subject to abuse; such possibilities are inherent in a system of government which delegates to each of the three branches separate and independent powers.[16] In the Federalist No. 73, Hamilton expressed concern over the possible hazards that confronted an Executive dependent on Congress for financial support.

"The Legislature, with a discretionary power over the salary and emoluments of the Chief Magistrate, could render him as obsequious to their will as they might think proper to make him by famine, or tempt him by largesses, to surrender at discretion, his judgment to their inclinations."

Yet Hamilton's "parade of horribles" finds little real support in history. The check-and-balance mechanism, buttressed by unfettered debate in an open society with a free press has not encouraged abuses of power or tolerated them long when they arose. This may be explained in part because the third branch has intervened with neutral authority. See, *e. g.*, *United States* v. *Lovett*, 328 U.S. 303 (1946). The system of divided powers was expressly designed to check the abuses England experienced in the 16th to the 18th century.

Probably of more importance is the public reaction engendered by any attempt of one branch to dominate or harass another. Even traditional political attempts to establish dominance have met with little success owing to contrary popular sentiment. Attempts to "purge" uncooperative legislators, for example, have not been notably successful. We are not cited to any cases in which the bribery statutes, which have been applicable to Members of Congress for over 100 years,[17] have been abused by the Executive Branch. When a powerful Executive sought to make the Judicial Branch more responsive to the combined will of the Executive and Legislative Branches, it was the Congress itself that checked the effort to enlarge the Court. 2 M. Pusey, Charles Evans Hughes, c. 70 (1951).

We would be closing our eyes to the realities of the American political system if we failed to acknowledge that many nonlegislative activities are an established and accepted part of the role of a Member, and are indeed "related" to the legislative process. But if the Executive may prosecute a Member's attempt, as in *Johnson*, to influence another branch of the Government in return for a bribe, its power to harass is not greatly enhanced if it can prosecute for a promise relating to a legislative act in return for a bribe. We therefore see no substantial increase in the power of the Executive and Judicial Branches over the Legislative Branch resulting from our holding today. If we underestimate the potential for harassment, the Congress, of course, is free to exempt its Members from the ambit of federal bribery laws, but it has deliberately allowed the instant statute to remain on the books for over a century.

We do not discount entirely the possibility that an abuse might occur, but this possibility, which we consider remote, must be balanced against the potential danger flowing from either the absence of a bribery statute applicable to Members of Congress or a holding that the statute violates the Constitution. As we noted at the outset, the purpose of the Speech or Debate Clause is to protect the individual legislator, not simply for his own sake, but to preserve the independence and thereby the integrity of the legislative process. But financial abuses, by way of bribes, perhaps even more than Executive power, would gravely undermine legislative integrity and defeat the right of the public to honest representation. Depriving the Executive of the power to investigate and prosecute and the Judiciary of the power to punish bribery of Members of Congress is unlikely to enhance legislative independence. Given the disinclination and limitations of each House to police these matters, it is understandable that both Houses deliberately delegated this function to the courts, as they did with the power to punish persons committing contempts of Congress. 2 U.S.C. § 192.

It is beyond doubt, that the Speech or Debate Clause protects against inquiry into acts which occur in the regular course of the legislative process and into the motivation for those acts. So expressed, the privilege is broad enough to insure the historic independence of the Legislative Branch, essential to our separation of powers, but narrow enough to guard against the excesses of those who would corrupt the process by corrupting its Members. We turn next to determine whether the subject of this criminal inquiry is within the scope of the privilege.

III

An examination of the indictment brought against appellee and the statutes on which it is founded reveals that no inquiry into legislative acts or motivation for legislative acts is necessary for the Government to make out a prima facie case. Four of the five counts charge that appellee "corruptly asked, solicited, sought, accepted, received, and

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agreed to receive" money "in return for being influenced . . . in respect to his action, vote, and decision on postage rate legislation, which might at any time be pending before him in his official capacity." This is said to be a violation of 18 U.S.C. § 201(c)(1), which provides that a Member who "corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value . . . in return for . . . being influenced in his performance of any official act" is guilty of an offense.

The question is whether it is necessary to inquire into how appellee spoke, how he debated, how he voted, or anything he did in the chamber or in committee in order to make out a violation of this statute. The illegal conduct is taking or agreeing to take money for a promise to act in a certain way. There is no need for the Government to show that appellee fulfilled the alleged illegal bargain; acceptance of the bribe is the violation of the statute, not performance of the illegal promise.

Taking a bribe is, obviously, no part of the legislative process or function; it is not a legislative act. It is not, by any conceivable interpretation, an act performed as a part of or even incidental to the role of a legislator. It is not an "act resulting from the nature and execution of the office." Nor is it "a thing said or done by him as a representative in the exercise of the functions of the office," 4 Mass., at 27. Nor is inquiry into a legislative act or the motivation for a legislative act necessary to a prosecution under this statute or this indictment. When a bribe is taken, it does not matter whether the promise for which the bribe was given was for the performance of a legislative act as here or, as in *Johnson*, for use of a Congressman's influence with the Executive Branch. And an inquiry into the purpose of a bribe "does not draw into question the legislative acts of the defendant Member of Congress or his motives for performing them." 383 U.S., at 185.

Nor does it matter if the Member defaults on his illegal bargain. To make a prima facie case under this indictment, the Government need not show any act of appellee subsequent to the corrupt promise for payment, for it is *taking* the bribe, not performance of the illicit compact, that is a criminal act. If, for example, there were undisputed evidence that a Member took a bribe in exchange for an agreement to vote for a given bill and if there were also undisputed evidence that he, in fact, voted against the bill, can it be thought that this alters the nature of the bribery or removes it from the area of wrongdoing the Congress sought to make a crime?

Another count of the indictment against appellee alleges that he "asked, demanded, exacted, solicited, sought, accepted, received and agreed to receive" money "for and because of official acts performed by him in respect to his action, vote and decision on postage rate legislation which had been pending before him in his official capacity." This count is founded on 18 U.S.C. § 201(g), which provides that a Member of Congress who "asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or because of any official act performed or to be performed by him" is guilty of an offense. Although the indictment alleges that the bribe was given for an act that was actually performed, it is, once again, unnecessary to inquire into the act or its motivation. To sustain a conviction it is necessary to show that appellee solicited, received, or agreed to receive, money with knowledge that the donor was paying him compensation for an official act. Inquiry into the legislative performance itself is not necessary; evidence of the Member's knowledge of the alleged briber's illicit reasons for paying the money is sufficient to carry the case to the jury.

MR. JUSTICE WHITE rests heavily on the fact that the indictment charges the offense as being in part linked to Brewster's "action, vote and decision on postal rate legislation." This is true, of course, but our holding in *Johnson* precludes any showing of how he acted, voted or decided. The dissenting position stands on the fragile proposition that it "would take the Government at its word" with respect to wanting to prove what we all agree are protected acts which cannot be shown in evidence. Perhaps the Government would make a more appealing case if it could do so, but here, as in that case, evidence of acts protected by the Clause is inadmissible. The Government, as we have noted, need not prove any specific act, speech, debate, or decision to establish a violation of the statute under which respondent was indicted. To accept the arguments of the dissent would be to retreat from the Court's position in *Johnson* that a Member may be convicted if no showing of legislatve act is required.

MR. JUSTICE BRENNAN suggests that inquiry into the alleged bribe is inquiry into the motivation for a legislative act, and it is urged that this very inquiry was condemned as impermissible in *Johnson*. That argument misconstrues the concept of motivation for legislative acts. The Speech or Debate Clause does not prohibit inquiry into illegal conduct simply because it has some nexus to legislative functions. In *Johnson* the Court held that on remand, Johnson could be retried on the conspiracy to defraud count, so long as evidence concerning his speech on the House floor was not admitted. The Court's opinion plainly implies that had the Government chosen to retry Johnson on that count, he could not have obtained immunity from prosecution by asserting that the matter being inquired into was related to the motivation for his House speech. See n. 7, *supra*.

The only reasonable reading of the Clause, consistent with its history and purpose, is that it does not prohibit inquiry into activities which are casually or incidentally related to legislative affairs but not a part of the legislative process itself. Under this indictment and these statutes no such proof is needed.

We hold that under this statute and this indictment, prosecution of appellee is not prohibited by the Speech or Debate Clause.[18] Accordingly the judgment of the District Court is reversed and the case is remanded for further proceedings consistent with this opinion.

FOOTNOTES

[1] The remaining five counts charged the alleged bribers with offering and giving bribes in violation of 18 U.S.C. § 201(b).

[2] 18 U.S.C. § 201(c)(1) provides: "Whoever, being a public official or persons selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

"(1) being influenced in his performance of any official act . . . [shall be guilty of an offense]."

18 U.S.C. § 201(a) defines "public official" to include "Member of Congress." The same subsection provides: " 'official act' means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit." 18 U.S.C. § 2 is the aiding or abetting statute.

[3] 18 U.S.C. § 201(g) provides: "Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him . . . [shall be guilty of an offense]."

[4] 18 U.S.C. § 3731 (Supp. V, 1970) provides:

"An appeal may be taken by and on behalf of the United States from the district court direct to the Supreme Court of the United States in all criminal cases in the following instances:

"From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment or information is founded.

"From the decision or judgment sustaining a motion in bar, when the defendant has not been put in jeopardy."

The statute has since been amended to eliminate the direct appeal provision on which the United States relies. 18 U.S.C. § 3731. This appeal, however, was perfected under the old statute.

[5] Cella, The Doctrine of Legislative Privilege of Freedom of Speech and Debate: Its Past, Present and Future as a Bar to Criminal Prosecutions in the Courts, 2 Suffolk L. Rev. 1, 15 (1968); Note, the Bribed Congressman's Immunity from Prosecution, 75 Yale L. J. 335, 337–338 (1965).

[6] See C. Wittke, The History of English Parliamentary Privilege, 23–32 (1921).

[7] On remand, the District Court dismissed the conspiracy count without objection from the Government. Johnson was then found guilty on the remaining counts, and his conviction was affirmed. *United States* v. *Johnson*, 419 F. 2d 56 (CA4 1969), cert. denied, 397 U. S. 1010 (1970).

[8] It is especially important to note that in *Coffin* v. *Coffin*, the court concluded that the defendant was not executing the duties of his office when he allegedly defamed the plaintiff and was hence not entitled to the claim of privilege.

[9] The "concession" MR. JUSTICE BRENNAN seeks to attribute to the Government lawyer who argued the case in the District Court reveals no more than the failure of the arguments in that court to focus on the distinction between true legislative acts and the myriad related political functions of a Member of Congress. The "concession" came in response to a question which clearly revealed that the District Court treated as protected all acts "related" to the office rather than limiting the protection to what "is said or done by him as a representative in the exercise of the functions of that office."

[10] See *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881) (voting for a resolution); *Tenney* v. *Brandehove*, 341 U.S. 367 (1951) (harassment of witness by state legislator during a legislative hearing; not a Speech or Debate Clause case); *United States* v. *Johnson*, 383 U.S. 169 (1966) (making a speech on House floor); *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967) (subpoenaing records for committee hearing); *Powell* v. *McCormack*, 395 U.S. 486 (1969) (voting for a resolution).

In *Coffin* v. *Coffin*, 4 Mass. 1 (1808), the state equivalent of the Speech or Debate Clause was held to be inapplicable to a legislator who was acting outside of his official duties.

[11] "To this construction of the article it is objected, that a private citizen may have his character basely defamed, without any pecuniry recompense or satisfaction. The truth of the objection is admitted. . . . The injury to the reputation of a private citizen is of less importance to the commonwealth, than the free and unreserved exercise of the duties of a representative, unawed by the fear of legal prosecutions." *Coffin* v. *Coffin*, 4 Mass. 1, 28 (1808).

See *Cochran* v. *Couzens*, 42 F. 2d 783 (CADC), cert, denied, 282 U.S. 874 (1930)

(defamatory words uttered on Senate floor could not be basis of slander action).

[12] See Thomas, Freedom of Debate: Protector of the People or Haven for the Criminal?, 3 The Harvard Rev. 74, 80–81 (No. 3, 1965); Note, The Bribed Congressman's Immunity from Prosecution, 75 Yale L. J. 335, 349 n. 84 (1965); Oppenheim Congressional Free Speech, 8 Loyola L. Rev. 1, 27–28 (1955-1956).

[13] See, *e. g., In re Chapman,* 166 U. S. 661, 669–670 (1897):

"The right to expel extends to all cases where the offense is such as in the judgment of the Senate is inconsistent with the trial and duty of a member."

[14] See the account of the impeachment of President Andrew Johnson in J. Kennedy, Profiles in Courage, 126–151 (1955). See also the account of the impeachment of Justice Samuel Chase in 3 A. Beveridge, Life of Marshall, at 169-220 (1919).

[15] "English Parliaments have historically reserved to themselves and still retain the sole and exclusive right to punish their members for the acceptance of a bribe in the discharge of their office. No member of Parliament may be tried for such an offense in any court of the land." Cella, The Doctrine of Legislative Privilege of Freedom of Speech and Debate: Its Past, Present and Future as a Bar to Criminal Prosecutions in the Courts, 2 Suffolk L. Rev. 1, 15–16 (1968). That this is obviously not the case in this country is implicit in the remand of Representative Johnson to be retried on bribery charges.

[16] The potential for harassment by an unscrupulous member of the Executive Branch may exist, but this country has no tradition of absolute congressional immunity from criminal prosecution. See *United States* v. *Quinn,* 141 F. Supp. 622 (SDNY 1956) (motion for acquittal granted because the defendant Member of Congress was unaware of receipt of fees by his law firm); *Burton* v. *United States,* 202 U.S. 344 (1906) (Senator convicted for accepting compensation to intervene before Post Office Department); *United States* v. *Dietrich,* 126 F. 671 (CCD Neb. 1904) (Senator-elect's accepting payment to procure office for another not covered by statute); *May* v. *United States,* 175 F. 2d 994 (CADC), cert. denied, 338 U.S. 830 (1949) (Congressman convicted of receiving compensation for services before an agency); *United States* v. *Bramblett,* 348 U.S. 503 (1955) (Congressman convicted of defrauding government agency). *Bramblett* concerned a Congressman's misuse of office funds via a "kick-back" scheme, which is surely "related" to the legislative office.

A strategically timed indictment could indeed cause serious harm to a Congressman. Representative Johnson, for example, was indicted while campaigning for re-election, and arguably his indictment contributed to his defeat. On the other hand, there is the classic case of Mayor Curley who was re-elected while under indictment. See 4 New Catholic Encyclopedia, at 541 (1967). Moreover, we should not overlook the barriers a prosecutor, attempting to bring such a case, must face. First, he must persuade a grand jury to indict, and we are not prepared to assume that grand juries will act against a Member without solid evidence. Thereafter, he must convince a petit jury beyond a reasonable doubt with the presumption of innocence favoring the accused. A prosecutor who fails to clear one of these hurdles faces serious practical consequences when the defendant is a Congressman. The Legislative Branch is not without weapons of its own and would no doubt use them if it thought the Executive were unjustly harassing one of its members. Perhaps more important is the omnipresence of the news media whose traditional function and competitive inclination affords no immunities to reckless or irresponsible official misconduct.

[17] The first bribery statute applicable to Congressmen was enacted in 1853. Act of Feb. 26, 1853, c. 81, § 6, 10 Stat. 171.

[18] In reversing the District Court's ruling that a Member of Congress may not be constitutionally tried for a violation of the federal bribery statutes, we express no views on the question left open in *Johnson* as to the constitutionality of an inquiry that probes into legislative acts or the motivation for legislative acts if Congress specifically authorizes such in a narrowly drawn statute. Should such an inquiry be made and should a conviction be sustained, then we would face the question whether inquiry into legislative acts and motivation is permissible under such a narrowly drawn statute.

UNITED STATES AGAINST BREWSTER

(Mr. Justice Brennan, with whom Mr. Justice Douglas joins, dissenting)

When this case first came before the Court, I had thought it presented a single, well-defined issue—that is, whether the Congress could authorize by a narrowly drawn statute the prosecution of a Senator or Representative for conduct otherwise immune from prosecution under the Speech or Debate Clause of the Constitution. Counts 1, 3, 5, and 7 of the indictment charged Senator Brewster with receiving $19,000 "in return for being influenced in his performance of official acts in respect to his action, vote, and decision on postage rate legislation which might at any time be pending before him in his official capacity [as a member of the Senate Post Office Committee]." Count 9 charged the Senator with receipt of another $5,000 for acts already performed by him with respect to his "action, vote, and decision" on that legislation. These charges, it seemed to me, fell within the clear prohibition of the Speech or Debate Clause as interpreted by decisions of this Court, particularly *United States* v. *Johnson,* 383 U.S. 169 (1966). For if the indictment did not call into question the "speeches or debates" of the Senator, it certainly laid open to scrutiny the motives for his legislative acts; and those motives, I had supposed, were no more subject to Executive and Judicial inquiry than the acts themselves, unless, of course, the Congress could delegate such inquiry to the other branches.

That, apparently, was the Government's view of the case as well. At the hearing before the District Court the prosecutor was asked point blank whether "the indictment in any wise allege[d] that Brewster did anything not related to his purely legislative functions." The prosecutor responded:

"We are not contending that what is being charged here, that is, the activity by Brewster, was anything other than a legislative act. We are not ducking the question; it is squarely presented. They are legislative acts. We are not going to quibble over that." App. 28.

The Government, in other words, did not challenge the applicability of the Clause to these charges, but argued only that its prohibitions could be avoided, "waived" as it were, through congressional authorization in the form of a narrowly drawn bribery statute. The District Court accepted the Government's reading of the indictment and held that the Senator could not be prosecuted for this conduct even under the allegedly narrow provisions of 18 U. S. C. § 201:

"Gentlemen, based on the facts of this case, it is admitted by the Government that the five counts of the indictment which charge Senator Brewster relate to the acceptance of bribes in connection with the performance of a legislative function by a Senator of the United States.

"It is the opinion of this Court that the immunity under the Speech and Debate Clause of the Constitution, particularly in view of the interpretation given that Clause by the Supreme Court in *Johnson,* shields Senator Brewster, constitutionally shields him from any prosecution for alleged bribery to perform a legislative act." App. 33.

Furthermore, the Government's initial brief in this Court, doubtless reflecting its recognition that *Johnson* had rejected the analysis adopted by the Court today, did not argue that a prosecution for acceptance of a bribe in return for a promise to vote a certain way falls outside the prohibition of the Speech or Debate Clause. Rather, the Government's Brief conceded or at least assumed that such conduct does constitute "Speech or Debate," but urged that Congress may enact a statute, such as 18 U. S. C. § 201, providing for judicial trial of the alleged crime.

Given these admissions by the Government and the District Court's construction of the indictment, which settled doctrine makes binding on this Court, *United States* v. *Jones,* 345 U.S. 377, 378 (1953), the only issue properly before us was whether Congress is empowered to delegate to the Executive and Judicial Branches the trial of a member for conduct otherwise protected by the Clause. Today, however, the Court finds it unnecessary to reach that issue, for it finds that the indictment, though charging receipt of a bribe for legislative acts, entails "no inquiry into legislative acts or motivation for legislative acts," *ante,* at 24, and thus is not covered by the Clause. In doing so the Court permits the Government to recede from its firm admissions, it ignores the District Court's binding construction of the indictment, and—most important—it repudiates principles of legislative freedom developed over the past century in a line of cases culminating in *Johnson.* Those principles, which are vital to the right of the people to be represented by Congressmen of independence and integrity, deserve more than the hasty burial given them by the Court today. I must therefore dissent.

I

I would dispel as the outset any notion that Senator Brewster's asserted immunity strains the outer limits of the Clause. The Court writes at length in an effort to show that "Speech or Debate" does not cover "all conduct relating to the legislative process." *Ante,* at 14. Even assuming the validity of that conclusion, I fail to see its relevance to the instant case. Senator Brewster is not charged with conduct merely "relating to the legislative process," but with a crime whose proof calls into question the very motives behind his legislative acts. The indictment, then, lies not at the periphery but at the very center of the protection that this Court has said is provided a Congressman under the Clause.

Decisions of this Court dating as far back as 1881 have consistently refused to limit the concept of "legislative acts" to the "Speech or Debate" specifically mentioned in Art. I, § 6, In *Kilbourn* v. *Thompson,* 103 U.S. 168 (1881), the Court held that

"[i]t would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it," *Id.,* at 204.

In reaching its conclusion, the Court adopted what was said by the Supreme Judicial Court of Massachusetts in *Coffin* v. *Coffin,* 4 Mass. 1 (1808), which *Kilbourn* held to be perhaps "the most authoritative case in this country on the construction of the provision in regard to freedom of debate in legislative bodies. . . ." *Ibid.* Chief Justice Parsons, speaking for the Massachusetts

court, expressed what *Kilbourn* and later decisions saw as a properly generous view of the legislative privilege:

"These privileges are thus secured, not with the intention of protecting the members against prosecution for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I therefore think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature and in the execution of the office: and I would define the article, as securing to every member exemption from prosecution, for everything said or done by him, as a representative, in the exercise of the functions of that office; without enquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules. I do not confine the member to his place in the house; and I am satisfied that there are cases, in which he is entitled to this privilege, when not within the walls of the representatives' chamber." 4 Mass., at 27.

There can be no doubt, therefore, that Senator Brewster's vote on new postal rates constituted legislative activity within the meaning of the Clause. The Senator could not be prosecuted or called to answer for his vote in any Judicial or Executive proceeding. But the Senator's immunity, I submit, goes beyond the vote itself and precludes all extra-congressional scrutiny as to how and why he cast, or would have cast, his vote a certain way. In *Tenney* v. *Brandhove*, 341 U.S. 367 (1951), the plaintiff charged that a state legislative hearing was being conducted not for a proper legislative purpose but solely as a means of harassing him. Nevertheless the Court held that no action would lie against the committee members under federal civil rights statutes. Mr. Justice Frankfurter stated:

"The claim of an unworthy purpose does not destroy the privilege. Legislators are immune from deterrents to the uninhibited discharge of their legislative duty, not for their private indulgence but for the public good. One must not expect uncommon courage even in legislators. The privilege would be of little value if they could be subjected to the cost and inconvenience and distractions of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a jury's speculation as to motives. The holding of this Court in *Fletcher* v. *Peck*, 6 Cranch 87, 130, that it was not consonant with our scheme of government for a court to inquire into the motives of legislators, has remained unquestioned. . . .

". . . In times of political passion, dishonest or vindictive motives are readily attributed to legislative conduct and as readily believed. Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses." *Id.*, at 377–378.

Barring congressional power to authorize this prosecution, what has been said thus far would seem sufficient to require affirmance of the order of dismissal, for neither Senator Brewster's vote nor his motives for voting, however dishonorable, may be the subject of a civil or criminal proceeding outside the walls of the Senate. There is nothing complicated about this conclusion. It follows simply and inescapably from prior decisions of this Court, *supra*, setting forth the most basic elements of legislative immunity. Yet the Court declines to apply those principles to this case, for it somehow finds that the Government can prove its case without referring to the Senator's official acts or motives. According to the Court, the Government can limit its proof on Counts 1, 3, 5, and 7 to evidence concerning Senator Brewster's "taking or agreeing to take money for a promise to act in a certain way," and need not show "that appellee fulfilled the alleged illegal bargain; acceptance of the bribe is the violation of the statute, not performance of the illegal promise." *Ante*, at 25. Similarly, the Court finds that Count 9 can be proved merely by showing that the Senator solicited or received money "with knowledge that the donor was paying him compensation for an official act," without any inquiry "into the legislative performance itself." *Ante*, at 26. These evidentiary limitations are deemed sufficient to avoid the prohibitions of the Speech or Debate Clause.

With all respect, I think that the Court has adopted a wholly artificial view of the charges before us. The indictment alleges not the mere receipt of money, but the receipt of money in exchange for a Senator's vote and promise to vote in a certain way. Insofar as these charges bear on votes already cast, the Government cannot avoid proving the performance of the bargained-for acts, for it is the acts themselves, together with the motivating bribe, that form the basis of Count 9 of the indictment. Proof of "knowledge that the donor was paying . . . for an official act" may be enough for conviction under § 201 (g). But assuming it is, the Government still must demonstrate that the "official act" referred to was actually performed, for that is what the indictment charges. Count 9, in other words, calls into question both the performance of official acts by the Senator and his reasons for voting as he did. Either inquiry violates the Speech or Debate Clause.

The counts charging only a corrupt promise to vote are equally repugnant to the clause. The Court may be correct that only receipt of the bribe, and not performance of the bargain, is needed to prove these counts. But proof of an agreement to be "influenced" in the performance of legislative acts by definition an inquiry into their motives, whether or not the acts themselves or the circumstances surrounding them are questioned at trial. Furthermore, judicial inquiry into an alleged agreement of this kind carries with it the same danger to legislative independence that are held to bar accountability for official conduct itself. As our Brother White cogently states, *post*, at 6–7:

"Bribery is most often carried out by prearrangement; if that part of the transaction may be plucked from its context and made the basis of criminal charges, the Speech or Debate Clause loses its force. It will be small comfort for a Congressman to know that he cannot be prosecuted for his vote, whatever it may be, but he can be prosecuted for an alleged agreement even if he votes contrary to the asserted bargain."

Thus, even if this were an issue of first impression, I would hold that this prosecution, being an extracongressional inquiry into legislative acts and motives, is barred by the Speech or Debate Clause.

What is especially disturbing about the Court's result, however, is that this is not an issue of first impression, but one that was settled six years ago in *United States* v. *Johnson*, 383 U.S. 169 (1966). There a former Congressman was charged with violating the federal conflict-of-interest statute, 18 U.S.C. § 281, and of conspiring to defraud the United States, 18 U.S.C. § 371, by accepting a bribe in exchange for his agreement to seek dismissal of federal indictments pending against officers of several savings and loan companies. Part of the alleged conspiracy was a speech delivered by Johnson on the floor of the House, favorable to loan companies generally. The Government relied on that speech at trial and questioned Johnson extensively about its contents, authorship, and his reasons for delivering it. The Court of Appeals set aside the conspiracy conviction, holding that the Speech or Debate Clause barred such a prosecution based on an allegedly corrupt promise to deliver a congressional speech. In appealing that decision the Government made the very same argument that appears to persuade the Court today:

"[The rationale of the Clause] is applicable in suits based upon the *content* of a legislator's speech or action, where immunity is necessary to prevent impediments to the free discharge of his public duties. But it does not justify granting him immunity from prosecution for accepting or agreeing to accept money to make a speech in Congress. The latter case poses no threat which could reasonably cause a Congressman to restrain himself in his official speech, because no speech, as such, is being questioned. It is only the *antecedent conduct* of accepting or agreeing to accept the bribe which is attacked in such a prosecution. 'Whether the party taking the bribe lives up to his corrupt promise or not is immaterial. The agreement is the essence of the offense; when that is consummated, the offense is complete.' 3 Wharton, Criminal Law and Procedure, § 1383 (Anderson ed. 1957) . . . Thus, if respondent, after accepting the bribe, had failed to carry out his bargain, he could still be prosecuted for the same offense charged here, but it could not be argued that any speech was being 'questioned' in his prosecution. The fact that respondent fulfilled his bargain and delivered the corrupt speech should not render the entire course of conduct constitutionally protected." Brief for the United States in *United States* v. *Johnson*, at 10–11.

The *Johnson* opinion answered this argument in two places. After emphasizing that the prosecution at issue was "based upon an allegation that a member of Congress abused his position by conspiring to give a particular speech in return for remuneration from private interests," the Court stated, 383 U.S., at 180:

"However reprehensible such conduct may be, we believe the Speech or Debate Clause extends at least so far as to prevent it from being made the basis of a criminal charge against a member of Congress of conspiracy to defraud the United States by impeding the due discharge of government functions. *The essence of such a charge in this context is that the Congressman's conduct was improperly motivated, and . . . that is precisely what the Speech or Debate Clause generally forecloses from executive and judicial inquiry.*" (Emphasis supplied.)

Again the Court stated, at 182–183:

"The Government argues that the clause was meant to prevent only prosecutions based upon the 'content' of speech, such as libel actions, but not those founded on 'the antecedent unlawful conduct of accepting or agreeing to accept a bribe.' Brief of the United States, at 11. Although historically seditious libel was the most frequent instrument for intimidating legislators, this has never been the sole form of legal proceedings so employed, and the language of the Constitution is framed in the broadest terms."

Finally, any doubt that the *Johnson* Court rejected the argument put forward by the Government was dispelled by its citation of *Ex parte Wason*, 4 Q. B. 573 (1869). In that case a private citizen moved to require a magistrate to prosecute several members of the House of Lords for conspiring to prevent his petition from being heard on the floor. The court denied the motion, holding that "statements made by members of either House of Parliament in their places in the House . . . could not be made the foundation of civil or criminal proceedings, however injurious they might be to the interest of a

third person. And a conspiracy to make such statements would not make the persons guilty of it amenable to the criminal law." *Id.*, at 576 (Cockburn, C.J.) Mr. Justice Blackburn added, "I entirely concur in thinking that the information did only charge an agreement to make statements in the House of Lords, and therefore did not charge any indictable offense." *Ibid.*

Johnson, then, can only be read as holding that a corrupt agreement to perform legislative acts, even if provable without reference to the acts themselves, may not be the subject of a general conspiracy prosecution. In the face of that holding and *Johnson's* rejection of reasoning identical to its own, the Court finds support in the fact that *Johnson* "authorized a new trial on the conspiracy count, provided that all references to the making of the speech were eliminated." *Ante*, at 10. But the Court ignores the fact that, with the speech and its motives excluded from consideration, this new trial was for nothing more than a conspiracy to intervene before an Executive department, *i.e.*, the Justice Department. And such Executive intervention has never been considered legislative conduct entitled to the protection of the Speech or Debate Clause. See *infra*, at 14. The Court cannot camouflage its departure from the holding of *Johnson* by referring to a collateral ruling having little relevance to the fundamental issues of legislative privilege involved in that case. I would follow *Johnson* and hold that Senator Brewster's alleged promise, like the Congressman's there, is immune from executive or judicial inquiry.

II

The only issue for me, then, is the one left open in *Johnson*—that is, the validity of a "prosecution which, though possibly entailing inquiry into legislative acts or motivations, is founded [not upon a general conspiracy statute but] upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." 383 U.S., at 185. Assuming that 18 U.S.C. § 201 is such a "narrowly drawn statute," I do not believe that it, any more than a general enactment, can serve as the instrument for holding a Congressman accountable for his legislative acts outside the confines of his own chamber. The Government offers several reasons why such a "waiver" of legislative immunity should be allowed. None of these, it seems to me, is sufficient to override the public's interest in legislative independence, secured to it by the principles of the Speech or Debate Clause.[1]

As a preliminary matter, the Government does not contend, nor can it, that no forum was provided in which Senator Brewster might have been punished if guilty. Article I, § 5, of the Constitution provides that ". . . Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member." This power has a broad reach, extending "to all cases where the offense is such as in the judgment of the [House or] Senate is inconsistent with the trust and duty of a member." *In re Chapman*, 166 U.S. 661, 669–670 (1897). *Chapman*, for example, concerned a Senate investigation of charges that Senate members had speculated in stocks of companies interested in a pending tariff bill. Similarly, the House of Representatives in 1873 censured two members for accepting stock to forestall a congressional injury into the Credit Mobilier. There are also many instances of imprisonment or expulsion by Parliament of members who accepted bribes.[2]

Though conceding that the Houses of Congress are empowered to punish their members under Art. I, § 5, the Government urges that Congress may also enact a statute, such as 18 U.S.C. § 201, providing for judicial enforcement of that power. In support of this position, the Government relies primarily on the following language from the opinion in *Burton* v. *United States*, 202 U.S. 334, 367 (1906):

"While the framers of the Constitution intended that each Department should keep within its appointed sphere of public action, it was never contemplated that the authority of the Senate to admit to a seat in its body one who had been duly elected as a Senator, or its power to expel him after being admitted, should, in any degree, limit or restrict the authority of Congress to enact such statutes, not forbidden by the Constitution, as the public interests required for carrying into effect the powers granted to it."

However, *Burton* was not a case that involved conduct protected by the Speech or Debate Clause. Senator Burton was prosecuted for accepting money to influence the Post Office Department in a mail fraud case in violation of Rev. Stat. 1782, 13 Stat. 123. That was nonlegislative conduct, and as we said in *Johnson*, *supra*, at 172, "No argument is made, nor do we think that it could be successfully contended, that the Speech or Debate Clause reaches conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process." Such a prosecution, as the quoted excerpt from *Burton* specifically said, is "not forbidden by the Constitution," but that holding has little relevance to a case, such as this one, involving legislative acts and motives.

The Government, however, cites additional considerations to support the authority of Congress to provide for judicial trials of corrupt members; the press of congressional business, the possibility of politically motivated judgments by fellow members, and the procedural safeguards of a judicial trial are all cited as reasons why Congress should be allowed to transfer the trial of a corrupt member from the House of Congress to the courts. Once again, these are arguments urged and found unpersuasive in *Johnson*. I find them no more persuasive now. I may assume as a general matter that the "Legislative Branch is not so well suited as politically independent judges and juries to the task of ruling upon the blameworthiness of, and levying appropriate punishment upon, specific persons." *United States* v. *Brown*, 381 U.S. 437, 445 (1965). Yet it does not necessarily follow that prosecutors, judges, and juries are better equipped than legislators to make the kinds of political judgments required here. Senators and Congressmen are never entirely free of political pressures, whether from their own constituents or from special interest lobbies. Submission to these pressures, in the hope of political and financial support, or the fear of its withdrawal, is not uncommon, nor is it necessarily unethical.[3] The line between legitimate influence and outright bribe may be more a matter of emphasis than objective fact, and in the end may turn on the trier's view of what was proper in the context of the everyday realities and necessities of political office. Whatever the special competence of the judicial process in other areas, members of Congress themselves are likely to be in the better position to judge the issue of bribery relating to legislative acts. The observation of Mr. Justice Frankfurter bears repeating here: "Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses." *Tenney* v. *Brandhove*, *supra*, at 378.

Nor is the member at the mercy of his colleagues free to adjust as they wish his rights to due process and free expression. It is doubtful, for example, that the Congress could punish a member for the mere expression of unpopular views otherwise protected by the First Amendment. See *Bond* v. *Floyd*, 385 U.S. 116 (1966). And judicial review of the legislative inquiry is not completely foreclosed; the power of the House and Senate to discipline the conduct of members is not exempt from the "restraints imposed by or found in the implications of the Constitution." *Barry* v. *United States ex rel. Cunningham*, 279, U.S. 597, 614 (1929), quoted in *Powell* v. *McCormack*, 395 U.S. 486, 519 n. 40 (1969).

Finally, the Government relies on the history of the Clause to support a congressional power of delegation. While agreeing that the Speech or Debate Clause was a "culmination of a long struggle for parliamentary supremacy" and a reaction against the Crown's use of "criminal and civil law to suppress and intimidate critical legislators," *Johnson*, *supra*, at 178, the Government urges that this is not the whole story. It points out that while a large part of British history was taken up with Parliament's struggles to free itself from royal domination, the balance of power was not always ranged against it. Once Parliament succeeded in asserting rightful dominion over its members and the conduct of its business, Parliament sought to extend its reach into areas and for purposes that can only be labeled an abuse of legislative power. Aware of these abuses, the Framers, the Government submits, did not mean Congress to have exclusive power, but one which, by congressional delegation, might be shared with the Executive and Judicial Departments.

That the Parliamentary privilge was indeed abused is historical fact. By the close of the 17th century Parliament had succeeded in obtaining rights of free speech and debate as well as the power to punish offenses of its members contravening the good order and integrity of its processes. In 1694, five years after incorporation of the Speech or Debate Clause in the English Bill of Rights, Lord Falkland was found guilty in Commons of accepting a bribe of 2,000 pounds from the Crown, and was imprisoned during the pleasure of the House. The Speaker of the House of Commons, Sir John Trevor, was censured for bribery the following year.[4]

But Parliament was not content with mere control over its members' conduct. Independence brought an assertion of absolute power over the definition and reach of institutional privileges. "[T]he House of Commons and the House of Lords claimed absolute and plenary authority over their privileges. This was an independent body of law, described by Coke as *lex parliamenti*. Only Parliament could declare what those privileges were or what new privileges were occasioned, and only Parliament could judge what conduct constituted a breach of privilege." *Watkins* v. *United States*, 354 U.S. 178, 188 (1957). Thus, having established the basic privilege of its members to be free from civil arrest or punishment, the House extended the privilege to its members' servants, and punished trespass on the estates of its members, or theft of their or their servants' goods. The House went so far as to declare its members' servants to be outside the reach of the common law courts during the time that Parliament was sitting. This led to the sale of "protections" providing the named persons were servants of a particular member and should be free from arrest, imprisonment, and molestation during the term of Parlament.[5] These abuses in turn were brought to America. By 1662, for example, the Virginia House of Burgesses had succeeded in exempting not only its members, but their servants as well, from arrest and molestation.[6]

The Government is correct in pointing out that the Framers, aware of these abuses, were determined to guard against them. Madison stated that the "legislative department is everywhere extending the sphere of its ac-

Footnotes at end of article.

tivity, and drawing all power into its impetuous vortex."[7] And Jefferson looked on the "tyranny of the legislatures" as "the most formidable dread at present, and will be for long years."[8] Therefore the Framers refused to adopt the *lex parliamenti*, which would have allowed Congressmen and their servants to enjoy numerous immunities from ordinary legal restraints. But it does not follow that the Framers went further and authorized Congress to transfer discipline of bribe takers to the Judicial Branch. The Government refers us to nothing in the Convention debates or in writings of the Framers that even remotely supports the argument. Indeed there is much in the history of the Clause to point the other way, toward a personalized legislative privilege not subject to defeasance even by a specific congressional delegation to the courts.

The *Johnson* opinion details the history. The Clause was formulated by the Convention's Committee on Style which phrased it by revising Article V of the Articles of Confederation which had provided: "Freedom of speech and debate in Congress shall not be impeached or questioned *in any court*, or place out of Congress." (Emphasis supplied.) This wording derived in turn from the provision of the English Bill of Rights of 1689 that "Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned *in any Court or Place out of Parliament*." (Emphasis supplied.) The same wording, or variations of it, appeared in state constitutions. Article VIII of the Maryland Declaration of Rights (1776) declared that legislative freedom "ought not to be impeached or questioned in any other court or judicature." The Massachusetts Bill of Rights (Article XXI, 1780) provided that the "freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever." The New Hampshire Constitution (Article XXX, 1784) contained a provision virtually identical to Massachusetts'. In short "[f]reedom of speech and action in the legislature was taken as a matter of course by those who severed the Colonies from the Crown and founded our Nation." *Tenney* v. *Brandhove*, 341 U. S., at 372.

Despite his fear of "legislative excess," *Tenney* v. *Brandhove*, *supra*, at 375, Jefferson, when confronted with criticism of certain Congressmen by the Richmond, Virginia, grand jury, said:

"[T]hat in order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive." 8 The Works of Thomas Jefferson 322 (Ford ed. 1904).

Jefferson's point of view was shared by his contemporaries[9] and found judicial expression as early as 1808, in the *Coffin* opinion, *supra*. It was there stated:

"In considering this article, it appears to me that the privilege secured by it is not so much the privilege of the house as an organized body, as of each individual member composing it, who is entitled to this privilege, *even against the declared will of the house*. For he does not hold this privilege at the pleasure of the house; but derives it from the will of the people, expressed in the constitution, which is paramount to the will of either or both branches of the legislature. In this respect the privilege here secured resembles other privileges attached to each member by another part of the constitution, by which he is exempted from arrests on *mesne* (or original) process, during his going to, returning from, or attending the general court. Of these privileges, thus secured to each member, he cannot be deprived, by a resolve of the house, or by an act of the legislature." 4 Mass., at 27. (Emphasis supplied.)

In short, if the Framers contemplated judicial inquiry into legislative acts, even on the specific authorization of Congress, that intent is not reflected in the language of the Speech or Debate Clause or contemporary understanding of legislative privilege. History certainly shows that the Framers feared unbridled legislative power. That fact, however, yields no basis for an interpretation that in Article I, §§ 1 and 8, the Framers authorized Congress to ignore the prohibition against inquiry in "any other place" and enact a statute either of general application or specifically providing for a trial in the courts of a member who takes a bribe for conduct related to legislative acts.[10]

III

I yield nothing to the Court in conviction that this reprehensible and outrageous conduct, if committed by the Senator, should not have gone unpunished. But whether a court or only the Senate might undertake the task is a constitutional issue of portentous significance which must of course be resolved uninfluenced by the magnitude of the perfidy alleged. It is no answer that Congress assigned the task to the judiciary in enacting 18 U.S.C. § 201. Our duty is to Nation and Constitution not Congress. We are guilty of a grave disservice to both Nation and Constitution when we permit Congress to shirk its responsibility in favor of the courts. The Framers' judgment was that the American people could have a Congress of independence and integrity only if alleged misbehavior in the performance of legislative functions was accountable solely to a member's own House and never to the executive or judiciary. The passing years have amply justified the wisdom of that judgment. It is the Court's duty to enforce the letter of the Speech or Debate Clause in that spirit. We did so in deciding *Johnson*. In turning its back on that decision today, the Court arrogates to the judiciary an authority committed by the Constitution, in Senator Brewster's case, exclusively to the Senate of the United States. Yet the Court provides no principled justification, and I can think of none, for its denial that *United States* v. *Johnson* compels affirmance of the District Court. That decision is only six years old and bears the indelible imprint of the distinguished constitutional scholar who wrote the opinion for the Court. *Johnson* surely merited a longer life.

FOOTNOTES

[1] Although the Court does not reach this issue, it adopts many of the Government's arguments to show that the Speech or Debate Clause is or should be wholly inapplicable to this case. My disagreement with these contentions applies equally to their use by the Court in support of its position.

[2] See n. 4, *infra*, and accompanying text.

[3] Cf. Conflict of Interest and Federal Service, Association of the Bar of the City of New York 14–15 (1960):

"The congressman's representative status lies at the heart of the matter. As a representative, he is often supposed to represent a particular economic group, and in many instances his own economic self-interest is closely tied to that group. That is precisely why it selected him. It is common to talk of the Farm Bloc, or the Silver Senators. We would think odd a fishing state congressman who was not mindful of the interests of the fishing industry—though he may be in the fishing business himself, and though his campaign funds come in part from this source. This kind of representation is considered inevitable, and, indeed, generally applauded. Sterile application of an abstract rule against acting in situations involving self-interest would prevent the farmer senator from voting on farm legislation or the Negro congressman from speaking on civil rights bills. At some point a purist attitude toward the evils of conflict of interest in Congress runs afoul of the basic premises of American representative government."

[4] Luce, Legislative Assemblies 401–402 (1924). Another notable instance was that of Robert Walpole, who in 1711 was expelled and imprisoned by the House on charges of corruption. Tasswell-Langmead, English Constitutional History 583–584 (11th ed., Plucknett, 1960).

[5] Wittke, The History of English Parliamentary Privilege 39–47 (1921); Tasswell-Langmead, English Constitutional History 580 (11th ed., Plucknett, 1960). The abuse of the privilege lay as much in its arbitrary contraction as extension. In 1763 the House of Commons reacted angrily to a tract written by one of its own members, John Wilkes, and withdrew the privilege from him in order to permit his prosecution for seditious libel. The House also expelled Wilkes, and he fled to France as an outlaw. Upon his return to England in 1768, he was re-elected to Parliament, again expelled, tried for seditious libel, and sentenced to 22 months imprisonment. The House refused to seat him on three further occasions, and it was not until 1782 that the resolutions expelling Wilkes and declaring him incapable of re-election were expunged from the records of the House. Tasswell-Langmead, *supra*, at 584–585; *Powell* v. *McCormack*, 395 U.S. 486, 527–528 (1969).

[6] Clarke, Parliamentary Privilege in the American Colonies 99 (1943).

[7] The Federalist No. 48.

[8] *Tenney* v. *Brandhove*, 341 U.S. 367, 375 n. 4 (1951).

[9] James Wilson, a member of the Convention committee responsible for the Clause, stated: "In order to enable and encourage a representative of the publick to discharge his publick trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offence." I The Works of James Wilson 421 (McCloskey ed. 1967).

[10] While it is true that Congress has made the acceptance of a bribe a crime ever since 1853, it should be noted that the earliest federal bribery statute, passed by Congress in 1790, applied only to judges who took bribes in exchange for an "opinion, judgment or decree." Act of April 30, 1790, 1 Stat. 112, 117. It also appears that the common law did not recognize the charge of bribe-taking by a legislator. Blackstone, for example, defined bribery as "when a judge, or other person concerned in the administration of justice, takes any undue reward to influence his behaviour in his office." 4 Blackstone's Commentaries 139. Coke also regarded bribery as a crime committed by judges. Coke, 3d Inst. 145.

UNITED STATES AGAINST BREWSTER

(Mr. Justice White, with whom Mr. Justice Douglas and Mr. Justice Brennan join, dissenting)

The question presented by this case is not whether bribery or other offensive conduct on the part of Members of Congress must or should go unpunished. No one suggests that the Speech or Debate Clause insulates Senators and Congressmen from accountability for their misdeeds. Indeed, the clause itself is but one of several constitutional provisions which makes clear that Congress has broad powers to try and punish its Members:

"The Constitution expressly empowers each House to punish its own members for disorderly behavior. We see no reason to doubt that this punishment may in a proper case

be imprisonment, and that it may be for refusal to obey some rule on that subject made by the House for the preservation of order.

"So, also, the penalty which each House is authorized to inflict in order to compel the attendance of absent members may be imprisonment, and this may be for a violation of some order or standing rule on that subject.

"Each House is by the Constitution made the judge of the election and qualification of its members. In deciding on these it has an undoubted right to examine witnesses and inspect papers, subject to the usual rights of witnesses in such cases; and it may be that a witness would be subject to like punishment at the hands of the body engaged in trying a contested election, for refusing to testify, that he would if the case were pending before a court of judicature.

"The House of Representatives has the sole right to impeach officers of the government, and the Senate to try them. Where the question of such impeachment is before either body acting in its appropriate sphere on that subject, we see no reason to doubt the right to compel the attendance of witnesses, and their answer to proper questions, in the same manner and by the use of the same means that courts of justice can in like cases." *Kilbourn* v. *Thompson*, 103 U.S. 168, 189–190 (1881).

The sole issue here is in what forum the accounting must take place—whether the prosecution which the Government proposes is consistent with the command that "for any Speech or Debate in either House, they [Members of Congress] shall not be questioned in any other Place." U.S. Constitution, Art. I, § 6, cl. 2.

The majority disposes of this issue by distinguishing between promise and performance. Even if a Senator or Congressman may not be prosecuted for a corrupt legislative act, the Speech or Debate Clause does not prohibit prosecution for a corrupt promise to perform that act. If a Member of Congress promises to vote for or against a bill in return for money, casts his vote in accordance with the promise and accepts payment, the majority's view is that even though he may not be prosecuted for voting as he did, although the vote was corrupt, the executive may prosecute and the judiciary may try him for the corrupt agreement or for taking the money either under a narrowly drawn statute or one of general application. This distinction between a promise and an act will not withstand scrutiny in terms of the values which the speech or Debate Clause was designed to secure.

The majority agrees that in order to assure the independence and integrity of the legislature and to reinforce the separation of powers so deliberately established by the founders, the Speech or Debate Clause prevents a legislative act from being the basis of criminal or civil liability. Concededly, a Member of Congress may not be prosecuted or sued for making a speech or voting in committee or on the floor, whether he was paid to do so or not. The majority also appears to embrace the holding in *United States* v. *Johnson*, 383 U.S. 169 (1966), that a Member of Congress could not be convicted of a conspiracy to defraud the Government where the purposes or motives underlying his conduct as a legislator are called into question.

If one follows the mode of the majority's present analysis, the prosecution in *Johnson* was not for speaking, voting or performing any other legislative act in a particular manner; the criminal act charged was a conspiracy to defraud the United States anterior to any legislative performance. To prove the crime, however, the prosecution introduced evidence that money was paid to make a speech, among other things, and that the speech was made. This, the Court held, violated the Speech or Debate Clause, because it called into question the motives and purposes underlying Congressman Johnson's performance of his legislative duties.

The same infirmity inheres in the present indictment, which was founded upon two separate statutes. 18 U.S.C. § 201(g) requires proof of a defendant's receipt or an agreement or attempt to receive anything of value "for or because of any official act performed, or to be performed, by him . . . ." Of course, not all, or even many, official acts would be legislative acts protected by the Speech or Debate Clause; but whatever the act, the Government must identify it to prove its case. Here we are left in no doubt whatsoever, for the official acts expressly charged in the indictment were in respect to "his action, vote and decision on postal rate legislation."

Similarly, there is no basis for arguing that the indictment did not contemplate proof of performance of the act, for the indictment in so many words charged the arrangement was "for and because of official acts *performed* by him in respect to his action, vote and decision on postal rate legislation which *had been pending* before him in his official capacity." (Emphasis added.) It is this indictment, not some other charge, that was challenged and dismissed by the District Court. Like that court I would take the Government at its word: it alleged and intended to prove facts that questioned and impugned the motives and purposes underlying specified legislative acts of the Senator and intended to use these facts as a basis for the conviction of the Senator himself.

Thus, taking the charge at face value, the indictment represents an attempt to prosecute and convict a Member of Congress not only for taking money but *for* performing a legislative act. Moreover, whatever the proof might be, the indictment on its face charged a corrupt undertaking with respect to the performance of legislative conduct that had already occurred and so, without more, "questioned in [some] other Place" the speech and debate of a Member of Congress. Such a charge is precisely the kind that the Senator should not have been called upon to answer if the Speech or Debate Clause is to fulfill its stated purpose.

Insofar as it charged crimes under 18 U.S.C. § 201(c)(1), the indictment fares little better. That section requires proof of a corrupt arrangement for the receipt of money and also proof that the arrangement was in return for the defendant "being influenced in his performance of any official act . . . ." Whatever the official act may prove to be, the Government cannot prove its case without calling into question the motives of the Member in performing that act, for it must prove that the Member undertook for money to be influenced in that performance.

Clearly if the Government sought to prove its case against a Member of Congress by evidence of a legislative act, conviction could not survive in the face of the holding in *Johnson*. But even if an offense under the statute could be established merely by proof of an undertaking to cast a vote, which is not alleged in the indictment or shown at trial to have taken place one way or the other, the motives of the legislator in performing his duties with respect to the subject matter of the undertaking would nevertheless inevitably be impugned. In charging the offense under § 201 (c)(1), the indictment alleged a corrupt arrangement made "in return for being influenced in his performance of official acts in respect to his action, vote and decision on postal legislation which might at any time be pending before him in his official capacity." Again, I would take the Government at its word: it charged and intended to prove facts that could not fail to impugn Senator Brewster's performance of his legislative duties.[1]

The use of criminal charges "against critical or disfavored legislators by the executive in a judicial forum was the chief fear prompting the long struggle for parliamentary privilege," *United States* v. *Johnson*, 383 U.S. 169, 182 (1966), and in applying the privilege "we look particularly to the prophylactic purposes of the clause." *Ibid.* Let us suppose that the Executive Branch is informed that private interests are paying a Member of Congress to oppose administration-sponsored legislation. The Congressman is chairman of a key committee where a vote is pending. A representative from the Executive department informs the Congressman of the allegations against him, hopes the charges are not true and expresses confidence that the committee will report the bill and that the Member will support it on the floor. The pressure on the Congressmen, corrupt or not, is undeniable. He will clearly fare better in any future criminal prosecution if he answers the charge of corruption with evidence that he voted contrary to the alleged bargain.

Even more compelling is the likelihood that he will not be prosecuted at all if he follows the administration's suggestion and supports the bill. Putting aside the potential for abuse in ill-conceived, mistaken or false accusations, the Speech or Debate Clause was designed to prevent just such an exercise of Executive power. It is no answer to maintain that the potential for abuse does not inhere in a prosecution for a completed bribery transaction where the legislative act has already occurred. A corrupt vote may not be made the object of a criminal prosecution because otherwise the Executive would be armed with power to control the vote in question, if forewarned, or in any event to control other legislative conduct.

All of this comes to naught if the executive may prosecute for a promise to vote though not for the vote itself. The same hazards to legislative independence inhere in the two prosecutions. Bribery is most often carried out by prearrangement; if that part of the transaction may be plucked from its context and made the basis of criminal charges, the Speech or Debate Clause loses its force. It will be small comfort for a Congressman to know that he cannot be prosecuted for his vote, whether it may be, but he can be prosecuted for an alleged agreement even if he votes contrary to the asserted bargain.

The realities of the American political system, of which the majority fails to take account, render particularly illusory a Speech or Debate Clause distinction between a promise to perform a legislative act and the act itself. Ours is a representative government. Candidates for office engage in heated contests and the victor is he who receives the greatest number of votes from his constituents. These campaigns are run on platforms which include statements of intention and undertakings to promote certain policies. These promises are geared, at least in part, to the interests of the Congressman's constituency. Members of Congress may be legally free from dictation by the voters, but there is a residual conviction that they should have due regard for the interests of their States or districts, if only because on election day a Member is answerable for his conduct.

Serving constituents is a crucial part of a legislator's ongoing duties. Congressmen receive a constant stream of complaints and requests for help or service. Judged by the

[1] In *Gravel* v. *United States*, *ante*, at ——, it is held that the Speech or Debate Clause does not immunize criminal acts performed in preparation for or execution of a legislative act. But the unprotected acts referred to there were criminal in themselves, provable without reference to a legislative act and without putting the defendant member to the task of defending the integrity of his legislative performance. Here, as stated, the crime charged necessarily implicates the Member's legislative duties.

volume and content of a Congressman's mail, the right to petition is neither theoretical nor ignored. It has never been thought unethical for a Member of Congress whose performance on the job may determine the success of his next campaign not only to listen to the petitions of interest groups in his State or district, which may come from every conceivable group of people, but also to support or oppose legislation serving or threatening those interests.

Against this background a second fact of American political life assumes considerable importance for the purposes of this case. Congressional campaigns are most often financed with contributions from those interested in supporting particular Congressmen and their policies. A legislator must maintain a working relationship with his constituents not only to garner votes to maintain his office but to generate financial support for his campaigns. He must also keep in mind the potential effect of his conduct upon those from whom he has received financial support in the past and those whose help he expects or hopes to have in the next campaign. An expectation or hope of future assistance can arise because constituents have indicated that support will be forthcoming if the Member of Congress champions their point of view. Financial support may also arrive later from those who approve of a Congressman's conduct and have an expectation it will continue. Thus, mutuality of support between legislator and constituent is inevitable. Constituent contributions to a Congressman and his support of constituent interests will repeatedly coincide in time or closely follow one another. It will be the rare Congressman who never accepts campaign contributions from persons or interests whose view he has supported, or will support, by speech making, voting or bargaining with fellow legislators.

All of this, or most of it, may be wholly within the law and consistent with contemporary standards of political ethics. Nevertheless, the opportunities for an executive, in whose sole discretion the decision to prosecute rests under the statute before us, to claim that legislative conduct has been sold are obvious and undeniable. These opportunities, inherent in the political process as it now exists, create an enormous potential for executive control of legislative behavior by threats or suggestions of criminal prosecution—precisely the evil which the Speech or Debate Clause was designed to prevent.

Neither the majority opinion nor the statute under which Brewster is charged distinguishes between campaign contributions and payments designed for or put to personal use. To arm the executive with the power to prosecute for taking political contributions in return for an agreement to introduce or support particular legislation or policies is to vest enormous leverage in the executive and the courts. Members of Congress may find themselves in the dilemma of being forced to conduct themselves contrary to the interests of those who provide financial support or declining that support. They may also feel constrained to listen less often to the entreaties and demands of potential contributors. The threat of prosecution for supposed missteps which are difficult to define and fall close to the line of what ordinarily is considered permissible, even necessary, conduct scarcely ensures that legislative independence which is the root of the Speech and Debate Clause.

Even if the statute and this indictment were deemed limited to payments clearly destined for or actually put to personal use in exchange for a promise to perform a legislative act, the Speech and Debate Clause would still be offended. The potential for executive harassment is not diminished merely because the conduct made criminal is more clearly defined. A Member of Congress becomes vulnerable to abuse each time he makes a promise to a constituent on a matter over which he has some degree of legislative power, and the possibility of harassment can inhibit his exercise of power as well as his relations with constituents.

In addition, such a prosecution presents the difficulty of defining when money obtained by a legislator is destined for or has been put to personal use. For the legislator who uses both personal funds and campaign contributions to maintain himself in office the choice of which to draw upon may have more to do with bookkeeping than bribery yet any interchange of funds would certainly render his conduct suspect. Even those Members of Congress who keep separate accounts for campaign contributions but retain unrestricted drawing rights would remain open to a charge that the money was in fact for personal use. In both cases the possibility of a bribery prosecution presents the problem of determining exactly those purposes for which campaign contributions can legitimately be used. The difficulty of drawing workable lines enhances the prospects for Executive control and correspondingly diminishes congressional freedom of action.

The majority does not deny the potential for executive control which inheres in sanctioning this prosecution. Instead, it purports to define the problem away by asserting that the Speech or Debate Clause reaches only prosecutions for legislative conduct and that a promise to vote for a bill, as distinguished from the vote itself, does not amount to a legislative act. The implication is that a prosecution based upon a corrupt promise no more offends the Speech or Debate Clause than the prosecution of a Congressman for assault, robbery or murder. The power to prosecute may threaten legislative independence but the Constitution does not for that reason forbid it. I find this unpersuasive.

The fact that the executive may prosecute members of Congress for ordinary criminal conduct, which surely it can despite the potential for influencing legislative conduct, cannot itself demonstrate that prosecutions for corrupt promises to perform legislative acts would be equally constitutional. The argument proves too much, for it would as surely authorize prosecutions for the legislative act itself. Moreover, there is a fundamental difference in terms of potential abuse between prosecutions for ordinary crime and those based upon a promise to perform a legislative act. Even the most vocal detractor of Congress could not accurately maintain that the executive would often have credible basis for accusing a member of Congress of murder, theft, rape or other such crimes. But the prospects for asserting an arguably valid claim are far wider in scope for an executive prone to fish in legislative waters and to search for correlations between legislative performance and financial support. The possibilities are indeed endless, as is the potential for abuse.

The majority ignores another vital difference between executive authority to prosecute for ordinary crime and the power to challenge undertakings or conspiracies to corrupt the legislative process. In a prosecution for drunken driving or assault, the manner in which a Congressman performed his legislative tasks is quite irrelevant to either prosecution or defense. In the trial of a Congressman for making a corrupt promise to vote, on the other hand, proof that this vote was in fact contrary to the terms of the alleged bargain will make a strong defense. Cf. *United States* v. *Johnson*, 383 U.S. 169, 176–177 (1966). A Congressman who knows he is under investigation for a corrupt undertaking will be well advised to conduct his affairs in a manner wholly at odds with the theory of the charge which may be lodged against him. As a practical matter, to prosecute a Congressman for agreeing to accept money in exchange for a promise to perform a legislative act inherently implicates legislative conduct. And to divine a distinction between promise and performance is wholly at odds with protecting that legislative independence which is the heart of the Speech and Debate Clause.

Congress itself clearly did not make the distinction which the majority finds dispositive. The statute before us is a comprehensive effort to sanitize the legislative environment. It expressly permits prosecutions of members of Congress for voting or promising to vote in exchange for money. The statute does not concern itself with murder or other undertakings unrelated to the legislative process. Congress no doubt believed it consistent with the Speech or Debate Clause to authorize executive prosecutions for corrupt voting. Equally obvious is the fact that Congress drew no distinction in legislative terms between prosecutions based upon voting and those based upon motivations underlying legislative conduct.

The arguments which the majority now embraces were the very contentions which the Government made in *United States* v. *Johnson*, 383 U.S. 169 (1966). In rejecting those arguments on the facts of that case, where legislative conduct as well as prior conspiracy formed a major part of the Government's proof, the Court referred with approval to *Ex parte Wason*, [1869] 4 Q. B. 573, in which the question was whether members of the House of Lords could be prosecuted for a conspiracy to prevent presentation of a petition on the floor of Lords. Johnson, *id.*, at 183, sets out the reaction of the English court:

"The court denied the motion, stating that statements made in the House 'could not be made the foundation of civil or criminal proceedings. . . . And a conspiracy to make such statements would not make the person guilty of it amenable to the criminal law.' *Id.*, at 576 (Cockburn, C. J.). Mr. Justice Lush added, 'I am clearly of opinion that we ought not to allow it to be doubted for a moment that the motives or intentions of members of either House cannot be inquired into by criminal proceedings with respect to anything they may do or say in the House.' *Id.*, at 577."

The *Wason* court clearly refused to distinguish between promise and performance; the legislative privilege applied to both. Mr. Justice Harlan, writing for the Court in *Johnson*, took no issue with this position. Indeed, he indicated that the Speech or Debate Clause barred any prosecution under a general statute where there is drawn in question "the legislative acts of . . . the member of Congress *or his motives for performing them*." 383 U. S., at 185 (emphasis added). I find it difficult to believe that under the statute there involved the *Johnson* Court would have permitted a prosecution based upon a promise to perform a legislative act.

Because it gives a begrudging interpretation to the clause, the majority finds it can avoid dealing with the position upon which the Government placed principal reliance in its brief in this Court. *Johnson* put aside the question whether an otherwise impermissible prosecution conducted pursuant to a statute such as we now have before us—a statute specifically including congressional conduct and purporting to be an exercise of congressional power to discipline its Members—would be consistent with the Speech or Debate Clause. As must be apparent from what so far has been said, I am convinced that such a statute contravenes the letter and purpose of the Clause. True, Congress itself has defined the crime and specifically delegated to the executive the discretion to prosecute and to the courts the power to try. Nonetheless, I fail to understand how a majority of Congress can bind an objecting Congressman to a course so clearly at odds with the constitutional command that legislative conduct shall be subject to question

in no place other than the Senate or House of Representatives. The Speech or Debate Clause is an allocation of power. It authorizes Congress to call offending members to account in their appropriate Houses. A statute which represents an abdication of that power is in my view impermissible.

I return to the beginning. The Speech or Debate Clause does not immunize corrupt Congressmen. It reserves the power to discipline in the Houses of Congress. I would insist that those Houses develop their own institutions and procedures for dealing with those in their midst who would prostitute the legislative process.

GRAVEL AGAINST UNITED STATES

(Certiorari to the United States Court of Appeals for the First Circuit; No. 71–1017. Argued April 19–20, 1972—Decided June 29, 1972*)

A United States Senator read to a subcommittee from classified documents (the Pentagon Papers), which he then placed in the public record. The press reported that the Senator had arranged for private publication of the Papers. A grand jury investigating whether violations of federal law were implicated, subpoenaed an aide to the Senator. The Senator, as an intervenor, moved to quash the subpoena, contending that it would violate the Speech or Debate Clause to compel the aide to testify. The District Court denied the motion but limited the questioning of the aide. The Court of Appeals affirmed the denial but modified the protective order, ruling that congressional aides and other persons may not be questioned regarding legislative acts and that, though the private publication was not constitutionally protected, a common-law privilege similar to the privilege of protecting executive officials from liability for libel, see *Barr* v. *Matteo*, 360 U. S. 564, barred questioning the aide concerning such publication. *Held:*

1. The Speech or Debate Clause applies not only to a Member of Congress but also to his aide, insofar as the aide's conduct would be a protected legislative act if performed by the Member himself. *Kilbourn* v. *Thompson*, 103 U. S. 168; *Dombrowski* v. *Eastland*, 387 U. S. 82; and *Powell* v. *McCormack*, 395 U.S. 486, distinguished. Pp. 7–15.

2. The Speech or Debate Clause does not extend immunity to the Senator's aide from testifying before the grand jury about the alleged arrangement for private publication of the Pentagon Papers, as such publication had no connection with the legislative process. Pp. 15–20.

3. The aide, similarly, had no nonconstitutional testimonial privilege from being questioned by the grand jury in connection with its inquiry into whether private publication of the Papers violated federal law. P. 20.

4. The Court of Appeals' protective order was overly broad in enjoining interrogation of the aide with respect to any act, "in the broadest sense," that he performed within the scope of his employment, since the aide's immunity extended only to legislative acts as to which the Senator would be immune. And the aide may be questioned by the grand jury about the source of classified documents in the Senator's possession, as long as the questioning implicates no legislative act. The order in other respects would suffice if it forbade questioning the aide or others about the conduct or motives of the Senator or his aides at the subcommittee meeting; communications between the Senator and his aides relating to that meeting or any legislative act of the Senator; or steps of the Senator or his aides preparatory for the meeting, if not relevant to third-party crimes. Pp. 20–22.

WHITE, J., wrote the opinion of the Court, in which BURGER, C. J., and BLACKMUN, POWELL, and REHNQUIST, JJ., joined. STEWART, J., filed an opinion dissenting in part. DOUGLAS, J., filed a dissenting opinion. BRENNAN, J., filed a dissenting opinion, in which DOUGLAS and MARSHALL, JJ., joined.

GRAVEL AGAINST THE UNITED STATES

(Opinion of the Court by Mr. Justice White, announced by Mr. Justice Blackmun)

These cases arise out of the investigation by a federal grand jury into possible criminal conduct with respect to the release and publication of a classified Defense Department study entitled "History of the United States Decision-Making Process on Viet Nam Policy." This document, popularly known as the "Pentagon Papers," bore a Defense security classification of Top Secret-Sensitive. The crimes being investigated included the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371).

Among the witnesses subpoenaed were Leonard S. Rodberg, an assistant to Senator Mike Gravel of Alaska and a resident fellow at the Institute of Policy Studies, and Howard Webber, Director of M.I.T. Press. Senator Gravel, as intervenor,[1] filed motions to quash the subpoenas and to require the Government to specify the particular questions to be addressed to Rodberg.[2] He asserted that requiring these witnesses to appear and testify would violate his privilege under the Speech or Debate Clause of the United States Constitution, Art. I, § 6, cl. 1.

It appeared that on the night of June 29, 1971, Senator Gravel, as Chairman of the Subcommittee on Buildings and Grounds of the Senate Public Works Committee, convened a meeting of the subcommittee and there read extensively from a copy of the Pentagon Papers.

He then placed the entire 47 volumes of the study in the public record. Rodberg had been added to the Senator's staff earlier in the day and assisted Gravel in preparing for and conducting the hearing.[3] Some weeks later there were press reports that Gravel had arranged for the papers to be published by Beacon Press[4] and that members of Gravel's staff had talked with Webber as editor of M. I. T. Press.[5]

The District Court overruled the motions to quash and to specify questions but entered an order proscribing certain categories of questions. *United States* v. *Doe*, 332 F. Supp. 930 (Mass. 1971). The Government's contention that for purposes of applying the Speech or Debate Clause the courts were free to inquire into the regularity of the subcommittee meeting was rejected.[6] Because the Clause protected all legislative acts, it was held to shield from inquiry anything the Senator did at the subcommittee meeting and "certain acts done in preparation therefor." *Id.*, at 935. The Senator's privilege also prohibited "inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally." *Id.*, at 937–938.[7] The trial court, however, held the private republication of the documents was not privileged by the Speech or Debate Clause.[8]

The Court of Appeals affirmed the denial of the motions to quash but modified the protective order to reflect its own views of the scope of the congressional privilege. *United States* v. *Doe*, 455 F. 2d 753 (CA1 1972). Agreeing that Senator and aide were one for the purposes of the Speech or Debate Clause and that the Clause foreclosed inquiry of both Senator and aide with respect to legislative acts, the Court of Appeals also viewed the privilege as barring direct inquiry of the Senator or his aide, but not of third parties, as to the sources of the Senator's information used in performing legislative duties.[9] Although it did not consider private republication by the Senator or Beacon Press to be protected by the Constitution, the Court of Appeals apparently held that neither Senator nor aide could be questioned about it because of a common law privilege akin to the judicially created immunity of executive officers from liability for libel contained in a news release issued in the course of their normal duties. See *Barr* v. *Matteo*, 360 U.S. 564 (1959). This privilege, fashioned by the Court of Appeals, would not protect third parties from similar inquiries before the grand jury. As modified by the Court of Appeals, the protective order to be observed by prosecution and grand jury was:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommmittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions in the broadest sense, including observations and communications, oral or written, by or to him or coming to his attention while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment."

The United States petitioned for certiorari challenging the ruling that aides and other persons may not be questioned with respect to legislative acts and that an aide to a Member of Congress has a common-law privilege not to testify before a grand jury with respect to private republication of materials introduced into a subcommittee record. Senator Gravel also petitioned for certiorari seeking reversal of the Court of Appeals insofar as it held private republication unprotected by the Speech or Debate Clause and asserting that the protective order of the Court of Appeals too narrowly protected against inquiries that a grand jury could direct to third parties. We granted both petitions. 405 U. S. 916 (1972).

I

Because the claim is that a Member's aide shares the Member's constitutional privilege, we consider first whether and to what extent Senator Gravel himself is exempt from process or inquiry by a grand jury investigating the commission of a crime. Our frame of reference is Art. I, § 6, cl. 1, of the Constitution:

"The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place."

The last sentence of the clause provides Members of Congress with two distinct privileges. Except in cases of "Treason, Felony and Breach of the Peace," the clause shields Members from arrest while attending or

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*Together with No. 71–1026, *United States* v. *Gravel*, also on certiorari to the same court.

Footnotes at end of article.

traveling to and from a session of their House. History reveals, and prior cases so hold, that this part of the clause exempts Members from arrest in civil cases only. "When the Constitution was adopted, arrests in civil suits were still common in America. It is only to such arrests that the provision applies." *Long* v. *Ansell*, 293 U.S. 76, 83 (1934) (footnote omitted). "Since . . . the terms treason, felony and breach of the peace, as used in the constitutional provision relied upon, excepts from the operation of privilege all criminal offenses, the conclusion results that the claim of privilege of exemption from arrest and sentence was without merit . . . ." *Williamson* v. *United States*, 207 U. S. 425, 446 (1908).[10] Nor does freedom from arrest confer immunity on a Member from service of process as a defendant in civil matters, *Long* v. *Ansell*, supra, at 82–83, or as a witness in a criminal case. "The constitution gives to every man, charged with an offense, the benefit of compulsory process, to secure the attendance of his witnesses. I do not know of any privilege to exempt members of congress from the service, or the obligations, of a *subpoena*, in such cases." *United States* v. *Cooper*, 4 Dall. 341 (1800) (per Chase, J., sitting on Circuit). It is, therefore, sufficiently plain that the constitutional freedom from arrest does not exempt Members of Congress from the operation of the ordinary criminal laws, even though imprisonment may prevent or interfere with the performance of their duties as Members. *Williamson* v. *United States, supra;* cf. *Burton* v. *United States*, 202 U. S. 344 (1906). Indeed, implicit in the narrow scope of the privilege of freedom from arrest is, as Jefferson noted, the judgment that legislators ought not to stand above the law they create but ought generally to be bound by it as are ordinary persons. Jefferson, Manual of Parliamentary Practice, S. Doc. No. 91–2 437 (1971).

In recognition, no doubt, of the force of this part of Clause 6, Senator Gravel disavows any assertion of general immunity from the criminal law. But he points out that the last portion of Clause 6 affords Members of Congress another vital privilege—they may not be questioned in any other place for any speech or debate in either House. The claim is not that while one part of Clause 6 generally permits prosecutions for treason, felony and breach of the peace, another part nevertheless broadly forbids them. Rather, his insistence is that the Speech or Debate Clause at the very least protects him from criminal or civil liability and from questioning elsewhere than in the Senate, with respect to the events occurring at the subcommittee hearing at which the Pentagon Papers were introduced into the public record. To us this claim is incontrovertible. The Speech or Debate Clause was designed to assure a coequal branch of the government wide freedom of speech, debate and deliberation without intimidation or threats from the Executive Branch. It thus protects Members against prosecutions that directly impinge upon or threaten the legislative process. We have no doubt that Senator Gravel may not be made to answer—either in terms of questions or in terms of defending himself from prosecution—for the events that occurred at the subcommittee meeting. Our decision is made easier by the fact that the United States appears to have abandoned whatever position it took to the contrary in the lower courts.

Even so, the United States strongly urges that because the Speech or Debate Clause confers a privilege only upon "Senators and Representatives," Rodberg himself has no valid claim to constitutional immunity from grand jury inquiry. In our view, both courts below correctly rejected this position. We agree with the Court of Appeals that for the purpose of construing the privilege a Member and his aide are to be "treated as one," *United States* v. *Doe*, 455 F. 2d 753, 761 (CA1 1972); or, as the District Court put it: The "Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged if performed by the Senator personally." *United States* v. *Doe*, 332 F. Supp. 930, 937–938 (Mass. 1971). Both courts recognized what the Senate of the United States urgently presses here: that it is literally impossible, in view of the complexities of the modern legislative process, with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks without the help of aides and assistants; that the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latters' alter ego; and that if they are not so recognized, the central role of the Speech or Debate Clause—to prevent intimidation of legislators by the executive and accountability before a possibly hostile judiciary, *United States* v. *Johnson*, 383 U.S. 169, 181 (1966)—will inevitably be diminished and frustrated.

The Court has already embraced similar views in *Barr* v. *Matteo*, 360 U.S. 564 (1959), where in immunizing the Acting Director of the Office of Rent Stabilization from liability for an alleged libel contained in a press release, the Court held that the executive privilege recognized in prior cases could not be restricted to those of cabinet rank. As stated by Mr. Justice Harlan, the "privilege is not a badge or emolument of exalted office, but an expression of a policy designed to aid in the effective functioning of government. The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy." *Id.*, at 572–573 (footnote omitted).

It is true that the clause itself mentions only "Senators and Representatives," but prior cases have plainly not taken a literalistic approach in applying the privilege. The clause also speaks only of "Speech or Debate," but the Court's consistent approach has been that to confine the protection of the Speech or Debate Clause to words spoken in debate would be an unacceptably narrow view. Committee reports, resolutions, and the act of voting are equally covered; "[i]n short, . . . things generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson*, 103 U.S. 168, 204 (1881), quoted with approval in *United States* v. *Johnson*, 383 U.S. 169, 179 (1966). Rather than giving the clause a cramped construction, the Court has sought to implement its fundamental purpose of freeing the legislator from executive and judicial oversight that realistically threaten to control his conduct as a legislator. We have little doubt that we are neither exceeding our judicial powers nor mistakenly construing the Constitution by holding that the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself.

Nor can we agree with the United States that our conclusion is foreclosed by *Kilburn* v. *Thompson, supra, Dombrowski* v. *Eastland*, 387 U.S. 82 (1967), and *Powell* v. *McCormack*, 395 U.S. 486 (1969), where the speech or debate privilege was held unavailable to certain House and committee employees. Those cases do not hold that persons other than Members of Congress are beyond the protection of the clause when they perform or aid in the performance of legislative acts. In *Kilbourn*, the Speech or Debate Clause protected House Members who had adopted a resolution authorizing Kilbourn's arrest; that act was clearly legislative in nature. But the resolution was subject to judicial review insofar as its execution impinged on a citizen's rights as it did there. That the House could with impunity order an unconstitutional arrest afforded no protection for those who made the arrest. The Court quoted with approval from *Stockdale* v. *Hansard*, 9 Ad. & E. 1, 112 K.B. 1112 (1839): " 'So if the Speaker by authority of the House order an illegal act, though that authority shall exempt him from question, his order shall no more justify the person who executed it than King Charles' warrant for levying ship-money could justify his revenue officer,' " 103 U.S., at 202.[11] The Speech or Debate Clause could not be construed to immunize an illegal arrest even though directed by an immune legislative act. The Court was careful to point out that the Members themselves were not implicated in the actual arrest, *id.*, at 200, and, significantly enough, reserved the question whether there might be circumstances in which "there may . . . be things done, *in the one House or the other*, of an extraordinary character, for which the members who take part in the act may be held legally responsible." 103 U.S., at 204 (emphasis added).

Dombrowski v. *Eastland, supra*, is little different in principle. The Speech or Debate Clause there protected a Senator, who was also a subcommittee chairman, but not the subcommittee counsel. The record contained no evidence of the Senator's involvement in any activity that could result in liability, 387 U.S., at 84, whereas the committee counsel was charged with conspiring with state officials to carry out an illegal seizure of records which the committee sought for its own proceedings. *Ibid.* The committee counsel was deemed protected to some extent by legislative privilege, but it did not shield him from answering as yet unproved charges of conspiring to violate the constitutional rights of private parties. Unlawful conduct of this kind the Speech or Debate Clause simply did not immunize.

Powell v. *McCormack* reasserted judicial power to determine the validity of legislative actions impinging on individual rights—there the illegal exclusion of a representative-elect—and to afford relief against House aides seeking to implement the invalid resolutions. The Members themselves were dismissed from the case because shielded by the Speech or Debate Clause both from liability for their illegal legislative act and from having to defend themselves with respect to it. As in *Kilbourn*, the Court did not reach the question "whether under the Speech or Debate Clause petitioners would be entitled to maintain this action solely against the members of Congress where no agent participated in the challenged atcion and no other remedy was abailable." 395 U.S., at 506 n. 26.

None of these three cases adopted the simple proposition that immunity was unavailable to House or committee employees because they were not Representatives or Senators; rather, immunity was unavailable because they engaged in illegal conduct which was not entitled to Speech or Debate Clause protection. The three cases reflect a decidedly jaundiced view towards extending the clause so as to privilege illegal or unconstitutional conduct beyond that essential to foreclose executive control of legislative speech or debate and associated matters such as voting and committee reports and proceedings. In *Kilbourn*, the Sergeant-at-Arms was executing a legislative order, the issuance of which fell within the Speech or Debate Clause; in *Eastland*, the committee counsel was gathering information for a hearing; and in *Powell*, the Clerk and Doorkeeper were merely carrying out directions that were

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protected by the Speech or Debate Clause. In each case, protecting the rights of others may have to some extent frustrated a planned or completed legislative act; but relief could be afforded without proof of a legislative act or the motives or purposes underlying such an act. No threat to legislative independence was posed, and Speech or Debate Clause protection did not attach.

None of this, as we see it, involves distinguishing between a Senator and his personal aides with respect to legislative immunity. In *Kilbourn*-type situations, both aide and Member should be immune with respect to committee and House action leading to the illegal resolution. So too in *Eastland*, as in this case, senatorial aides should enjoy immunity for helping a Member conduct committee hearings. On the other hand, no prior case has held that Members of Congress would be immune if they execute an invalid resolution by themselves carrying out an illegal arrest, or if, in order to secure information for a hearing, themselves seize the property or invade the privacy of a citizen. Neither they nor their aides should be immune from liability or questioning in such circumstances. Such acts are no more essential to legislating than the conduct held unprotected in *United States* v. *Johnson*, 383 U.S. 169 (1966).[12]

The United States fears the abuses that history reveals have occurred when legislators are invested with the power to relieve others from the operation of otherwise valid civil and criminal laws. But these abuses, it seems to us, are for the most part obviated if the privilege applicable to the aide is viewed, as it must be, as the privilege of the Senator, and invocable only by the Senator or by the aide on the Senator's behalf,[13] and if in all events the privilege available to the aide is confined to those services that would be immune legislative conduct if performed by the Senator himself. This view places beyond the Speech or Debate Clause a variety of services characteristically performed by aides for Members of Congress, even though within the scope of their employment. It likewise provides no protection for criminal conduct threatening the security of the person or property of others, whether performed at the direction of the Senator in preparation for or in execution of a legislative act or done without his knowledge or direction. Neither does it immunize Senator or aide from testifying at trials or grand jury proceedings involving third-party crimes where the questions do not require testimony about or impugn a legislative act. Thus our refusal to distinguish between Senator and aide in applying the Speech or Debate Clause does not mean that Rodberg is for all purposes exempt from grand jury questioning.

II

We are convinced also that the Court of Appeals correctly determined that Senator Gravel's alleged arrangement with Beacon Press to publish the Pentagon Papers was not protected speech or debate within the meaning of Art. I, § 6, cl. 1, of the Constitution.

Historically the English legislative privilege was not viewed as protecting republication of an otherwise immune libel on the floor of the House. *Stockdale* v. *Hansard*, 9 Ad. & E. 1, 114, 112 K. B. 1112, 1156 (1839), recognized that "[f]or speeches made in Parliament by a member to the prejudice of any other person, or hazardous to the public peace, that member enjoys complete impunity." But it was clearly stated that "if the caluminous or inflamatory speeches should be reported and published the law will attach responsibility on the publisher."[14]

This was accepted in *Kilbourn* v. *Thompson* as a "sound statement of the legal effect of the Bill of Rights and of the parliamentary law of England" and as a reasonable basis for inferring "that the framers of the Constitution meant the same thing by the use of language borrowed from that source." 103 U.S., at 202.

Prior cases have read the Speech or Debate Clause "broadly to effectuate its purposes," *United States* v. *Johnson*, 383 U.S., at 180, and have included within its reach anything "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson*, 103 U.S. at 204; *United States* v. *Johnson*, 383 U.S., at 179. Thus, voting by Members and committee reports are protected; and we recognize today—as the Court has recognized before, *Kilbourn* v. *Thompson*, 103 U.S., at 204; *Tenney* v. *Brandhove*, 341 U.S. 367, 377–378 (1951)—that a Member's conduct at legislative committee hearings, although subject to judicial review in various circumstances, as is legislation itself, may not be made the basis for a civil or criminal judgment against a Member because that conduct is within the "sphere of legitimate legislative activity." *Id.*, at 376.[15]

But the clause has not been extended beyond the legislative sphere. That Senators generally perform certain acts in their official capacity as Senators does not necessarily make all such acts legislative in nature. Members of Congress are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may cajole, and exhort with respect to the administration of a federal statute—but such conduct, though generally done, is not protected legislative activity. *United States* v. *Johnson* decided at least this much. "No argument is made, nor do we think that it could be successfully contended, that the Speech or Debate Clause reaches conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process." 383 U.S., at 172. Cf. *Burton* v. *United States*, 202 U.S. 344, 367–368 (1906).

Legislative acts are not all-encompassing. The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House. As the Court of Appeals put it, the courts have extended the privilege to matters beyond pure speech or debate in either House, but "only when necessary to prevent indirect impairment of such deliberations." *United States* v. *Doe*, 455 F. 2d 753, 760 (CA1 1972).

Here private publication by Senator Gravel through the cooperation of Beacon Press was in no way essential to the deliberations of the House; nor does questioning as to private publication threaten the integrity or independence of the House by impermissibly exposing its deliberation to executive influence. The Senator had conducted his hearings, the record and any report that was forthcoming were available both to his committee and the House. Insofar as we are advised, neither Congress nor the full committee ordered or authorized the publication.[16] We cannot but conclude that the Senator's arrangements with Beacon Press were not part and parcel of the legislative process.

There are additional considerations. Article I, § 6, cl. 1, as we have emphasized, does not purport to confer a general exemption upon Members of Congress from liability or process in criminal cases. Quite the contrary is true. While the Speech or Debate Clause recognizes speech, voting and other legislative acts as exempt from liability that might otherwise attach, it does not privilege either Senator or aide to violate an otherwise valid criminal law in preparing for or implementing legislative acts. If republication of these classified papers was a crime under an Act of Congress, it was not entitled to immunity under the Speech or Debate Clause. It also appears that the grand jury was pursuing this very subject in the normal course of a valid investigation. The Speech or Debate Clause does not in our view extend immunity to Rodberg, as a Senator's aide, from testifying before the grand jury about the arrangement between Senator Gravel and Beacon Press or about his own participation, if any, in the alleged transaction, so long as legislative acts of the Senator are not impugned.

III

Similar considerations lead us to disagree with the Court of Appeals insofar as it fashioned, tentatively at least, a nonconstitutional testimonial privilege protecting Rodberg from any questioning by the grand jury concerning the matter of republication of the Pentagon Papers. This privilege, thought to be similar to that protecting executive officials from liability for libel, cf. *Barr* v. *Matteo*, 360 U.S. 564 (1959), was considered advisable "to the extent that a congressman has responsibility to inform his constituents . . ." 455 F. 2d, at 760. But we cannot carry a judicially fashioned privilege so far as to immunize criminal conduct proscribed by an Act of Congress or to frustrate the grand jury's inquiry into whether publication of these classified documents violated a federal criminal statute. The so-called executive privilege has never been applied to shield executive officers from prosecution for crime, the Court of Appeals was quite sure that third parties were neither immune from liability nor from testifying about the republication matter and we perceive no basis for conferring a testimonial privilege on Rodberg as the Court of Appeals seemed to do.

IV

We must finally consider, in the light of the foregoing, whether the protective order entered by the Court of Appeals is an appropriate regulation of the pending grand jury proceedings.

Focusing first on paragraph two of the order, we think the injunction against interrogating Rodberg with respect to any act, "in the broadest sense," performed by him within the scope of his employment, overly restricts the scope of grand jury inquiry. Rodberg's immunity, testimonial or otherwise, extends only to legislative acts as to which the Senator himself would be immune. The grand jury, therefore, if relevant to its investigation into the possible violations of the criminal law and absent Fifth Amendment objections, may require from Rodberg answers to questions relating to his or the Senator's arrangements, if any, with respect to republication or with respect to third party conduct under valid investigation by the grand jury, as long as the questions do not implicate legislative action of the Senator. Neither do we perceive any constitutional or other privilege that shields Rodberg, any more than any other witness, from grand jury questions relevant to tracing the source of obviously highly classified documents that came into the Senator's possession and are the basic subject matter of inquiry in this case, as long as no legislative act is implicated by the questions.[17]

Because the Speech or Debate Clause privilege applies both to Senator and aide, it appears to us that paragraph one of the order, alone, would afford ample protection for the privilege if it forbade questioning any witness, including Rodberg: (1) concerning the Senator's conduct, or the conduct of his aides, at the June 29, 1971, meeting of the subcommittee;[18] (2) concerning the motives and purposes behind the Senator's conduct, or that of his aides, at that meeting; (3) con-

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cerning communications between the Senator and his aides during the term of their employment and related to said meeting or any other legislative act of the Senator; (4) except as it proves relevant to investigating possible third party crime, concerning any act, in itself not criminal, performed by the Senator, or by his aides in the course of their employment, in preparation for the subcommittee hearing. We leave the final form of such an order to the Court of Appeals in the first instance, or, if that court prefers, to the District Court.

The judgment of the Court of Appeals is vacated and the case is remanded to that court for further proceedings consistent with this opinion.

So ordered.

FOOTNOTES

[1] The District Court permitted Senator Gravel to intervene in the proceeding on Dr. Rodberg's motion to quash the subpoena ordering his appearance before the grand jury and accepted motions from Gravel to quash the subpoena and to specify the exact nature of the questions to be asked Rodberg. The Government contested Gravel's standing to appeal the trial court's disposition of these motions on the ground that, had the subpoena been directed to the Senator, he could not have appealed from a denial of a motion to quash without first refusing to comply with the subpoena and being held in contempt. *United States* v. *Ryan*, 402 U.S. 530 (1971); *Cobbledick* v. *United States*, 309 U.S. 323 (1940). The Court of Appeals, *United States* v. *Doe*, 455 F. 2d 753, 756–757 (CA1 1972), held that because the subpoena was directed to third parties, who could not be counted on to risk contempt to protect intervenor's rights, Gravel might be "powerless to avert the mischief of the order" if not permitted to appeal, citing *Perlman* v. *United States*, 247 U.S. 7, 13 (1918). The United States does not here challenge the propriety of the appeal.

[2] Dr. Rodberg, who filed his own motion to quash the subpoena directing his appearance and testimony, appeared as *amicus curiae* both in the Court of Appeals and this Court. Technically, Rodberg states, he is a party to 71–1026, insofar as the Government appeals from the protective order entered by the District Court. However, since Gravel intervened, Rodberg does not press the point. Brief of Leonard S. Rodberg as *Amicus Curiae* 2 n. 2.

[3] The District Court found "that, 'as personal assistant to movant [Gravel], Dr. Rodberg assisted in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," which were critical of the Executive's conduct in the field of foreign relations.' " *United States* v. *Doe*, 332 F. Supp. 930, 932 (Mass. 1971).

[4] Beacon Press is a division of the Unitarian Universalist Association, which appeared here as *amicus curiae* in support of the position taken by Senator Gravel.

[5] Gravel so alleged in his motion to intervene in the Webber matter and to quash the subpoena ordering Webber to appear and testify. App. 15–18.

[6] The Government maintained that Congress does not enjoy unlimited power to conduct business and that judicial review has often been exercised to curb extra-legislative incursions by legislative committees, citing *Watkins* v. *United States*, 354 U.S. 178 (1957); *McGrain* v. *Daugherty*, 273 U.S. 135 (1927); *Hentoff* v. *Ichord*, 318 F. Supp. 1175 (CADC 1970), at least where such incursions are unrelated to a legitimate legislative purpose. It was alleged that Gravel had "convened a special, unauthorized and untimely meeting of the Senate Subcommittee on Public Works (at midnight on June 29, 1971), for the purpose of reading the documents and thereafter placed all unread portions in the subcommittee record, with Dr. Rodberg soliciting publication after the meeting." App. 9. The District Court rejected the contention: "Senator Gravel has suggested that the availability of funds for the construction and improvement of public buildings and grounds has been affected by the necessary costs of the war in Vietnam and that therefore the development and conduct of the war is properly within the concern of his subcommittee. The court rejects the Government's argument without detailed consideration of the merits of the Senator's position, on the basis of the general rule restricting inquiry into matters of legislative purpose and operations." *United States* v. *Doe*, 332 F. Supp. 930, 935 (Mass. 1971). Cases such as *Watkins*, *supra*, were distinguished on the ground that they concerned the power of Congress under the Constitution: "It has not been suggested by the government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action. Also, the individual rights at stake in these proceedings are not those of a witness before a congressional committee or of a subject of a committee's investigation, but only those of a congressman and members of his personal staff who claim 'intimidation by the executive.' " *Id.*, at 736.

[7] The District Court thought that Rodberg could be questioned concerning his own conduct prior to joining the Senator's staff and concerning the activities of third parties with whom Rodberg and Gravel dealt. *United States* v. *Doe*, 332 F. Supp. 930, 934 (Mass. 1971).

[8] The protective order entered by the District Court provided as follows:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971, after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

[9] The Court of Appeals thought third parties could be questioned as to their own conduct regarding the Pentagon Papers, "including their dealings with intervenors or his aides." *United States* v. *Doe*, 455 F. 2d 753, 761 (CA1 1972). The court found no merit in the claim that such parties should be shielded from questioning under the Speech or Debate Clause concerning their own wrongful acts, even if such questioning may bring the Senator's conduct into question. *Id.*, at 758, n. 2.

[10] Williamson, United States Congressman, had been found guilty of conspiring to commit subornation of perjury in connection with proceedngs for the purchase of public land. He objected to the court passing sentence upon him and particularly protested that any imprisonment would deprive him of his constitutional right to "go to, attend at and return from the ensuing session of Congress." *Williamson* v. *United States*, 207 U. S. 425, 432–433 (1908). The Court rejected the contention that the Speech or Debate Clause freed legislators from accountability for criminal conduct.

[11] In *Kilbourn*, 103 U. S., at 198, the Court noted a second example, used by Mr. Justice Coleridge in *Stockdale*, 9 Ad. & E., at 225–226, 112 K. B., at 1196–1197: " 'Let me suppose, by way of illustration, an extreme case; the House of Commons resolves that any one wearing a dress of a particular manufacture is guilty of a breach of privilege, and orders the arrest of such persons by the constable of the parish. An arrest is made and action brought, to which the order of the House is pleaded as a justification. . . . In such a case as the one supposed, the plaintiff's counsel would insist on the distinction between power and privilege; and no lawyer can seriously doubt that it exists: but the argument confounds them, and forbids us to enquire, in any particular case, whether it ranges under the one or the other. I can find no principle which sanctions this.' "

[12] Senator Gravel is willing to assume that if he personally had "stolen" the Pentagon Papers, and that act were a crime, he could be prosecuted, as could aides or other assistants who participated in the theft. Consolidated Brief of Senator Gravel 93.

[13] It follows that an aide's claim of privilege can be repudiated and thus waived by the Senator.

[14] *Stockdale* extensively reviewed the precedents and their interplay with the privilege so forcefully recognized in the Bill of Rights of 1689: "That the freedome of speech, and debates or proceedings in Parlyament, ought not be impeached or questioned in any court or place out of Parlyament." 1 W. & M., Sess. 2, c. 2. From these cases, include *Rex* v. *Creevy*, 1 M. & S. 273, 105 Eng. Rep. 102 (K. B. 1813); *Rex* v. *Wright*, 8 T. R. 293, 101 K. B. 1396 (1799); *Rex* v. *Abington*, 1 ESP. 226, N. P. Cas. 337 (K. B. 1794); *Rex* v. *Williams*, 2 Show. K. B. 471, 89 Eng. Rep. 1048, it is apparent that to the extent English precedent is relevant to the Speech or Debate Clause there is little, if any, support for Senator Gravel's position with respect to republication. Parliament reacted to *Stockdale* v. *Hansard* by adopting the Parliamentary Papers Act of 1840, 3 and 4 Viet., c. 9, which stayed proceedings in all cases where it could be shown that publication was by order of a House of Parliament and was a bona fide report, printed and circulated without malice. See generally C. Wittke, The History of English Parliamentary Privilege (1921).

Gravel urges that *Stockdale* v. *Hansard* was later repudiated in *Wason* v. *Walter*, [1868] 4 Q. B. 73, which held a proprietor immune from civil libel for an accurate republication of a debate in the House of Lords. But the immunity established in *Wason* was not founded in parliamentary privilege, *id.*, at 84, but upon analogy to the privilege for reporting judicial proceedings. *Id.*, at 87–90. The *Wason* court stated its "unhesitating and unqualified adhesion" to the "masterly judgments" rendered in *Stockdale* and characterized the question before it as whether republication, quite apart from any assertion of parliamentary privilege, was "in itself privileged and lawful." *Id.*, at 86–87. That the privileges for nonmalicious republication of parliamentary and judicial proceeding—later established as qualified—were construed as coextensive in all respects, *id.*, at 95, further underscores the inappositeness of reading *Wason* as based upon parliamentary privilege, which like the Speech or Debate Clause is absolute. Much later Holdsworth was to comment that at the time of *Wason* the distinction between absolute and qualified privilege had not been worked out and that the "part played by malice in the tort and crime of defamation" probably helped retard recognition of a qualified privilege. 8 Holdsworth's History of English Law 377 (1926).

[15] The Court in *Tenney*, 341 U.S., at 376–377, was equally clear that "legislative activity" is not all-encompassing, nor may its limits be established by the Legislative Branch: "Legislatures may not of course acquire power by an unwarranted extension of privilege. The House of Commons' claim of power to establish the limits of its privilege has been little more than a pretense since *Ashby* v. *White*, 2 Ld. Raym. 938, 3 *id.*, 20.

This Court has not hesitated to sustain the rights of private individuals when it found Congress was acting outside its legislative role. *Kilbourn* v. *Thompson*, 103 U.S. 168; *Marshall* v. *Gordon*, 243 U.S. 521; compare *McGrain* v. *Daugherty*, 273 U.S. 135, 176."

[16] The sole constitutional claim asserted here is based on the Speech or Debate Clause. We need not address issues which may arise when Congress or either House, as distinguished from a single Member, orders the publication and/or public distribution of committee hearings, reports or other materials. Of course, Art. I, § 5, cl. 3, requires that each House "keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy. . . ." This Clause has not been the subject of extensive judicial examination. See *Field* v. *Clark*, 143 U.S. 649, 670–671 (1892); *United States* v. *Ballin*, 144 U.S. 1, 4 (1892).

[17] The Court of Appeals held that the Speech or Debate Clause protects aides as well as Senators and that while third parties may be questioned about the source of a Senator's information, neither aide nor Senator need answer such inquiries. The Government's position is that the aide has no protection under the Speech or Debate Clause and may be questioned even about legislative acts. A contrary ruling, the Government fears, would invite great abuse. On the other hand, Gravel contends that the Court of Appeals insufficiently protected the Senator both with respect to the matter of republication and with respect to the scope of inquiry permitted the grand jury in questioning third party witnesses with whom the Senator and his aides dealt. Hence, we are of the view that both the question of the aide's immunity and the question of the extent of that immunity are properly before us in this case. And surely we are not bound by the Government's view of the scope of the privilege.

[18] Having established that neither the Senator nor Rodberg is subject to liability for what occurred at the subcommittee hearing, we perceive no basis for inquiry of either Rodberg or third parties on this subject. If it proves material to establish for the record the fact of publication at the subcommittee hearing, which seems undisputed, the public record of the hearing would appear sufficient for this purpose. We do not intend to imply, however, that in no grand jury investigations or criminal trials of third parties may third-party witnesses be interrogated about legislative acts of Members of Congress. As for inquiry of Rodberg about third party crimes, we are quite sure that the District Court has ample power to keep the grand jury proceedings within proper bounds and to foreclose improvident harassment and fishing expeditions into the affairs of a Member of Congress that are not proper concern of the grand jury or the Executive Branch.

GRAVEL AGAINST UNITED STATES

(Mr. Justice Douglas, dissenting)

I would construe the Speech and Debate Clause [1] to insulate Senator Gravel and his aides from inquiry concerning the Pentagon Papers, and Beacon Press from inquiry concerning publication of them, of that publication was but another way of informing the public as to what had gone on in the privacy of the Executive Branch concerning the conception and pursuit of the so-called "war" in Vietnam. Alternatively, I would hold that Beacon Press is protected by the First Amendment from prosecution or investigations for publishing or undertaking to publish the Pentagon Papers.

Gravel, Senator from Alaska, was Chairman of the Senate Subcommittee on Public Buildings and Grounds. He convened a meeting of the Subcommittee and read to it a summary of the so-called Pentagon Papers. He then introduced "the entire papers, allegedly some 47 volumes and said to contain seven million words, as an exhibit." —— F. 2d ——. Thereafter, he supplied a copy of the papers to the Beacon Press, a Boston publishing house, on the understanding that it would publish the papers without profit to the Senator. A grand jury was investigating the release of the Pentagon Papers and subpoenaed one Rodberg, an aide to Senator Gravel, to testify. Rodberg moved to quash the subpoena; and on the same day the Senator moved to intervene. Intervention was granted and in due course the Court of Appeals entered the following order which is now before us for review:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions, in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention, while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment."

I

Both the introduction of the Pentagon Papers by Senator Gravel into the record before his Subcommittee and his efforts to publish them were clearly covered by the Speech and Debate Clause, as construed in *Kilbourn* v. *Thompson*, 103 U.S. 168, 204:

"It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it." [2]

One of the things normally done by a member "in relation to the business before it" is the introduction of documents or other exhibits in the record the committee or subcommittee is making. The introduction of a document into a record of the Committee or subcommittee by its Chairman certainly puts it in the public domain. Whether a particular document is relevant to the inquiry of the committee may be questioned by the Senate in the exercise of its power to prescribe rules for the governance and discipline of wayward members. But there is only one instance, as I see it, where supervisory power over that issue is vested in the courts, and that is where a witness before a committee is prosecuted for contempt and he makes the defense that the question he refused to answer was not germane to the legislative inquiry or within its permissible range. See *Uphaus* v. *Wyman*, 360 U.S. 72; *Kilbourn* v. *Thompson*, *supra*, at 190.

In all other situations, however, the judiciary's view of the motives or germaneness of a Senator's conduct before a committee is irrelevant. For, "(t)he claim of an unworthy purpose does not destroy the privilege." *Tenney* v. *Brandhove*, 341 U.S. 367, 377. If there is an abuse, there is a remedy; but it is legislative, not judicial.

As to Senator Gravel's efforts to publish the Subcommittee record's contents, wide dissemination of this material as an educational service is as much a part of the Speech and Debate Clause philosophy as mailing under a frank a Senator or a Congressman's speech across the Nation. As mentioned earlier, "(i)t is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. . . . The informing function of Congress should be preferred even to its legislative function." W. Wilson, Congressional Government 303 (1885), quoted with approval in *Tenney* v. *Brandhove*, 341 U.S. 367, 377 n. 6. "From the earliest times in its history, the Congress has assiduously performed an 'informing function,'" *Watkins* v. *United States*, 354 U.S. 178, 200 n. 33. "Legislators have an obligation to take positions in controversial political questions so that their constituents can be fully informed by them." *Bond* v. *Floyd*, 385 U.S. 116, 136.

We said in *United States* v. *Johnson*, 383 U.S. 169, 179, that the Speech and Debate Clause established a "legislative privilege" that protected a member of Congress against prosecution "by an unfriendly executive and conviction by a hostile judiciary" in order, as Mr. Justice Harlan put it, to ensure "the independence of the legislature." That hostility emanates from every stage of the present proceedings. It emphasizes the need to construe the Speech and Debate Clause generously, not niggardly. If republication of a Senator's speech in a newspaper carries the privilege, as it doubtless does, then republication of the exhibits introduced at a hearing before Congress must also do so. That means that republication by Beacon Press is within the ambit of the Speech and Debate Clause and that the confidences of the Senator in arranging it are not subject to inquiry "in any other place" than the Congress.

It is said that though the Senator is immune from questioning as to what he said and did in preparation for the committee hearing and in conducting it, his aides may be questioned in his stead. Such easy circumvention of the Speech and Debate Clause would indeed make it a mockery. The aides and agents such as Beacon Press must be taken as surrogates for the Senator and the confidences of the job that they enjoy are his confidences that the Speech and Debate Clause embrace.

II

The secrecy of documents in the Executive Department has been a bone of contention between it and Congress from the beginning.[3] Most discussions have centered on the scope of the Executive privilege in stamping documents as "secret," "top secret," "confidential" and so on, thus withholding them from the eyes of Congress and the press. The practice has reached large proportions, it being estimated [4] that

(1) Over 30,000 people in the Executive Branch have the power to wield the classification stamp.

(2) The Department of State, the Department of Defense, and the Atomic Energy Commission have over 20 million classified documents in their files.

(3) Congress appropriates approximately $15 billion annually without most of its members or the public or the press knowing for what purposes the money is to be used.[5]

The problem looms large as one of separation of powers. Woodrow Wilson wrote about it in terms of the "informing function" of Congress.[6]

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country

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must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. The informing function of Congress should be preferred even to its legislative function. The argument is not only that discussed and interrogated administration is the only pure and efficient administration, but, more than that, that the only really self-governing people is that people which discusses and interrogates its administration. The talk on the part of Congress which we sometimes justly condemn is the profitless squabble of words over frivolous bills or selfish party issues. It would be hard to conceive of there being too much talk about the practical concerns and processes of government. Such talk it is which, when earnestly and purposefully conducted, clears the public mind and shapes and demands of public opinion."

That is a concern of the Congress. It is, however, no concern of the courts, as I see it, how a document is stamped in an Executive Department or whether a committee of Congress can obtain the use of it. The federal courts do not sit as an *ombudsman*, refereeing the disputes between the other two branches. The federal courts do become vitally involved whenever their power is sought to be invoked to protect the press against censorship as in *New York Times Co.* v. *United States*, 403 U.S. 713, or to protect the press against punishment for publishing "secret" documents or to protect an individual against his disclosure of their contents for any of the purposes of the First Amendment.

Forcing the press to become the Government's coconspirator in maintaining state secrets is at war with the objectives of the First Amendment. That guarantee was designed in part to ensure a meaningful version of self-government by immersing the people in a "steady, robust, unimpeded and uncensored flow of opinion and reporting which are continuously subjected to critique, rebuttal, and re-examination." *Caldwell* v. *United States, ante*, —, —; *Brandenburg* v. *Ohio*, 395 U.S. 444; *Stanley* v. *Georgia*, 394 U.S. 557, 564; *Lamont* v. *Postmaster*, 381 U.S. 301, 308; *N.Y. Times Co.* v. *Sullivan*, 376 U.S. 254, 270. As I have said elsewhere, *e.g., Caldwell, supra; Kleindienst* v. *Mandel, ante*, —, —, that Amendment is aimed at protecting not only speakers and writers but also listeners and readers. The essence of our form of governing was at the heart of Justice Black's reminder in the Pentagon Papers case that "[t]he press was protected so that it could lay bare the secrets of Government and inform the people." 403 U.S., at 717. Similarly, Senator Sam Ervin has observed: "When the people do not know what their government is doing, those who govern are not accountable for their actions—and accountability is basic to the democratic system. By using devices of secrecy, the government attains the power to 'manage' the news and through it to manipulate public opinion."[7] Ramsey Clark as Attorney General expressed a similar sentiment: "If government is to be truly of, by, and for the people, the people must know in detail the activities of government. Nothing so diminishes democracy as secrecy."[8] And see Meiklejohn, The First Amendment is Absolute, 1961 Sup. Ct. Rev. 254; Press Freedoms Under Pressure: Report of the Twentieth Century Fund Task Force on the Government and the Press 109–117 (1972). (Background Paper by Fred Graham on "Access to News"); M. Johnson, The Government Secrecy Controversy 39–41 (1967).

Jefferson in a letter to Madison dated December 20, 1787, asked "whether peace is best preserved by giving energy to the government, or information to the people." And he answered, "This last is the most certain, and the most legitimate engine of government." 6 Writings of Thos. Jefferson 392 (Memorial ed. 1903).

Madison at the time of the Whiskey Rebellion spoke in the House against a resolution of censure against the groups stirring up the turmoil against that rebellion.

"If we advert to the nature of Republican Government, we shall find that the censorial power is in the people over the Government, and not in the Government over the people." Brant, The Madison Heritage, 35 N. Y. U. L. Rev. 882, 900.

Yet, as has been revealed by such exposes as the Pentagon Papers, the My Lai massacres, the Gulf of Tonkin "incident," and the Bay of Pigs invasion, the Government usually suppresses damaging news but highlights favorable news. In this filtering process the secrecy stamp is the officials' tool of suppression and it has been used to withhold information which in "99½%" of the cases would present no danger to national security.[9] To refuse to publish "classified" reports would at times relegate a publisher to distributing only the press releases of Government or remaining silent; if it printed only the press releases or "leaks" it would become an arm of officialdom, not its critic. Rather, in my view, when a publisher obtains a classified document he should be free to print it without fear of retribution, unless it contains material directly bearing on future, sensitive planning of the Government.[10] By that test Beacon Press could with impunity reproduce the Pentagon Papers inasmuch as their content "is all history, not future events. None of it is more recent than 1968." *New York Times Co.* v. *United States*, 403 U. S. 713, 722, n. 3.

The late Justice Harlan in the Pentagon Papers case said that in that situation the courts had only two restricted functions to perform: *first*, to ascertain whether the subject matter of the dispute lies within the proper compass of the President's constitutional power; and *second* to insist that the head of the Executive Department concerned—whether State or Defense—determine if disclosure of the subject matter "would irreparably impair the national security." Beyond those two inquiries, he concluded, the judiciary may not go. 403 U. S., at 757–758.

My view is quite different. When the press stands before the court as a suspected criminal, it is the duty of the court to disregard what the prosecution claims is the executive privilege and to acquit the press or overturn the ruling or judgment against it, if the First Amendment and the assertion of the executive privilege conflict. For the executive privilege—nowhere made explicit in the Constitution—is necessarily subordinate to the express commands of the Constitution.

United States v. *Curtiss-Wright Corp.*, 299 U.S. 304, involved the question whether a proclamation issued by the President, pursuant to a Joint Resolution of the Congress, was adequate to sustain an indictment. The Court, in holding that it did, discussed at length the power of the President. The Court said that the power of the President in the field of international relations does not require as a basis an Act of Congress; but it added that his power "like every other governmental power, must be exercised in subordination to applicable provisions of the Constitution." *Id.*, at 320.

When the executive launches a criminal prosecution against the press, it must do so only under an Act of Congress. Yet Congress has no authority to place the press under the restraints of the executive privilege without "abridging" the press within the meaning of the First Amendment.

In related and analogous situations, federal courts have subordinated the executive privilege to the requirements of a fair trial.

Chief Justice Marshall in the trial of Aaron Burr ruled "That the president of the United States may be subpoenaed, and examined as a witness, and required to produce any paper in his possession is not controverted." *United States* v. *Burr*, 25 Fed. Cas. 187, 191. Yet he "may have sufficient motives for declining to produce a particular paper and these motives may be such as to restrain the Court from enforcing its production." *Ibid.* A letter to the President, he said, "may relate to public concerns" and not "forced into public view." *Id.*, at 192. But where the paper was shown "to be essential to the justice of the case," *ibid.*, the paper should be produced or the cause be continued." *Ibid.*

Jencks v. *United States*, 353 U.S. 657, is in that tradition. It was a criminal prosecution for perjury, the telling evidence against the accused being the testimony of Government investigators. The defense asked for contemporary notes made by agents at that time. Refusal was based on their confidential character. We held that to be reversible error.[11]

"We hold that the criminal action must be dismissed when the Government, on the ground of privilege, elects not to comply with an order to produce, for the accused's inspection and for admission in evidence, relevant statements or reports in its possession of government witnesses touching the subject matter of their testimony at the trial. Accord, *Roviaro* v. *United States*, 353 U.S. 53, 60–61. The burden is the Government's, not to be shifted to the trial judge, to decide whether the public prejudice of allowing the crime to go unpunished is greater than that attendant upon the possible disclosure of state secrets and other confidential information in the Government's possession." *Id.*, at 672.

Congress enacted the so-called Jencks Act, 18 U.S.C. § 3500, regulating the use of government documents in criminal prosecutions. We sustained that Act. *Scales* v. *United States*, 367 U.S. 203, 258. Under the Act a defendant "on trial in a federal criminal prosecution is entitled, for impeachment purposes, to relevant and competent statements of a government witness in possession of the Government touching the events or activities as to which the witness has testified at the trial . . . The command of the statute is thus designed to further the fair and just administration of criminal justice, a goal of which the judiciary is the special guardian." *Campbell* v. *United States*, 365 U.S. 85, 92. And see *Clancy v. United States*, 365 U.S. 312.

The prosecution often dislikes to make public the identity of the informer on whose information its case rests. But his identity must be disclosed where his testimony is material to the trial. *Roviaro* v. *United States*, 353 U.S. 53. In other words, the desire for Government secrecy does not override the demands for a fair trial. And see *Scher* v. *United States*, 305 U.S. 251, 254. The constitutional demands for a fair trial, implicit in the concept of due process, *In re Murchison*, 349 U.S. 133, 136, override the Government's desire for secrecy, whether the identity of an informer or the executive privilege be involved. And see *Smith* v. *Illinois*, 390 U.S. 129.

The requirements of the First Amendment are not of lesser magnitude. They override any claim to executive privilege. As stated in *United States* v. *Curtis-Wright Corp., supra*, the class of executive privilege "like every other governmental power, must be exercised in subordination to applicable provisions of the Constitution." 299 U.S., at 320.

III

Aside from the question of the extent to which publishers can be penalized for printing classified documents, surely the First Amendment protects against all inquiry into

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the dissemination of information which, although once classified, has become part of the public domain.

To summon Beacon Press through its officials before the grand jury and to inquire into why it did what it did and its publication plans is "abridging" the freedom of the press contrary to the command of the First Amendment. In light of the fact that these documents were part of the official Senate record,[12] Beacon Press has violated no valid law, and the grand jury's scrutiny of it reduces to "[e]xposure purely for the sake of exposure." *Uphaus* v. *Wyman, supra,* at 82 (dissenting opinion). As in *United States* v. *Rumely,* 345 U.S. 41, where a legislative committee inquired of a publisher of political tracts as to its customers' identities, "[i]f the present inquiry were sanctioned, the press would be subject to harassment that in practical effect might be as serious as censorship." *Id.,* 57 (concurring opinion). Under our Constitution the Government has no surveillance over the press. That includes, as we held in *New York Times* v. *United States,* 403 U.S. 713, the prohibition against prior restraints. Yet criminal punishment for or investigations of what the press publishes, though a different species of abridgment, is nonetheless within the ban of the First Amendment.

The story of the Pentagon Papers is a chronicle of suppression of vital decisions to protect the reputations and political hides of men who worked an amazingly successful scheme of deception on the American people. They were successful not because they were astute but because the press had become a frightened, regimented, submissive instrument, fattening on favors from those in power and forgetting the great tradition of reporting. To allow the press further to be cowed by grand jury inquiries and prosecution is to carry the concept of "abridging" the press to frightening proportions.

What would be permissible if Beacon Press "stole" the Pentagon Papers is irrelevant to today's decision. What Beacon Press plans to publish is matter introduced into a public record by a Senator acting under the full protection of the Speech and Debate Clause.[13] In light of the command of the First Amendment we have no choice but to rule that here government, not the press, is lawless.

I would affirm the judgment of the Court of Appeals except as to Beacon Press in which case I would reverse.

FOOTNOTES

[1] The Speech and Debate Clause included in Art. I, § 6, Cl. 1, of the Constitution provides as respects Senators and Representatives that "for any Speech or Debate in either House, they shall not be questioned in any other Place."

[2] And see *United States* v. *Johnson,* 383 U.S. 169, 172, 177; and *Tenney* v. *Brandhove,* 341 U.S. 367, 376.

[3] See Note, Developments In The Law—The National Security Interest and Civil Liberties, 85 Harv. L. Rev. 1130, 1207–1215 (1972); Note, The Right of Government Employees to Furnish Information to Congress: Statutory and Constitutional Aspects, 57 Va. L. Rev. 885, 885–887 (1971); Berger, *Executive Privilege* v. *Congressional Inquiry,* 12 U. C. L. A. L. Rev. 1044 (1965); Schwartz, Executive Privilege and Congressional Investigatory Power, 47 Calif. L. Rev. 3 (1959); Executive Privilege: The Withholding of Information by the Executive, Hearings on S. 1125 before the Subcommittee on Separation of Power of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. (1971). There is no express statutory authority for the classification procedure used currently by the bureaucracies, although it has been claimed that Congress has recognized it in such measures as the exemptions from the disclosure requirements of the Freedom of Information Act, 5 U. S. C. § 552 (b) and the espionage laws, 18 U. S. C. §§ 792–799. Rather, the classification regime has been implemented through a series of executive orders described in Note, Developments In The Law, *supra,* at 1192–1198. It has also been claimed that several sections of Art. II (such as the designation of the President as Commander-in-Chief of the Army and Navy) confer upon the Executive an inherent power to classify documents. See Report of the Commission on Government Security, S. Doc. No. 64, 85th Cong., 1st Sess., 158 (1957).

[4] Executive Privilege: The Withholding of Information by the Executive, Hearing on S. 1125, Subcommittee on Separation of Powers, S. Judiciary Committee, 92d Cong., 1st Sess., 517–518 (1971). One estimate of the number of officials who can classify documents is even higher. In the Department of Defense alone, 803 persons have the authority to classify documents Top Secret; 7,687 have permission to stamp them Secret, and 31,048 have the authorization to denominate papers Confidential. United States Government Information Policies and Practices—The Pentagon Papers, Hearings before a Subcommittee of the House Committee on Government Operations, 92d Cong., 1st Sess., pt. 2, at 599 (statement of David Cooke, Deputy Assistant Secretary of Defense).

[5] Senator Fulbright, chairman of the Senate Foreign Relations Committee, recently testified that his committee had been so unsuccessful in obtaining accurate information about the Vietnam war from the Executive Branch that it was required to hire its own investigators and send them to Southeast Asia. Executive Privilege; The Withholding of Information By The Executive, Hearings before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary 206 (1971).

[6] W. Wilson, Congressional Government, 303–304 (1885).

[7] Ervin, Secrecy in a Free Society, 213 The Nation 454, 456 (1971).

[8] Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, 20 Ad. L. Rev. 263, 264 (1967).

[9] Hearing before Subcommittee on Foreign Operations and Government Information of the House Committee on Government Operations 97 (1971); Cong. Horton, The Public's Right to Know, 77 Case & Comm. 3, 5 (1972). We are told that the military has withheld as confidential a large selection of photographs showing atrocities against Vietnamese civilians wrought by both communist and United States forces. Even a training manual devoted to the history of the Bolshevik revolution was dubbed secret by the military. Hearings, *supra,* at 966, 967 (testimony of former classification officer). And, ordinary newspaper clippings of criticism aimed at the military have been routinely marked secret. Hearings, *supra,* at 100. Former Justice and former Ambassador to the United Nations Arthur Goldberg has stated: "I have read and prepared countless thousands of classified documents. In my experience, 75 percent of these documents should never have been classified in the first place; another 15 percent quickly outlived the need for secrecy; and only about 10% genuinely required restricted access for any significant period of time." United States Government Policies and Practices—The Pentagon Papers, Hearings before a Subcommittee of the House Committee on Government Operations, 92d Cong., 1st Sess., pt. 1, at 12 (1971).

[10] Moreover, I would not even permit a conviction for the publication of documents related to future and sensitive planning where the jury was permitted, as it was in *United States* v. *Drummond,* 354 F. 2d 132, 152 (CA2), to consider the fact that the documents had been classified by the Executive Branch pursuant to its present overbroad system which, in my view, unnecessarily sweeps too much nonsensitive information into the locked files of the bureaucracies. In general, however, I agree that there may be situations and occasions in which the right to know must yield to other compelling and overriding interests. As Professor Henkin has observed, many deliberations in Government are kept confidential, such as the proceedings of grand juries or our own Conferences, despite the fact that the breadth of public knowledge is thereby diminished. Henkin, The Right To Know And The Duty To Withhold: The Case Of The Pentagon Papers, 120 U. Pa. L. Rev. 271, 274–275 (1971).

[11] In *Alderman* v. *United States,* 394 U.S. 165, we took a like course in requiring the prosecution to disclose to the defense records of unlawful electronic surveillance:

"It may be that the prospect of disclosure will compel the Government to dismiss some prosecutions in deference to national security or third-party interests. But this is a choice the Government concededly faces with respect to material which it has obtained illegally and which it admits, or which a judge would find, is arguably relevant to the evidence offered against the defendant." *Id.,* at 184.

A different rule obtains in civil suits where the government is not the moving party but is a defendant and has specified the terms on which it may be sued. *United States* v. *Reynolds,* 345 U.S. 1, 12.

[12] Republication of what has filled the Congressional Record is commonplace. Newspapers, television, and radio use its contents constantly. I see no difference between republication of a paragraph and republication of material amounting to a book. Once a document or a series of documents is in the record of the Senate or House or one of its committees it is in the public domain.

[13] It is conceded that all of the material which Beacon Press has undertaken to publish was introduced into the Subcommittee record and that this record is open to the public. See Government's Brief, at 3.

GRAVEL AGAINST UNITED STATES

(Mr. Justice Brennan, with whom Mr. Justice Douglas, and Mr. Justice Marshall, join, dissenting.)

The facts of this case, which are detailed by the Court, and the objections to overclassification of documents by the Executive, detailed by my Brother Douglas, need not be repeated here. My concern is with the narrow scope accorded the Speech or Debate Clause by today's decision. I fully agree with the Court that a Congressman's immunity under the Clause must also be extended to his aides if it is to be at all effective. The complexities and press of congressional business make it impossible for a member to function without the close cooperation of his legislative assistants. Their role as his agents in the performance of official duties requires that they share his immunity for those acts. The scope of that immunity, however, is as important as the persons to whom it extends. In my view, today's decision so restricts the privilege of speech or debate as to endanger the continued performance of legislative tasks that are vital to the workings of our democratic system.

I

In holding that Senator Gravel's alleged arrangement with Beacon Press to publish the Pentagon Papers is not shielded from extra-senatorial inquiry by the Speech or Debate Clause, the Court adopts what for me is a far too narrow view of the legislative function. The Court seems to assume that words spoken in debate or written in congressional reports are protected by the Clause, so that if Senator Gravel had recited part of the Pentagon Papers on the Senate floor or copied them into a Senate report, those acts could not be questioned "in any other place." Yet because he sought a wider au-

dience, to publicize information deemed relevant to matters pending before his own committee, the Senator suddenly loses his immunity and is exposed to grand jury investigation and possible prosecution for the publication. The explanation for this anomalous result is the Court's belief that "Speech or Debate" encompasses only acts necessary to the internal deliberations of Congress concerning proposed legislation. "Here," according to the Court, "private publication by Senator Gravel through the cooperation of Beacon Press was in no way essential to the deliberations of the House." *Ante*, at 19. Therefore, "the Senator's arrangements with Beacon Press were not part and parcel of the legislative process." *Ibid.*

Thus the Court excludes from the sphere of protected legislative activity a function that I had supposed lay at the heart of our democratic system. I speak, of course, of the legislator's duty to inform the public about matters affecting the administration of government. That this "informing function" falls into the class of things "generally done in a session of the House by one of its members in relation to the business before it," *Kilbourn* v. *Thompson*, 103 U.S. 168, 204, (1881), was explicitly acknowledged by the Court in *Watkins* v. *United States*, 354 U.S. 178 (1957). In speaking of the "power of Congress to inquire into and publicize corruption, maladministration or inefficiency in the agencies of Government," the Court noted that "[f]rom the earliest times in its history, the Congress has assiduously performed an 'informing function' of this nature." *Id.*, at 200, n. 33.

We need look no further than Congress itself to find evidence supporting the Court's observation in *Watkins*. Congress has provided financial support for communications between its members and the public, including the franking privilege for letters, telephone and telegraph allowances, stationery allotments, and favorable prices on reprints from the Congressional Record. Congressional hearings, moreover, are not confined to gathering information for internal distribution, but are often widely publicized, sometimes televised, as a means of alerting the electorate to matters of public import and concern. The list is virtually endless, but a small sampling of contemporaneous hearings of this kind would certainly include the Kefauver hearings on organized crime, the 1966 hearings on automobile safety, and the numerous hearings of the Senate Foreign Relations Committee on the origins and conduct of the war in Vietnam. In short, there can be little doubt that informing the electorate is a thing "generally done" by the members of Congress "in relation to the business before it."

The informing function has been cited by numerous students of American politics, both within and without the Government, as among the most important responsibilities of legislative office. Woodrow Wilson, for example, emphasized its role in preserving the separation of powers by ensuring that the administration of public policy by the Executive is understood by the legislature and electorate:

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct." W. Wilson, Congressional Government 303 (1885).

Others have viewed the give-and-take of such communication as an important means of educating both the legislator and his constituents:

"With the decline of Congress as an original source of legislation, this function of keeping the government in touch with public opinion and of keeping public opinion in touch with the conduct of the government becomes increasingly important. Congress no longer governs the country; the Administration in all its ramifications actually governs. But Congress serves as a forum through which public opinion can be expressed, general policy discussed, and the conduct of governmental affairs exposed and criticized." The Reorganization of Congress, A Report of the Committee on Congress of the American Political Science Association 14 (1945).

Though I fully share these and related views on the educational values served by the informing function, there is yet another and perhaps more fundamental interest at stake. It requires no citation of authority to state that public concern over current issues—the War, race relations, governmental invasions of privacy—has transformed itself in recent years into what many believe is a crisis of confidence, in our system of government and its capacity to meet the needs and reflect the wants of the American people. Communication between Congress and the electorate tends to alleviate that doubt by exposing and clarifying the workings of the political system, the policies underlying new laws and the role of the Executive in their administration. To the extent that the informing function succeeds in fostering public faith in the responsiveness of Government, it is not only an "ordinary" task of the legislator but one that is essential to the continued vitality of our democratic institutions.

Unlike the Court, therefore, I think that the activities of Congressmen in communicating with the public are legislative acts protected by the Speech or Debate Clause. I agree with the Court that not every task performed by a legislator is privileged; intervention before Executive departments is one that is not. But the informing function carries a far more persuasive claim to the protections of the Clause. It has been recognized by this Court as something "generally done" by Congressmen, the Congress itself has established special concessions designed to lower the cost of such communication, and, most important, the function furthers several well-recognized goals of representative government. To say in the face of these facts that the informing function is not privileged merely because it is not necessary to the internal deliberations of Congress is to give the Speech or Debate Clause an artificial and narrow reading unsupported by reason.

Nor can it be supported by history. There is substantial evidence that the Framers intended the Speech or Debate Clause to cover all communications from a Congressman to his constituents. Thomas Jefferson clearly expressed that view of legislative privilege in a case involving Samuel Cabell, Congressman from Virginia. In 1797 a federal grand jury in Virginia investigated the conduct of several Congressmen, including Cabell, in sending newsletters to constituents critical of the administration's policy in the war with France. The grand jury found that the Congressmen had endeavored "at a time of real public danger, to disseminate unfounded calumnies against the happy government of the United States, and thereby to separate the people therefrom; and to increase or produce a foreign influence, ruinous to the peace, happiness, and independence of these United States." Jefferson immediately drafted a long essay signed by himself and several citizens of Cabell's district, condemning the grand jury investigation as a blatant violation of the congressional privilege. Revised and joined by James Madison, the protest was forwarded to the Virginia House of Delegates. It reads in part as follows:

". . . that in order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive; and that their communications with their constituents should be of right, as of duty also, be free, full, and unawed by any: that so necessary has this intercourse been deemed in the country from which they derive principally their descent and laws, that the correspondence between the representative and constituent is privileged there to pass free of expense through the channel of the public post, and that the proceedings of the legislature have been known to be arrested and suspended at times until the Representatives could go home to their several counties and confer with their constituents.

"That when circumstances required that the ancient confederation of this with the sister States, for the government of their common concerns, should be improved into a more regular and effective form of general government, the same representative principle was preserved in the new legislature, one branch of which was to be chosen directly by the citizens of each State, and the laws and principles remained unaltered which privileged the representative functions, whether to be exercised in the State or General Government, against the cognizance and notice of the coordinate branches, Executive and Judiciary; and for its safe and convenient exercise, the intercommunication of the representative and constituent has been sanctioned and provided for through the channel of the public post, at the public expense.

"That the grand jury is a part of the Judiciary, not permanent indeed, but in office, *pro hac vice* and responsible as other judges are for their actings and doings while in office: that for the Judiciary to interpose in the legislative department between the constituent and his representative, to control them in the exercise of their functions or duties towards each other, to overawe the free correspondence which exists and ought to exist between them, to dictate what communications may pass between them, and to punish all others, to put the representative into jeopardy of criminal prosecution, of vexation, expense, and punishment before the Judiciary, if his communications, public or private, do not exactly square with their ideas of fact or right, or with their designs of wrong, is to put the legislative department under the feet of the Judiciary, is to leave us, indeed, the shadow, but to take away the substance of representation, which requires essentially that the representative be as free as his constituents would be, that the same interchange of sentiment be lawful between him and them as would be lawful among themselves were they in the personal transaction of their own business; is to do away the influence of the people over the proceedings of their representatives by excluding from their knowledge, by the terror punishment, all but such information or misinformation as may suit their own views; and is the more vitally dangerous when it is considered that grand jurors are selected by officers nominated and holding their places at the will of the Executive . . .; and finally, is to give to the Judiciary, and through them to the Executive, a complete preponderance over the legislature rendering ineffectual that wise and cautious distribution of powers made by the constitution between the three

branches, and subordinating to the other two that branch which most immediately depends on the people themselves, and is responsible to them at short periods." 8 The Works of Thomas Jefferson 322-327 (Ford ed. 1904).

Jefferson's protest is perhaps the most significant and certainly the most cogent analysis of the privileged nature of communication between Congressman and public. Its comments on the history, purpose and scope of the Clause leave no room for the notion that the Executive or Judiciary can in any way question the contents of that dialogue. Nor was Jefferson alone among the Framers in that view. Aside from Madison, who joined in the protest, James Wilson took the position that a member of Congress "should enjoy the fullest liberty of speech, and . . . should be protected from the resentment of everyone, however powerful, to whom the exercise of that liberty may occasion offence." I Works of James Wilson 421 (McCloskey ed. 1967). Wilson, a member of the Committee responsible for drafting the Speech or Debate Clause, stated in plainest terms his belief in the duty of Congressmen to inform the people about proceedings in the Congress:

"That the conduct and proceedings of representatives should be as open as possible to the inspection of those whom they represent, seems to be, in republican government, a maximum, of whose truth or importance the smallest doubt cannot be entertained. That, by a necessary consequence, every measure, which will facilitate or secure this open communication of the exercise of delegated power, should be adopted and patronised by the constitution and laws of every free state, seems to be another maximum, which is the unavoidable result of the former." *Id.*, at 422.

Wilson's statements, like those of Jefferson and Madison, reflect a deep conviction of the Framers, that self-government can succeed only when the people are informed by their representatives, without interference by the Executive or Judiciary, concerning the conduct of their agents in government. That conviction is no less valid today than it was at the time of our founding. I would honor the clear intent of the Framers and extend to the informing function the protections embodied in the Speech or Debate Clause.

The Court, however, offers not a shred of evidence concerning the Framers' intent, but relies instead on the English view of legislative privilege to support its interpretation of the Clause. Like the Court itself, *ante*, at n. 14, I have some doubt concerning the relevance of English authority to this case, particularly authority postdating the adoption of our Constitution. But in any event it is plain that the Court has misread the history on which it relies. The Speech or Debate Clause of the English Bill of Rights was at least in part the product of a struggle between Parliament and Crown over the very type of activity involved in this case. During the reign of Charles II, the House of Commons received a number of reports about an alleged plot between the Crown and the King of France to restore Catholicism as the established religion of England. The most famous of these reports, Dangerfield's Narrative, was entered into the Commons Journal and then republished by order of the Speaker of the House, Sir William Williams, with the consent of Commons. In 1686, after James II came to the throne, informations charging libel were filed against Williams in King's Bench. Despite the arguments of his attorney, Sir Robert Atkyns, that the publication was necessary to the "counselling" and "enquiring" functions of Parliament, Williams' plea of privilege was rejected and he was fined £10,000. Shortly after Williams' conviction James II was sent into exile, and a committee was appointed by the House of Commons to report upon "such things as are absolutely necessary for securing the Laws and Liberties of the Nation." 9 Grey's Debates 37. In reporting to the House, the chairman of the committee stated that the provision for freedom of speech and debate was included "for the sake of one, . . . Sir William Williams, who was punished out of Parliament for what he had done in Parliament." *Id.*, at 81. Following consultation with the House of Lords, that provision was included as part of the English Bill of Rights, and the judgment against Williams was declared by Commons "illegal and subversive of the freedom of parliament." I Townsend, Memoirs of the House of Commons 414 (2d ed. 1844).

Although the origins of the Speech or Debate Clause in England can thus be traced to a case involving republication, the Court, citing *Stockdale* v. *Hansard*, 9 Ad. & E. 1, 112 K. B. 1112 (1839), says that "English legislative privilege was not viewed as protecting republication of an otherwise immune libel on the floor of the House." *Ante*, at 16. That conclusion reflects an erroneous reading of precedent. *Stockdale* did state that "if the calumnious or inflammatory speeches should be reported and published, the law will attach responsibility on the publisher." *Id.*, at 114, 112 K. B., at 1156. But *Stockdale* concerned only the publisher's liability, not that of a member of Parliament; thus it has little bearing on the instant case. Furthermore, contrary to the Court's assertion, *ante*, at n. 14, even the narrow result of *Stockdale* was repudiated 30 years later in *Wason* v. *Walter*, [1868] 4 Q. B. 73, for reasons strikingly similar to those expressed by Jefferson in his protest.[1] In my view, therefore, the English precedent, if relevant at all, supports Senator Gravel's position here.

Whether *Wason* was based on parliamentary privilege or on an analogy to the publication of judicial proceedings is unimportant. What is important to the instant case is that *Wason* firmly rejected any implication in *Stockdale* that the informing function was not among the legislative activities that a member of Parliament was privileged to perform. Indeed that same conclusion was reached by Sir Gilbert Campion, a noted scholar, in his memorandum to the House of Commons' Select Committee on the Official Secrets Acts. After reviewing the republication cases through *Wason*, the memorandum concluded:

"If . . . a member circulated among his constituents a speech made by him in Parliament in which he had disclosed information [otherwise subject to the Official Secrets Acts], it might be held on the analogy of the principles which have been said to apply to prosecutions for libel that he could not be proceeded against for disclosing it to his constituents, unless, of course, the speech had been made in a secret session. Even if the suggested analogy is not admitted, it would be repugnant to common sense to hold that though the original disclosure in the House was protected by parliamentary privilege, the circulation of the speech among the member's constituents was not." Minutes of Evidence Taken before the Select Committee on the Official Secrets Acts 29 (1939).

Thus, from the standpoint of function or history, it is plain that Senator Gravel's dissemination of material, placed by him in the record of a congressional hearing, is itself legislative activity protected by the privilege of speech or debate. Whether or not that privilege protects the publisher from prosecution or the Senator from senatorial discipline, it certainly shields the Senator from any grand jury inquiry about his part in the publication. As we held in *United States* v. *Johnson*, 383 U.S. 169 (1966), neither a Congressman, nor his aides, nor third parties may be made to testify concerning privileged acts or their motives. That immunity, which protects legislators "from deterrents to the uninhibited discharge of their legislative duty," *Tenney* v. *Brandhove*, 341 U.S. 367, 377 (1951), is the essence of the Clause, designed not for the legislators' "private indulgence but for the public good." *Id.*, at 377.

That privilege, moreover, may not be defeated merely because a court finds that the publication was irregular or the material irrelevant to legislative business. Legislative immunity secures "to every member exemption from prosecution, for everything said or done by him, as a representative, in the exercise of the functions of that office . . . whether the exercise was regular, according to the rules of the house, or irregular and against their rules." *Coffin* v. *Coffin*, 4 Mass. 1, 27 (1808). Thus, if the republication of this

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[1] In *Wason* the proprietor of the London Times was sued for printing an account of a libellous debate in the House of Lords. The Court agreed with *Stockdale* that the House did not have final authority to determine the scope of its privileges and thus could not confer immunity on any publisher merely by ordering a document printed and then declaring it privileged. Indeed the *Wason* Court gave its "unhesitating and unqualified adhesion" to *Stockdale* on that point. *Id.*, at 86. The only issue for the Court, therefore, was whether the publication "is, independently of such order or assertion of privilege, in itself privileged and lawful." *Id.*, at 87. On that issue the Court severely criticized the reasoning of earlier cases, including *Stockdale*, stating that two of the Justices in that case had expressed a "very shortsighted view of the subject." *Id.*, at 91. The Court held that so long as the republication was accurate and in good faith, it could not be the basis of a libel action; and the member himself was privileged to publish his speech "for the information of his constituents." *Id.*, at 95. Relying not on the Parliamentary Papers Act of 1840, which was enacted in response to *Stockdale*, but on the analogy to judicial reports and the need for an informed public, the Court stated:

"It seems to us impossible to doubt that it is of paramount public and national importance that the proceedings of the houses of parliament shall be communicated to the public, who have the deepest interest in knowing what passes within their walls, seeing that on what is there said and done, the welfare of the community depends. Where would be our confidence in the government of the country or in the legislature by which our laws are framed, and to whose charge the great interests of the country are committed,—where would be our attachment to the constitution under which we live,—if the proceedings of the great council of the realm were shrouded in secrecy and concealed from the knowledge of the nation? How could the communications between the representatives of the people and their constituents, which are so essential to the working of the representative system, be usefully carried on, if the constituencies were kept in ignorance of what their representatives are doing? What would become of the right of petitioning on all measures pending in parliament, the undoubted right of the subject, if the people are to be kept in ignorance of what is passing in either house? Can any man bring himself to doubt that the publicity given in modern times to what passes in parliament is essential to the maintenance of the relations subsisting between the government, the legislature, and the country at large?" *Id.*, at 89.

The fact that the debate was published in violation of a standing order of Parliament was held to be irrelevant. "Independently of the orders of the house, there is nothing unlawful in publishing reports of parliamentary proceedings . . . . [A]ny publication of its debates made in contravention of its orders would be a matter between the house and the publisher." Id., at 95.

committee record was unauthorized or even prohibited by the Senate rules, it is up to the Senate, not the Executive or Judiciary, to fashion the appropriate sanction to discipline Senator Gravel.

Similarly, the Government cannot strip Senator Gravel of the immunity by asserting that his conduct "did not relate to any pending Congressional business." Brief, at 41. The Senator has stated that his hearing on the Pentagon Papers had a direct bearing on the work of his Subcommittee on Buildings and Grounds, because of the effect of the Vietnam war on the domestic economy and the lack of sufficient federal funds to provide adequate public facilities. If in fact the Senator is wrong in this contention, and his conduct at the hearing exceeded the subcommittee's jurisdiction, then again it is the Senate that must call him to task. This Court has permitted congressional witnesses to defend their refusal to answer questions on the ground of nongermaneness. *Watkins* v. *United States*, 354 U.S. 178 (1957). Here, however, it is the Executive that seeks the aid of the judiciary, not to protect individual rights, but to extend its power of inquiry and interrogation into the privileged domain of the legislature. In my view the Court should refuse to turn the freedom of speech or debate on the Government's notions of legislative propriety and relevance. We would weaken the very structure of our constitutional system by becoming a partner in this assault on the separation of powers.

Whether the Speech or Debate Clause extends to the informing function is an issue whose importance goes beyond the fate of a single Senator or Congressman. What is at stake is the right of an elected representative to inform, and the public to be informed, about matters relating directly to the workings of our Government. The dialogue between Congress and people has been recognized, from the days of our founding, as one of the necessary elements of a representative system. We should not retreat from that view merely because in the course of that dialogue, information may be revealed that is embarrassing to the other branches of government or violates their notions of necessary secrecy. A member of Congress who exceeds the bounds of propriety in performing this official task may be called to answer by the other members of his chamber. We do violence to the fundamental concepts of privilege, however, when we subject that same conduct to judicial scrutiny at the instance of the Executive.[2] The threat of "prosecution by an unfriendly executive and conviction by a hostile judiciary," *United States* v. *Johnson*, 383 U.S., at 179, which the Clause was designed to avoid, can only lead to timidity in the performance of this vital function. The Nation as a whole benefits from the congressional investigation and exposure of official corruption and deceit. It likewise suffers when that exposure is replaced by muted criticism, carefully hushed behind congressional walls.

Equally troubling in today's decision is the Court's refusal to bar grand jury inquiry into the source of documents received by the Senator and placed by him in the hearing record. The receipt of materials for use in a congressional hearing is an integral part of the preparation for that legislative act. In *United States* v. *Johnson*, 383 U.S., 169 (1966), the Court acknowledged the privileged nature of such preparatory steps, holding that they, like the act itself and its motives, must be shielded from scrutiny by the Executive and Judiciary. That holding merely recognized the obvious—that speeches, hearings, and the casting of votes require study and planning in advance. It would accomplish little toward the goal of legislative freedom to exempt an official act from intimidating scrutiny, if other conduct leading up to the act and intimately related to it could be deterred by a similar threat. The reasoning that guided that Court in *Johnson* is no less persuasive today, and I see no basis, nor does the Court offer any, for departing from it here. I would hold that Senator Gravel's receipt of the Pentagon Papers, including the name of the person from whom he received it may not be the subject of inquiry by the grand jury.

I would go further, however, and also exclude from grand jury inquiry any knowledge that the Senator or his aides might have concerning how the source himself first came to possess the Papers. This immunity, it seems to me, is essential to the performance of the informing function. Corrupt and deceitful officers of government do not often post for public examination the evidence of their own misdeeds. That evidence must be ferreted out, and often is, by fellow employees and subordinates. Their willingness to reveal that information and spark congressional inquiry may well depend on assurances from their contact in Congress that their identity and means of obtaining the evidence will be held in strictest confidence. To permit the grand jury to frustrate that expectation through an inquiry of the Congressman and his aides can only dampen the flow of information to the Congress and thus to the American people. There is a similar risk, of course, when the member's own House requires him to break the confidence. But the danger, it seems to me, is far less if the members' colleagues, and not an "unfriendly executive" or "hostile judiciary," are charged with evaluating the propriety of his conduct. In any event, assuming that a Congressman can be required to reveal the sources of his information and the methods used to obtain that information, that power of inquiry, as required by the Clause, is that of the Congressman's House, and of that House only.

I respectfully dissent.

GRAVEL AGAINST UNITED STATES

(Mr. Justice Stewart, dissenting in part)

The Court today holds that the Speech or Debate Clause does not protect a Congressman from being forced to testify before a grand jury about sources of information used in preparation for legislative acts. This critical question was not embraced in the petitions for certiorari. It was not dealt with in the written briefs. It was addressed only tangentially during the oral arguments. Yet it is a question with profound implications for the effective functioning of the legislative process. I cannot join in the Court's summary resolution of so vitally important a constitutional issue.

In preparing for legislative hearings, debates and roll calls, a member of Congress obviously needs the broadest possible range of information. Valuable information may often come from sources in the Executive Branch or from citizens in private life. And informants such as these may be willing to relate information to a Congressman only in confidence, fearing that disclosure of their identities might cause loss of their jobs or harassment by their colleagues or employers. In fact, I should suppose it to be self-evident that many such informants would insist upon an assurance of confidentiality before revealing their information. Thus, the acquisition of knowledge through a promise of nondisclosure of its source will often be a necessary concomitant of effective legislative conduct, if the members of Congress are properly to perform their constitutional duty.

The Court of Appeals for the First Circuit recognized the importance of the information gathering process in the performance of the legislative function. It held that the Speech or Debate Clause bars all grand jury questioning of a member of Congress regarding the sources of his information. The Court of Appeals reasoned that to allow a "grand jury to question a Senator about his sources would chill both the vigor with which legislators seek facts and the willingness of potential sources to supply them." *United States* v. *Doe*, 445 F. 2d 753, 758–759. The government *did not seek review of this ruling*, but rather sought certiorari on the question whether the Speech or Debate Clause bars a grand jury from questioning congressional aides about privileged actions of Senators or Representatives.[1]

The Court, however, today decides, *sua sponte*, that a member of Congress may, despite the Speech or Debate Clause, be compelled to testify before a grand jury concerning the sources of information used by him in the performance of his legislative duties, if such an inquiry *"proves relevant to investigating possible third party crime."* *Ante*, at 22 (emphasis supplied).[2] In my view, this ruling is highly dubious in view of the basic purpose of the Speech or Debate Clause—"to prevent intimidation [of Congressmen] by the executive and accountability before a possibly hostile judiciary." *United States* v. *Johnson*, 383 U.S. 169, 181.

Under the Court's ruling, a Congressman may be subpoenaed by a vindictive Executive to testify about informants who have not committed crimes and who have no knowledge of crime. Such compulsion can occur, because the judiciary has traditionally imposed virtually no limitations on the grand jury's broad investigatory powers; grand jury investigations are not limited in scope to specific criminal acts, and standards of materiality and relevance are greatly relaxed.[3] But even if the Executive had reason to believe that a member of Congress had knowledge of a specific probable violation of law, it is by no means clear to me that the Executive's interest in the administration of justice must *always* override the public interest in having an informed Congress. Why should we not, given the tension between two competing interests, *each* of constitutional dimensions, balance the claims of the Speech or Debate Clause against the claims of the grand jury in the particularized contexts of specific cases? And why are not the Houses of Congress the proper institutions in most situations to impose sanctions upon a Rep-

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[2] Different considerations may apply, of course, where the republication is attacked, not by the Executive, but by private persons seeking judicial redress for an alleged invasion of their constitutional rights.

[1] As stated in its petition for certiorari, the Government asked us to consider

"Whether Article 1, Section 6, of the Constitution providing that . . . 'for any Speech or Debate in either House, the Senators and Representatives' . . . 'shall not be questioned in any other Place' bars a grand jury from questioning aides of members of Congress and other persons about matters that may touch on activities of a member of Congress which are protected Speech or Debate."

The Government also asked us to consider

"Whether an aide of a member of Congress has a common law privilege not to testify before a grand jury concerning private republication of material which his Senator-employer had introduced into the record of a Senate subcommittee."

We granted certiorari on both questions, 405 U.S. 916.

[2] See also, *ante*, 15, 21.

[3] See, *e.g.*, *Wilson* v. *United States*, 221 U.S. 361; *Hendricks* v. *United States*, 223 U.S. 178, *United States* v. *Johnson*, 319 U.S. 503. See generally, *Holt* v. *United States*, 218 U.S. 245; *United States* v. *Costello*, 350 U.S. 359.

resentative or Senator who withholds information about crime acquired in the course of his legislative duties? [4]

I am not prepared to accept the Court's rigid conclusion that the Executive may always compel a legislator to testify before a grand jury about sources of information used in preparing for legislative acts. For that reason, I dissent from that part of the Court's opinion that so inflexibly and summarily decides this vital question.

COUNT TO A BILLION

Mr. SCOTT. Mr. President, an editorial published in the Washington Sunday Star and Daily News emphasizes a point which I feel is important to bring to the attention of Senators at this point in the session; namely, that congressional overspending is fast becoming both a political issue and an economic eventuality. "Today's Assignment: Count Up to a Billion" attempts to impress on the reader how great a billion dollars really is. It makes good reading for all of us.

We know how the President and the public feel about our national spending epidemic. They have spoken against it loudly and often. The Sunday Star urges the President to continue doing so and "so should the public." Well, let us in the Senate do likewise. The responsibility is ours.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

TODAY'S ASSIGNMENT: COUNT UP TO A BILLION

President Nixon, the reports say, is considering a special message on what Congress is doing to his budget and what, if the spending binge continues, is certain to follow: Higher taxes and renewed inflation.

These are hot-weather days, a time when the mind tends to turn away from heavy subjects. These are times, too, when it has become fashionable to pooh-pooh any suggestion of fiscal discipline on the grounds that it is somehow gauche and unprogressive. And we are in an election year, meaning that anything the President says about the Democratic Congress will be construed as wholly political.

But we hope the President goes ahead and, in addition, grabs for as much public attention as he can get, for the issues involved are truly crucial. He would be wise to remain objective and to put his case in terms that the average man, wrestling with his own budget, can understand. What we have partly in mind is a refresher course in sixth-grade arithmetic, something that for many members of Congress—and also the administration—is long overdue. It could start something like this:

A billion is not, as many people may be led to believe by the numbers that fly around this town, another word for a million. Neither is it on the order of, say, 10 million. It is a thousand million. A million one-dollar bills, laid end to end would stretch one and a half times around the Capital Beltway. A billion one-dollar bills laid end to end would reach around the world four times. Columnist Art Buchwald recently suggested that Melvin Laird or Elliot Richardson or anyone else who wants to spend a billion dollars or more be obliged to go to the bank and count it out in tens and twenties. An engaging idea. Let no one try it, though. For starting today, working an eight-hour day and a seven-day week at the rate of one bill per second, the job of counting $1 billion in equal numbers of ten and twenty-dollar notes would take until November 24, 1978.

All this is by way of saying that the concept of a billion defies easy comprehension, so that to toss the number around casually is usually to operate in an air of unreality. It also points up the fact that when the President asks for an extra billion dollars, or when Congress tacks on to an appropriation bill an extra billion, an enormous amount of money is involved.

The Nixon budget, presented in January for the fiscal year that has just begun, calls for taking in about $220 billion and spending about $245 billion. Knock off seven zeroes in each of those figures, and a picture can be drawn of a man who will earn $22,000 while planning to spend $24,500 in the year ahead. Once again, the million-billion contrast is instructive. A million dollars to the federal budget is the same as a dime to our $22,000 wage earner, or the price of a small cup of coffee. A billion dollars, though, is the same as $100 to that wage earner. A taxpayer in the $22,000 bracket would give a good bit of thought before putting out an extra $100, and another $100 after that. He might defend it if he were in good financial shape, but not if he were already thoroughly overcommitted.

Now the congressional spenders might reason that federal revenues are constantly on the increase. So they are, by about $20 billion a year. The trouble is that automatic spending obligations—meaning those Congress has no control over, such as interest on the debt, public welfare and farm subsidies—are rising about $12 billion a year.

That leaves about $8 billion in what might be considered newly disposable income if the government were on an even fiscal keel. But it is not on an even keel. A big deficit is inevitable. And knowing that, even before this fiscal year got underway, Congress added $6 to $7 billion to the '73 budget. A good part of this represented the 20 percent Social Security increase. And that, along with much of the other increases, reflects what now has become standard and somewhat cynical operating procedure on Capitol Hill: Whatever the budget request for a politically visible and attractive program, pile on more money and dare the President to veto it. This is an upsmanship game that has been played in the past, but with millions and not billions of dollars.

Congress cannot be called entirely oblivious to the government's fiscal plight. Just last week, knowing full well a presidential veto was certain, enough Democrats and Republicans teamed up in the House to defeat a completely irresponsible $5 billion public-works bill. But that does not mean true fiscal responsibility has set in, nor that the budget-deficit problem will come under control. The problem, in fact, is almost certain to get much worse. The President's budget managers are desperately trying to convince themselves they can keep the 1973 deficit under $30 billion, for they know that beyond that figure, further red ink will have a decidedly inflationary impact.

But all the forces are going in the wrong direction. For one thing, Tropical Storm Agnes came along, and the President has proposed, and Congress will certainly agree, to spend $2 billion to aid the flood victims. And the war goes on, with the cost of air and naval bombardment certain to cost billions above what the budget men calculated for military spending in January. Then comes the legislation still pending—the big water pollution bill is a good example—already carrying a price tag billions above the budget figures. Finally, another debt ceiling bill must be enacted by October 30, one week before the election, and nobody knows how many billion-dollar goodies Congress will seek to attach to it. At any rate, this year's deficit could well run to $40 billion and beyond. With the economy now on the upswing, this is precisely the wrong time for that to happen. If it does happen, though, the President and Congress will have to share responsibility, and the next President, whoever he is, will be forced not only to raise taxes but to raise them on a very large order.

Another look at our $22,000 wage-earner is in order. He makes good money and gets a raise every year. But months ago he knew that even if he grew cautious, he would spend $2,500 more this coming year than he would make. He has not been cautious. In the first six months of the year, he obligated himself for a further $600 to $700. Now he is prepared to spend hundreds more. Between now and next July, he may well have spent $26,000 or more, adding to his debts by at least $4,000.

There are such people, of course, and they usually suffer painful consequences. Their only recourse is to rein in on spending, or make more money or both. For the federal government—and, ultimately, for all of us—the consequences also are bound to be painful. The government will have to raise taxes. And sooner or later, it will have to recapture a sense of reality about expenditures. In the meantime, the more Congress and the administration spend beyond what is prudent, the more inevitable a truly large tax increase becomes.

As a nation, we are very much in the position of the man who is making more money than he ever made before, possibly more than he ever dreamed of, but who is so undisciplined in his spending and so overcommitted that he cannot do the things he wants to do, and should do. Congress by and large has ignored this lesson. The President should speak out on it. So should the public.

BLUE CROSS PREMIUMS SHOULD BE REVIEWED

Mr. MOSS. Mr. President, I believe it is long past time for the Price Commission to take a harder line with the Nation's largest health insurance carrier.

On April 13, 4 months ago, I wrote to Chairman Grayson, asking that his Commission reconsider its earlier decision to

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[4] During oral argument, the Solicitor General virtually conceded, in the course of arguing that aides should not enjoy the same testimonial privilege as Congressmen, that a Senator could *not* be called before the grand jury to testify about the sources of his information:

"Q. Mr. Solicitor, am I correct that you wouldn't be able to question the Senator as to where he got the papers from?

"A. Oh, Mr. Justice, we are not able to question the Senator about anything insofar as it relates to speech or debate.

"Q. Well, this was related, you agree, to speech and debate?

"A. I am not contending to the contrary. . . ."

The following exchange also took place:

"Q. You can't ask a Senator where you got the material you used in your speech.

"A. Yes, Mr. Justice.

"Q. You can't.

"A. Yes."

At another point in the oral argument, the Solicitor General said that even when a Senator or Representative has knowledge of crime as a result of legislative acts "[t]hey can't be required to respond to questions with respect to their speeches and debates. That is a great and historic privilege which ought to be maintained which I fully support but which does not extend to any other persons than Senators and Representatives."

allow a 22-percent hike in the Blue Cross-Blue Shield health benefit premiums. In the letter, I cited new cost data indicating that the not-for-profit organization was on the way to a substantial surplus in 1972. I questioned the desirability of allowing Blue Cross to build up reserves at a time when the Federal Government should be exerting the maximum downward pressure on the price of this truly vital service.

The Price Commission refused to roll back the 22-percent premium hike, or any part of it.

Last week, Blue Cross testified before the House committee that, instead of "breaking even" in 1972 as they had predicted, they now expect a surplus of about $64 million.

Mr. President, this enormous margin is completely out of line with the need to fight inflation. Moreover, it is yet another example of the failure of Blue Cross to project accurately its own financial situation.

Eight months ago, Blue Cross-Blue Shield argued that it needed the 22-percent hike in Federal employee health premiums just to keep up with claims during 1972. Such an increase, they said, would still leave the organization with a deficit of around $68 million from previous years.

This was in December. Since taking that position, Blue Cross has repeatedly changed its estimates, with each new prediction more optimistic than the one before.

On March 8, a Civil Service Commission representative told the Senate Post Office Committee that, instead of losing $64 million during 1970 and 1971, Blue Cross lost only $45 million.

On April 6, Blue Cross addressed a letter to Senators to the effect that the deficit from previous years was actually only $16 million. They pointed out, moreover, that if utilization trends continued, they could expect a "small underwriting gain" in the current year.

Last week, Blue Cross testified before a House committee that they now expected their 1972 surplus to reach $64 million.

Mr. President, this is far from a "small underwriting gain," far further from "breaking even." It is an enormous margin, one with which the Price Commission must come to grips or else risk complete public disrespect for the equity of the administration's wage and price program.

I ask unanimous consent that the text of my letters to Chairman Grayson and today's Washington Post editorial be printed in the RECORD.

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

Washington, D.C., April 13, 1972.

C. JACKSON GRAYSON,
Chairman, Price Commission,
Washington, D.C.

DEAR MR. GRAYSON: On April 6, a representative of the Blue Cross-Blue Shield Program wrote to you explaining the new cost information regarding their Federal Employees Program's 1971 experience. From their letter, it now appears that Blue Cross sustained a 1971 loss, not of $60 million, as had been predicted in the fall, but of *$8 million.* (The actual figures comes to 1% of claims, as opposed to the 9% figures which had previously been estimated.)

Since these same projections, which have proved to be so grossly pessimistic in 1971 were used to support Blue Cross' cost situation in 1972, I believe the Price Commission should reconsider its December 23rd ruling which allowed the 22% increase in premium.

I do not think it unreasonable to believe that the same figures which resulted in a 8% over-estimate in 1971 might do the same thing in 1972. I believe it's entirely possible that, given the current, more optimistic date, Blue Cross could turn the 22% premium hike into a substantial surplus in 1972.

While Blue Cross-Blue Shield is a not-for-profit organization, I believe there could be no useful purpose in allowing these shifting cost trends to add millions of dollars to their reserves. I believe, moreover, it is our responsibility to exert the maximum downward pressure on the price of this truly vital service.

Sincerely,

FRANK E. MOSS,
U.S. Senator.

WASHINGTON, D.C., *August 15, 1972.*

C. JACKSON GRAYSON, Jr.,
Chairman,
Price Commission,
Washington, D.C.

DEAR COMMISSIONER GRAYSON: On April 13, I wrote to you urging a review in the Price Commission's decision made last December, to allow a 22% hike in Blue Cross-Blue Shield health benefit premiums.

At the time I pointed to new cost information just made available by Blue Cross that indicated a substantial change in the health benefit plan's cost situation. I pointed to the fact that the Federal employees' program instead of losing $60 million in 1971 as had originally been predicted, had lost only $8 million; in other words, 1% of claims instead of 9%. I asked that the Commission's ruling be reconsidered since it was based upon these same figures which have been proven to be overly pessimistic.

Last week, in testimony before a House subcommittee, Blue Cross stated that it now expects a $64 million surplus during the current year. Since this is obviously out-of-line with the Administration's guidelines and since Blue Cross has offered the cost information as public record, I once again urge the Commission to reconsider the 22% premium increase.

Sincerely,

FRANK E. MOSS,
U.S. Senator.

[From the Washington Post, Aug. 16, 1972]

THE $64 MILLION (OR MORE) QUESTION

Earlier this year the health insurance premiums paid by the 1.6-million federal employees and retirees enrolled in Blue Cross-Blue Shield plans were jacked up 22 per cent, ostensibly to keep the company from suffering a massive deficit. But now Blue Cross officials have told a House subcommittee that they are currently anticipating a $64 million surplus this year, and the federal insurance administrator has guessed that the surplus might even reach $95 million. Given these figures, federal employees might be pardoned for wondering whether their current premiums might be a bit too high.

This is not the first time that Blue Cross calculations have raised questions. Last year the firm, pleading financial miseries, asked the Civil Service Commission for a whopping 53 per cent rate increase. CSC allowed 34 per cent, which Blue Cross claimed was essential to stave off losses projected at $68 million for 1970–71 and a cumulative total of $146 million by the end of 1972. Although the Price Commission, pressured by employee unions and some congressmen, allowed "only" the 22 per cent increase, the firm has now reported that 1970–71 losses reached just $16 million. Then, of course, there is that sudden surplus projected for this year.

To those untutored in the actuarial arts, it might appear that Blue Cross' gloomy forecasts last year were simply way off base. But a few days ago, when Rep. Jerome Waldie called the $146-million-loss figure "an enormous error," a Blue Cross official protested, "We don't want to call it an error . . . because it's only a projection." Such a way with numbers seems far too casual for a program which last year collected $444 million in premiums from federal workers, plus a $290 million government contribution.

Rep. Waldie, whose subcommittee has been probing Blue Cross-Blue Shield operations for some time, is also concerned about soaring administrative costs. For example, according to General Accounting Office documents just obtained by this newspaper, company officials docked the federal program's accounts for several thousand dollars in expenses, including entertainment, for administrative meetings around the country last year—at the same time that the firm was predicting those massive deficits.

The entire situation raises serious doubts about the management of the federal employee programs and the oversight, or lack of it, exercised by the Civil Service Commission. Rep. Waldie, for one, is preparing to propose that supervision of federal insurance plans be moved from CSC to another, more vigilant agency. Such a prescription may be drastic, but some strong dose of reform seems in order to restore confidence in the health of the health insurance plans.

THE OPENING OF THE SWISS AIR AND SPACE WING AND ITS LESSONS FOR THE UNITED STATES

Mr. GOLDWATER. Mr. President, today I take a few moments of the Senate's time to pay tribute to Alfred Waldis, the director of the Swiss Museum of Transport and Communications, whose dream and dynamic force has resulted in the opening of the largest permanent air and space building in Europe, as a new wing of the Swiss Museum at Lucerne. The official opening of the air and space wing was held on July 1, and I can report from the first hand observations of a member of my staff who attended this event, at non-Government expense I might add that it was a smashing success. It was a success of which Dr. Waldis, the museum's director, can be extremely proud. It was a success from which the nation of Switzerland can be honored, and if I might add a personal impression without embarrassing our neutral friends in Switzerland, it was a major propaganda success for the United States.

Mr. President, one unique feature about the Swiss Transport Museum, including its new air and space wing, is the fact that it is a private museum. It was not constructed by the Government of Switzerland, and it is not operated at Government expense. The Confederation has made a large contribution to the construction and, I believe, helped with the obtaining of actual aircraft that is on exhibit at the museum. But for the most part all the money that has enabled the new museum to be built and which will be used to maintain the structure is derived from private contributions by individuals and businesses all across Switzerland and from a small admission fee

which is charged for entry into the transport museum. Since it has been one of the primary benefactors among the private organizations contributing to the museum, I should mention that Swissair has been very generous in its support of the project.

Mr. President, the enthusiasm of the Swiss people and Swiss private businesses toward contributing to a major technological and historical museum and participating in its continuing support by the payment of an admission fee is a special phenomenon that is worthy of a close look by us in America. At the very least, I hope that the Swiss example will encourage the Smithsonian Institution and private aerospace industries in the United States to think about participating jointly in financial support of the exhibits program that will open the new U.S. National Air and Space Museum in July of 1976, as a part of our Nation's bicentennial celebration. In this connection, I am very pleased that Louis Casey, Assistant Director for Aeronautics of the U.S. museum, attended the opening of the Swiss building as an official guest of the transport museum. His personal observations about the Swiss effort should be useful in developing plans for the American museum.

There is something else we might learn from a study of the Swiss Air and Space Building, and this is the quality of artistic sensitivity which is reflected both in the architecture of the building and the layout of the internal exhibition areas of the building. The outside structure itself is a modern, handsome building which fits in well with its environmental surroundings, in design and color. I might note that its outside surface is covered with U.S.-made steel, and I believe U.S. glass as well, which speaks highly for our domestic industries. The building is situated right at the shoreline of the lake of Lucerne and is an easy ride or, even walk, to the main business area of the city.

The exhibition building is 200-feet long, 110-feet wide, and 43-feet high, except in the area of the space cylinder at the roof where the ceiling goes to 66 feet. This is the setting for a cyclorama, which I shall describe later. Those of my colleagues who are interested in what the relative dimensions of our U.S. air and space building will be might like to know that the architect's latest plan indicates a length of 685 feet, a width of 225 feet, and a height of 82½ feet, with a total exhibition area of 205,000 square feet, plus a spacearium chamber. This is approximately three times the maximum air and space exhibition area that is now available for use at the Smithsonian Institution.

Even though the outside dimensions of our own new building is projected to be as much as three times longer, and twice as wide and high, as the Swiss building is, I will be very pleased if our exhibitors come up with such an excellent and broad display of actual artifacts as are being shown at the Swiss museum. The transport museum has 21 authentic aircraft already on exhibition starting with the Dufax of 1910 and the Blériot of 1913 and moving forward to important craft of the 1920's, 1930's, 1940's, and 1950's. In addition, there are three aircraft outdoors and at least three more, including the Fokker CV, which are scheduled for exhibition at a later time. I know it has always been the goal of the U.S. Air and Space Museum to have at least 25 major aircraft on exhibit at its new building, and considering that we possess over 210 outstanding, original specimens here at the Smithsonian, I certainly hope that we are able to live up to this long held promise.

This leads me to mention, Mr. President, that Dr. Waldis and the Swiss museum have succeeded admirably in achieving a means of displaying authentic specimens to public view. Without question, one of the most outstanding features of the new Swiss museum is the unobstrusive presence of walkways that weave through the exhibition halls at different levels allowing viewers to look upon the aircraft and spacecraft from different angles and different heights. Thus, not only is the collection of specimens on display at the Swiss museum an excellent and broad one, but the way these artifacts are exhibited to the public presents the collection in its best possible light. There is no monotony in viewing these exhibits. Moreover, the entire setting is tasteful and artistic.

Mr. President, I have mentioned that the opening of the Swiss museum was, in my opinion, a great propaganda victory for the United States and I want to explain what I meant by this. First of all, America, unlike the Soviet Union, was represented at the opening ceremonies by a high official of our Government. Dr. James C. Fletcher, Administrator of NASA, visited the opening as the personal representative of President Nixon and participated in the ceremonies by giving a short talk. Also, two famous American astronauts, Neil Armstrong and John Glenn, were present in marked contrast to the failure of any Soviet cosmonauts to appear.

Moreover, the absence of any Russian space artifact was striking. To our credit, I am proud to say that the United States, through a loan agreement which exists between NASA and the National Air and Space Museum of the Smithsonian, made available on loan to the Swiss museum at least 16 objects from the U.S. space program. These included the actual Mercury 19 spacecraft, the Jupiter engine, and the Apollo 14 spacesuit and helmet of Astronaut Mitchell. In addition, the space feats and contributions of the United States were the predominant theme shown at the cyclorama of the Swiss museum.

This is a compact theater with a dome ceiling that is located in the upper floor of the Swiss building and is used to present a very striking film about space explorations that draws the viewer right into the happenings. There are many small screens which cover an entire wall of the room from floor to ceiling on which are projected many different scenes telling the story of space exploration by mankind, sometimes through different pictures on each separate screen and sometimes by one massive image across the entire wall of screens. It is a remarkable experience to view and hear and if we can capture the same kind of living excitement in the Smithsonian's proposed spacearium, I think it will be a major tourist attraction as well as educator of the public. I would only recommend that our designers keep an appropriate perspective between the number of original artifacts which will be on display at the new U.S. museum and the space which is made available for the presentation of models of special facilities such as the spacearium. As I have said, the Swiss museum captured a pleasing balance between the two, having 21 original aircraft on exhibit while leaving room enough for a compact sized cyclorama theater.

Returning to my original point, Mr. President, I commend the National Air and Space Museum and Fred Durant, Assistant Director of Aeronautics, for cooperating with the Swiss museum in presenting these space artifacts from the U.S. collection. I think it has resulted in a significant demonstration of U.S. accomplishments in space flight to the outside world and put us in an extremely favorable light as compared with the Soviet Union. These specimens are on loan and will be returned to the American people in a very few years, but in the meantime their presence in Switzerland, a neutral country centrally located in Europe, where visitors from countries of all political shadings arrive, helps to foster a glowing image of the United States among many individuals and groups who would not ordinarily have this view presented to them. In fact, in the first month of its opening, July, the new air and space wing has received more than 100,000 visitors, which is some kind of a record for European museums. This offers a tremendous opportunity for peoples of the world to get a constructive view of the United States as reflected in the exhibits and cosmorama.

Mr. President, once again I congratulate Dr. Waldis on the great personal accomplishment which is represented in the form of the new Swiss air and space wing, and I regret very much that the timing of the opening of this building prevented me from attending it, although I did authorize one of my staff members to represent me at the ceremonies. I look forward to touring the museum myself some day. From what I am told about the Swiss museum, it has set a high standard that we in the United States can strive to reach and surpass in developing our own air and space museum, and we had better be on our toes if we want to be first in this field.

Mr. Terry Emerson, of my staff, whose detailed research has been of great value to all of us in helping the Smithsonian efforts, represented me in Switzerland and prepared this report.

EXTRAVAGANT SPENDING BY THE OFFICE OF ECONOMIC OPPORTUNITY

Mr. TALMADGE. Mr. President, earlier this month I was shocked to read in the Wall Street Journal that the Office of Economic Opportunity in New Jersey proposed to spend $60,000 of the taxpayers' money to take a group of

teenagers on a trip to Europe and Africa.

I am accustomed to being irritated by excesses in Federal spending programs. During the 15 years that I have been in the U.S. Senate, I have seen the national debt increase by almost $200 billion to its present level of $450 billion. In interest alone, we pay $21 billion a year on that debt. So, I am familiar with runaway Federal spending. I have denounced it at every opportunity. So long as I am privileged to serve the people of Georgia in the Senate, I will continue to denounce spending money we do not have for programs we do not need.

I also know, like everyone else, that there is waste and inefficiency in the operations of the Federal Government. Civilian Federal employment now stands at 2.8 million, in layer upon layer of a vast bureaucracy that gets less and less responsive to the needs and the will of the people and the taxpayers they are supposed to serve.

But when I learned of the New Jersey OEO adventure in Europe, I must confess that I was amazed. I propose that whoever concocted this thing ought to get some sort of citation for initiative. He has the dubious distinction of having come up with an imaginative—and so far as I know new—way to waste the taxpayers' money.

The OEO in Monmouth, N.J., had $60,000 left over in unspent poverty program funds. Not to be stymied by a surplus, the local Community Action Agency decided to take 67 allegedly underprivileged teenagers on a 2-month European excursion. They called it "cultural enrichment," or something like that.

I wrote to the Director of OEO, Phillip V. Sanchez, a very simple letter. First, I questioned the use of tax funds to finance a 2-month trip abroad for 67 teenagers.

Then, I asked who dreamed up such a scheme, and was he still an employee of the Office of Economic Opportunity.

I was informed that in initially making the grant, local OEO officials exercised bad judgment. That goes without saying. Some dismissals have been made. That is as it should be.

I was told that funds for the overseas program have been rescinded. For one thing, according to OEO, 23 of the 67 young people did not meet poverty guidelines.

Yet, no doubt a great deal of time, effort, and some money—in New Jersey and at the Washington level—have gone into unravelling this mess.

Can we imagine how the hard-working taxpayer reacts when he reads about such foolishness as this? No doubt he asks himself if the Government has gone mad?

We are concerned these days with disrespect for constituted authority and a widening of the credibility gap between the Government and the people. I submit that this is the stuff of which disrespect and credibility gaps are made.

This waste of the taxpayers' money was caught in time. However, there are many that are not, and many that go undetected at all. Whenever I hear about such fiscal foolishness as this, my thoughts go to the so-called middle man in the American society, the workingman who puts in his day's work, and takes home a pay envelope made considerably lighter by increasing taxes.

He makes too much to qualify for antipoverty programs. He makes too little to benefit from tax shelters. He is too old for the Youth Corps, and too young for old-age assistance.

In short, he is caught in the middle. He is the one who is hurt the most by inflation, and who benefits the least from Government spending and Federal assistance programs, at home and abroad. And, he is not unmindful of the fact that he and many millions of others like him are paying more than their fair share of taxes to keep these programs going.

That is why the middlemen of America are fed up with the welfare mess. That is why they are fed up with a benevolent Uncle Sam that pours billions of dollars overseas in never-ending foreign aid, while problems here at home beg for attention. That is why they are tired of the United States getting itself involved in costly wars where we have no business. That is why I think most people say hold off on sending more men to the moon on rock-collecting expeditions. They wonder how we can put men on the moon and cannot devise a way to get people to work on time in our overcrowded cities.

I say that the time is long overdue for more vigilance in the Federal Government overspending. We owe it to the taxpayers—to the middleman, as it were—to insure a dollar's value for every dollar spent.

The Government has imposed wage and price controls on the people. Now is the time for restraint and spending controls to be imposed on the Government.

Mr. President, I ask unanimous consent that there be printed in the RECORD the article from the Wall Street Journal of August 3, my letter, and the letter I received from the Office of Economic Opportunity.

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

[From the Wall Street Journal, Aug. 3, 1972]

INNOCENTS ABROAD

You've heard it a thousand times—"it isn't the money, it's the principle of the thing."

In the case of the 67 New Jersey teenagers who are spending July and August overseas, with most of their expenses paid by the federal antipoverty agency, principle and principal seem to be on collision course.

Faced with $60,000 in unspent funds from poverty programs elsewhere, the Office of Economic Opportunity decided the money could best be spent on a cultural enrichment program for under privileged high school students in Monmouth County. So now the 67 are touring Europe and Africa, under the aegis of a program designed to broaden their identity and lead them toward greater understanding of the world.

However, local taxpayers are less than thrilled about the trip, especially since a good many of them cannot afford overseas vacations. An area newspaper that asked readers if they felt the trip was wise use of tax dollars received 400 "no" replies and one "yes."

We imagine that the arguments will continue long after the innocents return from abroad. On the one hand, the cultural enrichment aspects of the tour can not be denied. Nor can it be denied, as defenders will be quick to point out, that well-to-do farmers and businessmen benefit from subsidies, tariffs, and oil depletion allowances, "Welfare for the rich" is the way many describe it.

Nevertheless, whatever else the decision demonstrates, it shows a lack of public relations sense on the part of antipoverty officials. Even more unsettling, however, was the attitude of the New Jersey OEO director, who said in defense of the overseas trip that unless the $60,000 was used by the end of the fiscal year, June 30, it would have had to be returned to general government funds.

Only a political innocent could be surprised that bureaucracies would rather spend money on even dubious projects than return it to the Treasury. But it isn't often that taxpayers are given such a vivid example of Parkinson's Second Law ("expenditure rises to meet income").

So at least the taxpayers have learned something about how antipoverty programs work, and perhaps this knowledge will enrich them culturally. We hope so, since the necessity to pay taxes for such things makes it less likely they will be enriched in any other way.

UNITED STATES SENATE,
Washington, D.C., August 3, 1972.

Mr. PHILLIP V. SANCHEZ,
Director, Office of Economic Opportunity,
Washington, D.C.

DEAR MR. SANCHEZ: I was very much amazed and greatly appalled by the editorial in today's Wall Street Journal, a copy enclosed, concerning the use of tax funds by the Office of Economic Opportunity in New Jersey to finance a two-month trip abroad for 67 teenagers.

Will you please inform me who made the decision for such an adventure at the taxpayers' expense, and if he is still an employee of the Office of Economic Opportunity?

I would appreciate this information at your earliest convenience.

With all good wishes, I am

Sincerely,

HERMAN E. TALMADGE.

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., August 11, 1972.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TALMADGE: Thank you for your inquiry of August 3, 1972, regarding the Monmouth Community Action Agency's Student Exchange Program.

The Office of Economic Opportunity certainly shares your concern regarding the approval of this project, and are presently looking into the appropriateness of such approval over other applications submitted since January of this year, which reflect specific needs of that community.

We are also concerned that OEO funds only those projects which meet the needs of the poor. As you know, no program can be legally funded by OEO that is not specifically designed for the poor in any given community. As a result of our preliminary investigation, the project in question does not appear to meet these criteria, inasmuch as a large number of children apparently came from homes which did not meet the poverty guidelines.

The Director of OEO, Phillip V. Sanchez, has ordered that all necessary legal and administrative steps be taken to avoid the recurrence of funding projects under similar circumstances, and has prevented any expenditures from being made on this grant. This action was taken when Governor Gahill of New Jersey withdrew his waiver of approval of the thirty-day waiting period, which is required by law.

When all the facts concerning this project are in, OEO will take further steps to correct any improper funding or inequities that might exist.

Sincerely,

ROY E. BATCHELOR,
Assistant Director for Operations.

STATEMENTS OF FRANCIS W. STOVER, DIRECTOR OF LEGISLATIVE SERVICE, AND COOPER T. HOLT, EXECUTIVE DIRECTOR, WASHINGTON OFFICE, VETERANS OF FOREIGN WARS

Mr. HANSEN. Mr. President, the Veterans of Foreign Wars is one of our major veterans' organizations in the United States, and has for years upheld the principles of this grateful Nation. They have advocated time after time that we should expand the programs for the individuals who fight our Nation's wars.

I ask unanimous consent to have printed in the RECORD the statement of Francis W. Stover, director of the legislative service, and Cooper T. Holt, executive director of the Washington Office of the Veterans of Foreign Wars of the United States, before the Subcommittee on Human Concerns of the Platform Committee, 1972 Republican National Convention.

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

STATEMENT OF FRANCIS W. STOVER

Mr. Chairman and Members of the Subcommittee:

Thank you for the privilege of appearing before this most important Subcommittee to present the recommendations of the Veterans of Foreign Wars of the United States in the field of veterans rights and benefits, which we would like to have made a part of the Republican Party Platform of 1972.

The membership of the VFW is approaching 1.8 million. It is most significant that about 450,000, or one-fourth of our members, are Vietnam veterans. Our organization has many programs of service to veterans and their dependents, to our communities, and to the nation. These programs are all responsible for the steady growth of our organization. This will be the twentieth consecutive year that our membership has increased over the previous year.

Our recommendations today reflect the concerns, problems, goals, and hopes of our membership, as embodied in about 300 resolutions pertaining to veterans programs approved by the delegate to our 72nd National Convention held in Dallas, Texas last August.

The VFW is proud of its record of leadership in gaining Congressional approval of the comprehensive program of veterans rights and benefits available to veterans and their families. It is a generous program covering a wide range of assistance. The 1973 Veterans Administration budget, which cleared the Congress recently and has been sent to the President for signature, totals about $12 billion.

There are over 28 million veterans, who, together with their families, constitute about one-half of our population, or about 100 million persons. Despite the magnitude of veterans programs and the large number of Americans concerned with these programs, veterans affairs have traditionally been nonpartisan. It is most important, therefore, that the Republican Party Platform establish a clear-cut policy with respect to the nation's continued obligation to this large and most important group of veterans and their dependents.

Mr. Chairman, as indicated, one-fourth of the members of the Veterans of Foreign Wars are Vietnam veterans. I believe the reason so many Vietnam veterans have joined our organization is because the VFW is the leader in behalf of legislation and programs to help these younger veterans upon their discharge and separation from active duty service and return to civil life.

The VFW is not a Johnny-come-lately respecting Vietnam veterans. The record indicates that way back on January 31, 1955, when the Korean War was ended by proclamation, the delegates to our National Convention, held the following August, passed a resolution calling upon the President and the Congress to continue GI Bill assistance for those citizens who were making an extra sacrifice in the national interest by serving in the Armed Forces during the Cold War.

Our organization was the first major veterans organization to go all out for a Cold War GI Bill. Finally, in 1966, the third GI Bill was approved. It was a watered-down GI Bill not comparable to the two previous GI Bills. Even today, after several liberalizing amendments, it is not up to par with the assistance which was provided veterans of previous wars. The cost of education has skyrocketed even more than the increased cost of living. That is why our organization has been extending every effort to have the Congress increase the GI Bill rates which will meet the high cost of tuition, books, fees, and board and room. A bill (H.R. 12828) has been approved by the House and Senate which carries out VFW recommendations to sharply increase GI Bill rates and make other improvements in education and training programs for Vietnam veterans. This legislation must clear the Congress and be approved by the President as soon as possible, so that it will benefit veterans continuing or commencing education and training courses in time for the fall term.

Mr. Chairman, so that there will be no misunderstanding, Vietnam veterans are entitled to many other benefits in addition to GI Bill assistance. Vietnam veterans are entitled to a wide range of veterans rights, benefits, and assistance to which veterans of all wars are entitled, including compensation, pension, hospital and medical care, insurance, and housing assistance, to name a few.

Mr. Chairman, the Vietnam war has been described as the most crippling war in American history. This is because so many casualties were taken almost immediately from the battlefield by helicopter to hospitals in the rear. In previous wars, many of these casualties would have died. Thousands of these Vietnam veterans are returning to civil life and will need the best medical care this nation can provide for many years, some for the rest of their lives. For example, there are currently about 2000 spinal cord patients in VA hospitals who were wounded in Vietnam. All of these veterans will be confined to a wheelchair the rest of their lives.

The Veterans Administration operates the largest national hospital system in the world. It is one of our great national assets. It includes 166 hospitals and a host of other medical facilities, which are delivering quality health care to the veterans of this nation including the combat disabled of the Vietnam war.

The Veterans of Foreign Wars has led the battle to prevent any takeover of the VA hospital system by other Government agencies. Looming on the horizon is a National Health Insurance plan for all Americans. There is much fear in the VFW that any National Health plan finally approved may swallow up or eliminate VA hospitals. This is not a groundless fear. The Office of Management and Budget has made it official policy that veterans medical care and National Health Insurance are interrelated. Former OMB Director George Shultz has written to Members of Congress that no new VA hospitals will be built until Congress has approved a National Health Insurance program. We have been greatly reassured by a recent statement by President Nixon that he will take steps to reenforce "the independent system of Veterans Administration health care facilities when and as required." The integrity of the VA hospital system must be maintained regardless of what kind of National Health plan is finally approved.

The VFW is dedicated to helping our fellow comrades of all wars and their dependents. We are proud to state that no organization has extended as much effort to assist the Vietnam veteran as the VFW, especially programs and efforts to find these newer veterans jobs and job training. We have been deeply disturbed with the continuing, staggering high number of Vietnam veterans on the unemployed lists. We are hoping that the bill to increase the GI educational assistance rates will help a large number of unemployed Vietnam veterans to find the job training they need to obtain meaningful and gainful employment for a successful readjustment to civil life.

An unexpected tragic development of the Vietnam war is drug addiction among servicemen and veterans. While a relatively small percentage of the total, their number is far too large to ignore. The Veterans Administration is authorized to take care of veterans for all medical care and treatment they may need, including drug addiction. However, there has been much confusion as to who is eligible for treatment because the VA is only authorized to care for those who have received an honorable discharge.

The VFW has met this drug problem head-on by our advocacy and support of legislation which has passed the House and is now before the Senate. Senate Majority Leader Mansfield has assured the VFW this drug legislation affecting servicemen and veterans will be acted upon before the end of this Congress. The VFW position, as incorporated in this bill (H.R. 9265), will broaden the authority of the VA to provide treatment and rehabilitation for veterans, regardless of the nature or type of discharge he may have been given. In addition, it will provide a legal basis to receive and treat members of the Armed Forces with drug addiction problems as well as veterans who may be committed to the VA by civil courts.

It is believed that this legislation will provide the necessary authority for the Veterans Administration to combat the drug abuse problem among veterans, while at the same time preventing other agencies from usurping and whittling away the authority of the VA to take care of the veterans of this nation who suffer from drug dependency.

Mr. Chairman, there are many veterans programs which are of priority concern to the VFW. Compensation for the service connected disabled, dependency and indemnity compensation for the survivors of servicemen and veterans who have died from service connected causes, pension for the elderly and permanently and totally disabled veteran, or, if deceased, their widows, job assistance through the Veterans Employment Service of the Department of Labor, an adequate veterans burial allowance, together with a National Cemetery policy for veterans of this nation, are among the highest concerns of the VFW.

The VFW has always held that the highest and priority consideration should be given to service connected disabled veterans and to widows and orphans of service connected dead. In that regard, the VFW commends the Administration for recommending and the Congress for approving cost of living increases for this most important program.

Veterans pensions are paid to a limited number of elderly or permanently and totally disabled veterans who meet a strict financial means test. A large number of veterans and widows who are receiving a veterans pension is based on service during World War I. The World War I veteran is now at an average age of 76. The VFW has continually recommended over the years a more generous and liberalized pension program, with special emphasis on the needs of the aging World War I veteran.

At least one National Cemetery in every state has been a priority objective of the VFW for a number of years. A bill, H.R. 12674, which has passed the House and is now before the Senate, is a giant step in this direction. This bill will establish a National Cemetery System in the Veterans Administration and makes provisions to substantially implement the VFW goal of a cemetery in every state.

With this brief background and review of VFW goals and concerns in the area of veterans rights, benefits, and assistance, the following recommendations are respectfully submitted as a suggested Veterans Plank in your 1972 Platform:

1. The Vietnam war is the most crippling in America's history. First consideration must be given to generous compensation payments to service connected disabled veterans and widows and children of service connected dead.

2. The disabled veterans of this nation deserve the highest quality medical care. There should be no budgetary or personnel restrictions on VA hospitals and its medical care system. Above all, the integrity of the VA hospital system and its capability to deliver quality health care must be maintained and improved.

3. The cost of veterans programs is necessarily an extension of the cost of war. The Veterans Administration was established to take care of the aftermath of war including the administration of all programs respecting veterans rights, benefits, and assistance. The Veterans Administration must be kept intact and veterans programs must not be splintered among other Government agencies.

4. We heartily endorse President Nixon's statement that he will take steps to reenforce the independent system of the Veterans Administration health care facilities when and as required. The integrity of the VA hospital and medical care system must be maintained, regardless of the National Health Insurance program which may be approved in the years ahead.

5. GI Bill assistance, including education, job training, and housing, for Vietnam veterans, is crucial to their successful readjustment to civil life. Education and training assistance must be at levels comparable to the assistance provided veterans of previous wars.

6. We endorse the principle of a generous and realistic pension for nonservice connected disabled veterans on the basis that all veterans have made a sacrifice in the national interest above and beyond that required of citizens who did not serve in the Armed Forces and that service performed by such veterans entitles them to financial assistance in the event they become disabled and in need, with special emphasis on the large number of World War I and older veterans who are forced to exist in whole or in part on their VA pension payments.

7. Drug addiction among veterans is a by-product of the Vietnam war. Consequently, the Veterans Administration should provide all necessary treatment and rehabilitation regarding the small number of veterans who are drug dependent and need special care and treatment.

8. Every veteran who so desires should have the perpetual honor of being buried in a National Cemetery reasonably close to his home. We endorse legislation establishing a National Cemetery System in the VA to carry out this principle.

Thank you.

PROFITS AND WAGES—WHERE DOES THE BALANCE TIP?

Mr. HUMPHREY. Mr. President, the most recent issue of Business Week carried this headline: "Profits Surge to a Record." The article documented the record of corporate performance for the second quarter of 1972. What it indicated ought to be a warning to the Nixon administration and the Price Commission—that record high profits for big business while the wages of the average working family are held down is simply inequitable, unfair, and unjust.

Reported Business Week:

U.S. business put together a truly dazzling profits performance in the second quarter of 1972. Not only did after-tax earnings spurt at least 15% ahead of the year-ago period but profit margins also firmed markedly during the quarter.

Mr. President, I think that something is unfair when corporations such as General Motors increase profits by 28 percent, Ford by 43 percent, and Chrysler by 118 percent, while the wages of the average worker strain to increase 5 percent over the total years.

Mr. President, I am hardly one to complain about profits. I think they are necessary. The productive enterprise of our Nation's economy cannot run without it. But I simply ask for a little justice for the American worker. I do not think that is too much to ask.

Mr. President, I ask unanimous consent that the article from Business Week, for August 12, 1972, be printed in the RECORD.

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

PROFITS SURGE TO A RECORD

U.S. business put together a truly dazzling profits performance in the second quarter of 1972. Not only did after-tax earnings spurt at least 15% ahead of the year-ago period but profit margins also firmed markedly during the quarter.

Corporations earned money at a $45.8-billion annual rate in the second quarter of 1971 and at a $49.5-billion rate in the first quarter of 1972 (revised down from the original Commerce Dept. estimate of $52.3-billion). The latest Business Week quarterly survey of corporate performance points to second-quarter profits at better than a $52-billion annual rate—more money than U.S. business has earned in any quarter in history.

The quarterly survey, prepared by Investors Management Sciences, Inc., of Denver, a subsidiary of Standard & Poor's Corp. covers 880 companies in 35 different industrial categories. Of the 35 industries, only five reported earnings down for the quarter. By contrast, 10 industries reported lower earnings in the second quarter of 1971.

No less striking was the improvement in profit margins, with business wringing more earnings from each dollar of sales. IMS figures show that the companies covered in the Business Week survey earned 5.5¢ on each $1 of sales, compared with 5.3¢ both in the second quarter of 1971 and in this year's first quarter. Of the 35 industries in the survey 27 reported fatter margins in the quarter. In the same period in 1971, only 17 industries reported improved margins.

The Business Week survey does not cover every company, of course. It omits those whose sales volume for the quarter was less than $10-million. Utilities are included only when quarterly sales topped $50-million, and banks only when they have more than $1-billion in deposits. Finally, companies whose most recent fiscal quarter ended before May 1 were left out unless their sales for the quarter topped $100-million.

The big winner in the quarter was the airlines industry, which reported earnings up 250% after a net loss in the first quarter. Pan American and Northeast still lost money in the quarter, but much less money than a year earlier. American, Eastern, Northeast, TWA, and United all reported profits up.

Plant and equipment spending has been at a handsome rate so far this year, and that helped most of the companies that crank out capital goods. The makers of specialty machinery, as a group, reported profits up 59% for the quarter, with Caterpillar and International Harvester both up 45% and Deere & Co. up 137%. With both consumer spending and spending by utilities at a fast clip, the makers of electrical and electronics gear reported earnings up 22%. For producers of office equipment, the profits gain was 20%, with IBM reporting a 22% increase.

Both chemical and paper companies benefited from a combination of heftier demand and firmer prices, while both savings and loan associations and producers of building materials thrived on the long-running boom in home-building.

Strong demand pushed auto company earnings up 33%, with General Motors up by 28%, Ford by 43%, American Motors by 98% and Chrysler by 118%. Indeed, it was a strong quarter for nearly all of the industries that sell to the consumer. The demand for bank money remained slack during the quarter, but bankers did push up the price they charge for loans. Anyway, almost anything the banks did this time would have been an improvement over the disastrous second quarter of 1971, when both loan demand and interest rates were way down.

On the other hand, the oil industry suffered from both price weakness and higher taxes abroad, and profits for the group were off 6%. The conglomerates by and large did well, but the $14-million that Litton lost in its third fiscal quarter pushed earnings for the group down. The steel industry suffered in comparison with a year earlier, when buyers were stockpiling mill products in anticipation of a possible strike. Soft prices and weak demand pushed earnings for the nonferrous metals group down by 9%.

Second-quarter standouts

[Percent change in profits, second quarter 1972 vs. second quarter 1971]

	In percent
The winners:	
Airlines	+250
Special machinery	+59
Appliances	+54
Radio and TV broadcasting	+47
Service industries	+42
The losers:	
Conglomerates	−5
Oil	−6
Retailing	−7
Metals and mining	−9
Steel	−19

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
AEROSPACE													
(Airframes, general aircraft and parts)													
Aerojet-General (1)	61.1	−13	104.9	−29	2.8	97	4.9	83	4.6	2.0	7.7	16	1.95
Aeronca	10.3	−9	20.2	−21	−.3	NM	−1.0	NM	NM	.6	−83.0	NM	−4.75
Altamil (4)	13.5	43	NA	NA	.6	120	NA	NA	4.5	2.9	5.9	28	.29
Beech Aircraft (3)	43.3	19	85.3	26	1.9	50	3.4	46	4.4	3.5	13.1	16	1.29
Boeing	624.4	−38	1,365.2	−27	6.8	−3	13.8	−3	1.1	.7	2.6	21	1.01
Cessna Aircraft (3)	69.6	65	124.6	46	4.3	114	6.8	82	6.1	4.7	11.3	22	1.54
Curtiss-Wright	60.4	−3	113.8	−8	1.2	99	1.3	NM	2.0	1.0	4.0	60	.76
Fairchild Industries	75.5	11	128.6	3	2.5	43	3.3	1	3.3	2.6	12.3	8	1.46
General Dynamics	386.9	−21	769.1	−19	6.3	58	11.4	34	1.6	.8	7.0	12	2.21
Martin Marietta	266.3	7	489.4	9	17.1	25	23.0	23	6.4	5.5	11.1	9	2.20
McDonnell Douglas	757.7	68	1,345.1	41	33.0	76	54.8	46	4.4	4.2	13.5	12	3.12
North American Rockwell (3)	615.1	2	1,224.2	7	21.5	16	NA	NA	3.5	3.1	13.1	11	2.97
Northrop	[1] 154.3	11	267.6	−5	2.7	−29	5.1	−23	1.8	2.0	NA	NA	NA
Royal Industries	[1] 41.0	44	75.7	44	1.5	27	2.8	40	3.6	4.0	15.4	12	1.01
Talley Industries (9)	71.6	−2	146.3	4	2.5	5	3.8	2	3.5	3.3	NM	10	1.06
Thiokol Chemical	63.6	23	129.1	27	2.6	46	4.8	49	4.1	3.4	10.1	12	1.43
Industry composite	3,314.4	−2	6,389.1	−2	107.1	36	138.4	30	3.2	2.3	9.0	18	1.97
AIRLINES													
Allegheny Airlines	68.6	48	114.3	35	2.8	8	.9	NM	4.1	5.6	4.8	NA	NA
American Airlines	340.2	8	653.1	13	2.6	157	−7.3	NM	.8	.3	4.0	43	.70
Braniff Airways	91.9	9	180.2	11	4.3	84	7.8	519	4.7	2.8	17.8	19	.84
Continental Air Lines	90.3	13	172.2	15	2.9	112	3.2	NM	3.2	1.7	11.8	20	1.05
Delta Air Lines (6)	200.9	12	394.3	16	13.7	20	22.5	56	6.8	6.3	14.1	23	2.20
Eastern Air Lines	281.7	7	582.5	10	7.5	133	19.8	200	2.6	1.2	9.3	18	1.39
Flying Tiger	62.6	34	199.4	37	6.8	55	11.3	72	10.9	9.4	27.9	15	2.36
Frontier Air Lines	27.8	15	51.5	10	3.0	NM	2.2	NM	10.6	NM	NM	18	.54
National Airlines (6)	88.9	19	183.4	23	4.7	66	11.6	255	5.3	3.8	14.9	16	2.34
Northeast Airlines	36.1	17	74.2	19	−.9	NM	−1.4	NM	NM	NM	NM	NM	−1.37
Northwest Airlines	129.1	23	248.5	41	8.5	204	13.2	NM	6.6	2.7	9.3	19	2.06
Pan American World Airways	328.2	16	598.2	11	−3.6	NM	−34.6	NM	NM	NM	−10.3	NM	−1.01
Seaboard World Airlines	24.7	7	47.2	8	1.5	112	1.7	304	6.1	3.1	21.4	11	1.35
Southern Airways	17.5	13	33.1	16	.9	109	−.1	NM	5.1	2.7	−8.3	NM	−.44
Trans World Airlines	360.3	12	641.9	13	22.3	206	−.6	NM	6.2	2.3	12.3	18	2.68
UAL	448.8	11	850.9	13	2.5	134	−9.9	NM	.6	.3	3.0	53	.67
Western Air Lines	83.9	7	171.4	14	.5	475	2.5	NM	.6	.1	11.9	20	1.84
Industry composite	2,681.5	13	5,115.8	15	79.9	250	42.9	NM	3.0	.9	5.5	22	.78
APPLIANCES													
Magic Chef (6)	58.6	33	109.2	32	3.0	86	5.5	83	5.1	3.7	23.1	17	2.64
Maytag	46.5	516	95.8	215	5.6	NM	11.9	NM	12.0	NM	31.5	18	2.00
Singer	552.3	8	1,077.2	8	19.1	35	37.4	29	3.5	2.8	9.8	19	4.42
Tappan	54.0	48	104.6	53	1.3	43	2.8	120	2.5	2.6	12.8	15	1.98
Whirlpool	385.1	3	690.1	8	18.9	11	32.1	26	4.9	4.6	19.6	21	1.59
Industry composite	1,096.6	13	2,076.8	14	48.0	54	89.7	61	4.4	3.2	14.3	18	2.39
AUTOMOTIVE													
(Autos, trucks, equipment and parts)													
Allen Group	38.7	23	73.2	26	1.4	24	2.5	26	3.7	3.7	10.3	17	1.30
American Motors (3)	375.8	23	710.1	20	7.8	98	NA	NA	3.1	1.3	7.3	16	.63
Arvin Industries	48.9	14	95.2	11	1.7	19	3.2	15	3.6	3.4	10.0	23	.09
Borg-Warner	334.3	15	638.7	12	16.0	30	28.2	28	4.8	4.2	9.3	12	2.77
Budd	169.3	30	334.1	25	4.3	946	9.3	1,569	2.6	.3	9.3	8	2.12
Champion Spark Plug	88.4	20	179.0	15	9.6	20	19.5	12	10.9	10.9	20.1	16	2.96
Checker Motors	[1] 15.5	7	31.1	5	.1	−81	.3	−50	.4	2.0	.8	83	.25
Chrysler	2,534.3	20	4,739.8	20	68.4	118	104.2	147	2.7	1.5	6.4	11	2.85
Cummins Engine	[1] 113.9	−11	219.1	−8	.8	−87	−1.3	NM	.7	4.6	5.9	40	1.44
Dana (4)	228.8	29	431.8	31	13.6	33	24.5	55	5.9	5.7	14.8	11	3.17
E S B (9)	79.1	19	171.5	17	2.1	24	6.1	1	2.7	2.6	8.9	15	2.18
Eaton	313.8	16	607.2	16	19.5	27	37.7	38	6.2	5.7	14.6	12	3.62
Federal-Mogul	75.6	8	142.6	5	4.3	17	7.5	14	5.7	5.3	12.1	12	2.48
Filter Dynamics Intl. (1)	13.5	21	23.4	33	.7	49	1.0	54	4.9	3.9	20.4	29	.97
Ford Motor	5,359.6	29	10,201.9	27	282.8	43	535.2	46	5.3	4.8	14.2	8	7.92
Fruehauf	148.1	25	277.8	20	7.5	112	13.2	87	5.0	3.0	11.1	13	2.90
General Motors	8,457.1	11	16,237.5	6	723.0	28	1,373.7	17	8.5	7.5	19.6	10	7.41
Houdaille Industries	63.9	28	119.2	28	3.4	74	4.7	103	5.3	3.9	12.8	11	1.23
Jervis (4)	[1] 10.8	37	21.0	32	.6	NM	1.0	NM	5.4	NM	8.7	18	.76
Kelsey-Hayes (4)	125.0	22	235.9	17	3.1	17	4.6	3	2.5	2.6	7.2	12	2.69
Kysor Industrial (7)	20.6	19	38.2	20	.9	32	1.3	28	4.2	3.8	9.5	14	1.51
Libbey-Owens-Ford	146.3	5	293.4	5	15.0	4	28.9	−1	10.3	10.4	21.5	10	3.95
Maremont	76.5	13	136.6	15	3.6	88	4.7	105	4.7	2.8	19.1	18	2.06
McCord (4)	29.6	4	55.4	3	1.4	2	2.3	NA	4.7	4.8	14.4	9	2.70
Novo	26.5	46	45.4	25	.4	295	.5	440	1.4	.5	1.6	69	.12
Peabody-Galion (3)	34.4	42	=1.7	38	1.5	39	2.4	37	4.3	4.4	13.7	46	.90
Purolator	53.9	19	107.6	18	2.8	19	5.6	29	5.2	5.3	21.2	28	2.46
Raybestos-Manhattan	47.0	18	87.5	12	1.6	51	2.4	35	3.4	2.7	5.5	11	2.46
SOS Consolidated (4)	17.6	14	32.4	10	.8	2	1.4	−1	4.5	5.0	16.0	8	2.05
Safeguard Industries	19.2	3	37.4	5	.5	−52	.8	−55	2.5	5.4	6.0	25	.32
Sheller-Globe (3)	64.2	17	124.4	15	2.3	49	4.0	46	3.6	2.8	22.3	16	2.68
Smith (A. O.)	129.1	4	254.6	6	3.5	−14	7.7	5	2.7	3.3	8.6	9	2.68
Timken	122.2	6	233.6	7	10.7	−8	20.4	−4	8.8	10.2	10.6	11	3.50
White Motor	235.5	1	465.1	4	1.9	−44	3.8	−26	.8	1.4	0	NM	.01
Industrial composite	19,617.0	17	37,463.5	14	1,217.5	33	2,261.3	26	6.2	5.5	15.5	20	5.48
BANKS AND HOLDING COMPANIES													
American Fletcher	21.3	14	42.2	11	2.3	−3	4.8	−9	10.8	12.6	12.0	12	2.09
Bancal Tri-State	35.4	15	70.8	10	1.4	5	2.3	−36	4.0	4.3	8.2	11	2.23
Bancohio	33.1	19	64.5	19	4.5	26	8.4	16	13.5	12.8	10.2	11	2.51
Bank of Commonwealth	17.8	−14	36.9	−17	.5	NM	1.0	NM	2.7	NM	−44.4	NM	−1.17
Bank of New York	52.6	1	98.6	−1	6.7	2	12.4	−5	12.7	12.6	14.3	9	4.32

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
BANKS AND HOLDING COMPANIES—Continued													
BankAmerica	401.8	10	790.6	8	42.3	5	84.2	4	10.5	11.0	13.5	16	2.64
Bankers Trust New York	152.7	8	309.4	7	13.1	23	26.1	3	8.6	7.6	11.6	10	5.41
CIT Financial	139.3	0	276.5	−1	20.7	9	39.5	9	14.9	13.7	13.5	12	3.93
Cameron Financial	29.6	12	57.8	5	3.5	11	6.5	−8	11.9	12.0	16.8	19	2.12
CBT	21.1	10	42.2	7	2.2	−12	4.9	−11	10.5	13.1	12.0	10	5.30
Charter New York	78.3	2	151.9	−1	6.2	2	11.6	−12	8.0	8.0	8.9	11	2.98
Chase Manhattan	346.0	3	690.4	−1	34.5	25	70.8	1	10.0	8.2	12.6	13	4.65
Chemical NewYork	163.2	10	323.8	4	14.8	2	32.2	−11	9.1	9.8	10.6	9	5.14
Citizens & Sou hern National	42.9	13	83.9	10	5.7	12	11.2	7	13.4	13.4	13.6	23	1.82
Continental Illitnois	131.9	18	264.5	11	18.0	66	39.3	30	13.6	12.2	13.5	13	4.60
Crocker Nation al	101.9	5	200.2	2	8.1	−5	16.1	−6	8.0	8.7	11.6	10	3.20
Detroit Bank &Trust	34.3	3	68.0	2	4.4	−4	8.6	−4	12.7	13.6	11.2	8	5.88
Equimark	29.7	52	57.7	38	1.9	61	4.4	26	6.4	6.0	18.0	8	2.71
First Bank System	78.5	18	155.3	12	11.8	24	24.3	9	15.0	14.3	14.3	18	3.19
First Chicago	138.7	21	268.0	12	20.1	42	37.9	14	14.5	12.4	11.4	14	3.64
First City Bancorp	26.6	34	51.1	37	3.7	22	7.1	17	14.1	15.5	13.6	18	3.03
First Commercial Banks	37.7	1	55.3	2	2.5	−11	4.8	−14	6.7	7.6	NA	NA	NA
First National Boston	78.7	5	153.8	2	10.5	9	19.7	−6	13.3	12.9	10.2	12	6.52
First National State Bancorp	16.2	7	32.3	4	2.4	10	4.7	1	14.6	14.2	12.2	10	3.45
First National Bank in Dallas	33.0	20	65.2	17	5.7	21	11.0	12	17.2	17.2	14.8	18	4.34
First National City	460.3	8	918.8	7	50.3	26	96.8	16	10.9	9.3	13.5	20	3.29
First Pennsylvania	79.3	16	155.5	18	8.8	5	17.2	4	11.0	12.3	16.1	17	2.79
First Security	22.9	10	45.0	9	4.0	4	7.7	6	17.3	18.2	14.0	14	2.71
First Wisconsin Bankshares	37.9	19	75.0	15	3.7	25	7.4	7	9.7	9.2	10.8	10	3.58
Franklin New York	45.4	−1	93.0	−5	3.1	−23	6.7	−39	6.9	8.8	9.0	12	2.42
Girard	30.8	15	59.5	9	3.7	6	7.0	−5	12.0	13.0	11.4	9	5.85
Harris Bankcorp	35.7	17	69.9	8	4.0	20	8.0	−1	11.3	11.0	9.6	10	5.31
Hartford National	20.8	13	40.7	9	2.1	−2	4.2	−6	10.1	11.7	10.8	9	3.19
Indiana National	21.0	18	40.7	14	2.5	14	5.0	6	12.0	12.4	10.6	11	2.00
Lincoln First Banks	33.9	11	66.9	10	3.6	5	7.4	5	10.7	11.2	10.6	8	3.79
Manufacturers National Bank Detroit	31.9	9	63.3	6	3.3	−1	6.6	−4	10.3	11.3	12.8	8	6.79
Marine Bancorp	29.0	0	58.1	3	2.2	−19	4.5	−9	7.5	9.2	9.4	9	2.64
Marine Midland Banks	130.7	19	253.7	13	10.5	15	21.1	0	8.1	8.4	11.7	10	3.30
Maryland National	20.6	8	40.7	7	3.6	8	6.9	4	17.4	17.4	14.4	17	3.81
Mellon National Bank & Trust	75.5	5	150.2	2	10.7	−6	21.6	−12	14.2	15.9	9.0	10	4.53
Morgan (J.P.)	177.5	11	358.1	6	27.6	24	58.2	10	15.5	13.9	14.1	16	6.25
National Bank of Detroit	68.6	3	138.3	2	8.3	0	17.2	−1	12.1	12.4	11.4	8	5.99
National City Bank of Cleveland	22.5	6	44.7	3	5.4	4	10.8	3	24.2	24.7	14.5	10	6.04
NCNB	40.1	29	76.5	24	5.1	28	10.0	22	12.8	13.0	18.1	27	2.67
Northwest Bancorp	79.4	14	155.8	12	10.5	17	20.1	12	13.2	12.9	12.8	15	3.41
PNB	38.7	5	76.5	4	5.5	2	10.6	−6	14.2	14.6	13.2	11	4.12
Provident National	21.5	23	41.9	18	3.3	18	6.2	8	15.5	16.3	10.4	9	3.21
Republic National Bank of Dallas	41.3	21	81.2	14	5.4	21	10.5	6	13.1	13.1	14.7	15	2.41
Seattle—First National	45.2	8	89.0	6	5.6	−3	11.3	−1	12.4	13.9	12.7	11	4.82
Security Pacific	148.4	16	291.3	12	14.9	18	28.5	4	10.1	9.9	10.6	12	2.60
Shawmut Association	28.3	10	55.3	6	2.8	24	5.2	−5	9.8	8.7	9.4	9	5.59
Society	21.0	9	40.9	7	1.7	1	3.2	3	8.0	8.6	9.4	8	3.34
Southeast Banking	24.1	16	47.4	11	3.0	22	6.1	10	12.6	11.9	14.5	20	1.98
Texas Commerce Bankshares	18.5	7	36.6	5	3.6	3	7.1	4	19.3	20.0	12.6	16	4.45
U.S. Bancorp	32.4	9	64.3	9	3.9	6	7.8	11	12.1	12.5	12.6	12	3.77
Union America	62.2	14	125.1	17	5.9	24	11.6	21	9.5	8.8	17.4	15	2.47
United Bank	16.7	2	33.1	0	3.1	1	6.1	−3	18.6	18.7	NA	NA	NA
United Virginia Bankshares	26.4	17	51.5	13	3.5	22	6.6	11	13.1	12.5	13.6	15	2.53
Valley National	37.1	12	74.3	12	4.1	16	8.2	11	11.1	10.7	13.8	17	1.75
Virginia National Bankshares	21.9	10	42.9	9	2.5	4	4.6	2	11.5	12.1	13.3	12	2.33
Wachovia	57.9	9	115.3	7	7.5	9	15.5	6	13.0	13.1	14.1	21	2.12
Wells Fargo	120.3	17	235.8	15	9.5	17	17.6	13	7.9	7.9	10.6	14	3.92
Western Bancorp	206.4	12	406.2	9	17.0	8	31.9	−6	8.2	8.6	10.7	11	2.79
Industry composite	4,674.2	11	9,223.7	7	523.4	14	1,036.6	4	11.2	10.9	12.4	13	3.46
BEVERAGES													
(Brewers, distillers, soft drinks)													
Anheuser-Busch	256.5	9	481.1	10	20.6	12	38.0	12	8.0	7.8	18.5	37	1.69
Coca-Cola Bottling Co. of N.Y.	47.3	16	83.7	15	2.5	11	3.9	12	5.4	5.6	17.8	38	.78
Dr. Pepper	21.2	23	37.0	22	2.3	22	3.8	21	11.0	11.1	29.5	63	.80
Falstaff Brewing	52.9	33	83.7	16	.7	5	.8	−7	1.3	1.7	2.4	25	.30
Heileman Brewing	[2] 27.1	−4	52.7	2	1.3	−13	2.4	−6	4.8	5.3	19.7	13	1.30
Heublein (6)	[2] 254.4	9	474.4	12	10.0	15	16.8	15	3.9	3.7	41.1	31	1.87
National Distillers & Chemical	[1] 280.6	2	544.2	5	6.8	3	14.1	10	2.4	2.4	7.1	17	1.15
Pabst Brewing	[2] 124.9	8	226.8	10	7.5	16	13.2	17	6.0	5.6	14.2	35	2.86
Pepsi Co	316.5	11	583.9	10	16.6	12	28.3	12	5.3	5.2	17.7	31	2.86
Rheingold	[2] 63.4	5	112.8	4	.9	−31	.3	−81	1.4	2.2	6.3	18	.84
Royal Crown Cola	36.3	11	71.4	20	3.1	20	5.1	19	8.5	7.9	24.4	28	1.32
Schaefer (F. & M.)	62.8	0	111.4	5	.8	−60	.4	−72	1.3	3.3	6.2	9	1.37
Schlitz (Jos.) Brewing	[2] 221.5	16	383.7	17	15.5	36	23.2	30	7.0	6.0	17.5	37	1.40
Seven-Up	32.0	11	57.5	10	3.5	25	6.1	21	11.1	9.9	32.0	42	1.10
Southdown	[1] 50.7	7	92.4	6	3.3	10	5.5	7	6.4	6.3	48.6	9	2.21
Industry composite	1,848.0	12	3,362.1	12	95.6	13	161.7	13	5.2	5.1	16.1	29	1.61
BUILDING MATERIALS													
(Cement, wood, paint, heating, and plumbing, roofing, etc.)													
Alpha Portland Industries	[1] 40.9	50	66.6	44	.9	98	1.4	93	2.1	1.6	6.6	11	1.49
American Cement	46.3	0	77.2	8	2.3	13	2.0	18	4.9	4.4	3.4	20	.35
Bliss & Laughlin Industries	34.3	2	65.5	6	1.7	7	3.0	20	5.1	4.8	10.8	10	1.84
Boise Cascade	428.8	11	825.3	15	11.9	51	20.6	98	2.8	2.0	−2.6	NM	−.70
Carrier (2)	195.9	10	342.8	12	9.9	26	14.7	40	5.1	4.4	11.6	22	1.27
Certain-tee Products	99.9	13	185.4	17	6.9	77	9.6	96	6.0	3.8	19.0	12	1.90
Champion International	479.9	18	926.6	21	17.0	34	29.6	37	3.5	3.1	9.7	14	1.52
Cook Paint & Varnish (1)	19.7	20	34.4	19	.7	125	.8	971	3.5	1.9	6.3	10	2.10
Copeland (3)	47.8	25	89.8	19	2.5	24	4.8	28	5.2	5.3	20.3	19	2.49
Crane	215.6	3	409.6	5	2.8	−37	4.9	−17	1.3	2.1	5.9	10	1.79
De Soto	66.0	13	119.3	11	1.3	−16	1.9	−6	1.9	2.6	6.9	18	.81
Evans Products	[1] 253.7	27	433.2	29	9.5	53	12.6	52	3.7	3.1	12.9	16	1.43

See footnotes at end of table.

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
BUILDING MATERIALS—Continued													
(Cement, wood, paint, heating and plumbing, roofing, etc.)—Continued													
Feeder (4)	[1] 70.3	−28	164.7	−14	0.3	−94	6.1	−46	.5	5.8	11.8	28	1.25
Flintkote	124.5	8	211.6	12	5.7	15	5.6	38	4.6	4.3	8.4	11	2.37
General Portland	46.7	24	86.6	29	3.7	6	5.4	14	7.9	9.3	10.2	14	1.65
Georgia-Pacific	477.3	30	885.3	30	33.7	56	59.9	43	7.1	5.9	15.2	19	1.96
Ideal Basic Industries	58.1	19	103.0	25	7.1	45	11.7	46	12.2	10.0	12.4	11	1.51
Interpace	54.5	13	101.1	14	1.8	−1	2.6	−1	3.3	3.8	7.4	10	2.00
Johns-Manville	202.9	13	371.2	18	14.2	15	23.2	29	7.0	6.9	11.8	12	2.77
Kaiser Cement & Gympsum	39.7	17	73.2	21	2.7	34	4.5	63	6.3	5.9	11.8	11	1.09
Kingford (3)	18.0	26	26.2	19	1.5	8	1.7	9	8.1	9.4	21.6	15	.92
Lehigh Portland Cement	34.2	4	59.1	17	2.0	4	2.4	95	5.9	5.9	6.3	11	1.59
Lone Star Industries	116.0	14	201.2	15	7.1	12	7.9	25	6.1	6.2	11.5	12	2.03
Marquette Cement Manufacturing	31.2	3	46.3	8	.5	120	.4	207	1.5	.7	.8	46	.23
Masonite (4)	66.3	20	NA	NA	7.2	20	NA	NA	10.8	10.8	16.9	19	3.26
Medusa	33.6	11	50.1	24	2.2	26	1.3	118	6.4	5.7	9.0	14	2.71
Missouri Portland Cement	11.6	6	16.7	10	1.6	14	1.5	33	13.5	12.5	8.4	12	2.35
National Gypsum	137.9	16	249.7	19	8.5	59	13.8	80	6.1	4.5	8.8	11	1.66
NL Industries	263.4	7	500.7	8	11.8	58	19.2	28	4.5	3.0	6.5	13	1.13
Norris industries	81.5	16	152.1	14	4.4	6	8.5	14	5.4	5.9	19.6	13	3.87
OKC (3)	[1] 13.6	24	23.4	14	1.8	239	2.4	140	13.3	4.9	18.5	13	2.78
Owens-Corning Fiberglas	154.1	14	291.9	16	9.2	46	16.0	62	6.0	4.7	11.6	22	2.12
Potiatch Forests	100.0	9	192.4	9	4.8	75	9.3	121	4.8	3.0	7.7	13	2.11
Puerto Rican Cement	11.5	15	22.5	17	.5	332	1.0	523	4.1	1.1	6.7	12	.94
Robertson (H.H.)	58.2	−4	111.2	1	1.3	5	1.7	−4	2.2	2.0	10.1	10	2.27
Sherwin-Williams (4)	165.1	11	292.8	13	6.6	37	6.8	76	4.0	3.2	8.4	17	3.26
Sierra Pacific Industries	20.6	61	40.1	84	1.4	11	2.8	56	6.8	9.9	35.0	7	1.69
Temple Industries	24.2	24	45.3	31	2.5	29	4.8	65	10.3	9.9	13.4	19	1.44
Trane	74.4	12	134.1	10	4.9	3	7.5	−13	6 6	7.1	10.9	26	2.81
U.S. Gypsum	163.8	17	309.3	23	12.5	22	23.2	52	7.6	7.3	11.7	10	2.61
Wallace-Murray	67.7	22	130.2	20	2.5	58	4.3	54	3.7	2.8	11.8	9	2.8
Walter (Jim) (4)	[1] 251.9	42	422.3	31	13.0	34	19.4	32	5.2	5.5	31.0	12	2.33
Weyerhaeuser	422.0	30	763.1	25	40.8	29	73.0	39	9.7	9.7	12.9	25	1.91
Industry composite	5,323.9	16	9,652.8	18	283.9	29	454.1	39	5.3	4.8	10.0	15	1.69
CHEMICALS													
Air Products & Chemicals (3)	97.8	19	186.3	17	5.4	13	9.8	9	5.5	5.8	11.2	24	2.19
Airco	133.3	18	259.1	15	5.9	19	11.7	12	4.4	4 4	7.8	11	1.73
Akzona	142.0	13	279.6	12	4.8	−10	10.2	−21	3.4	4.2	9.1	17	1.85
Allied Chemical	389.2	6	738.5	9	20.0	16	33.3	17	5.1	4.7	7.0	13	2.06
American Cyanamid	365.0	7	688.6	6	30.9	27	55.6	17	8.5	7.2	12.6	16	2.11
Cabot (3)	70.9	4	143.2	4	4.9	6	9.2	1	6.9	6.8	8.6	13	3.20
Celanese	348.7	10	680.8	13	8.7	−45	20.9	−29	2.5	5.0	8.7	12	3.38
Chemetron	72.5	9	146.7	8	3.0	415	4.2	252	2.8	.6	4.6	13	1.76
Commercial Solvents	28.3	6	53.4	7	.8	—	1.2	−12	3.0	3.3	3.5	32	.61
Dart Industries	223.9	17	432.9	16	13.5	15	24.2	13	6.0	6.1	14.1	21	2.29
Dexter	16.4	20	31.6	20	1.0	18	2.0	26	6.2	6.3	8.8	25	.91
Diamond Shamrock	160.7	6	307.8	8	9.6	20	15.7	28	6.0	5.3	9.8	13	1.41
Dow Chemical	607.2	15	1,157.4	14	52.4	24	93.4	24	8.6	8.0	14.5	24	3.79
Dupont	1,116.0	13	2,160.5	13	114.0	20	213.4	26	10.2	9.6	14.2	20	8.30
Emery Industries (9)	26.9	12	53.4	12	1.7	88	3.3	124	6.4	3.8	9.7	24	.68
Ethyl	157.6	9	307.9	9	11.4	17	21.3	17	7.2	6.7	16.8	7	3.68
Freeport Minerals	37.2	3	75.4	5	3.7	1	7.9	3	9.9	10.1	5.7	24	.86
GAF	193.7	15	367.0	16	7.2	38	12.4	46	3.7	3.1	10.1	15	1.62
Grace (W.R.)	597.4	7	1,121.1	11	22.4	14	31.3	14	3.7	3.5	7.8	13	1.94
Hercules	238.8	14	453.2	14	20.2	45	35.3	43	8.5	6.7	14.4	20	3.25
Inmont	[1] 91.5	6	179.1	7	2.6	4	4.7	21	2.8	2.9	6.1	13	.83
Koppers	154.5	1	282.8	4	6.4	−5	7.7	1	4.1	4.4	8.2	10	3.22
Lubrizol	[1] 55.9	2	108.4	5	6.7	3	12.8	7	12.1	12.0	19.3	38	1.20
MacAndrews & Forbes	16.9	26	32.2	2	.1	−75	0	NM	0.5	2.4	−4.7	NM	−.66
Monsanto	564.8	5	1,179.8	9	31.7	4	79.3	30	5.6	5.7	9.1	16	3.19
Nalco Chemical	50.6	3	96.6	5	5.3	19	9.6	14	10.5	9.1	19.4	33	1.84
National Starch & Chemical	45.3	22	87.4	20	3.6	26	6.8	27	8.0	7.7	17.8	24	1.99
Olin	351.0	16	669.0	19	10.7	22	18.1	21	3.0	2.9	4.6	15	1.15
Pennwalt	[1] 115.6	9	218.0	8	4.9	20	7.6	10	4.3	3.9	9.0	21	1.28
PPG Industries	358.4	13	684.0	13	21.2	21	39.9	49	5.9	5.5	11.2	12	3.70
Reichhold Chemicals	56.8	12	109.1	13	2.4	130	4.2	180	4.3	2.1	7.7	16	.95
Stauffer Chemical	139.0	5	284.7	8	9.1	17	18.5	15	6.5	5.9	9.3	14	2.72
Stepan Chemical	13.9	24	26.2	19	.7	16	1.3	15	5.3	5.7	11.1	17	2.40
Texas Gulf	68.7	20	124.7	25	6.1	−13	12.1	−7	8.9	12.4	6.5	20	.80
Union Carbide	810.1	5	1,569.7	3	52.0	29	102.1	21	6.4	5.2	9.2	16	2.81
Witco Chemical	74.6	11	141.7	9	3.5	10	6.0	18	4.7	4.7	12.4	12	2.07
Industry composite	7,991.2	10	15,437.7	11	507.7	17	947.1	21	6.4	6.0	10.7	18	2.74
CONGLOMERATES													
Avco (1)	150.5	−13	277.9	−23	10.0	23	16.6	25	6.6	4.7	8.8	9	1.75
City Investing	171.7	26	324.0	27	17.2	21	32.7	18	10.0	10.4	13.3	7	2.14
Colt Industries	185.0	5	349.5	0	5.1	6	8.1	−7	2.8	2.7	5.2	16	1.16
Gulf & Western Industries (5)	455.8	14	848.4	8	17.1	23	33.3	25	3.7	3.5	12.5	12	3.03
Indian Head (1)	129.0	7	233.8	10	4.1	7	6.5	14	3.2	3.2	13.3	10	2.79
International Utilities	[1] 285.7	8	569.9	8	14.4	17	29.4	20	5.0	4.7	17.7	11	3.61
Kaiser Industries	67.9	−24	136.7	−18	6.1	−31	0.4	−94	9.0	9.9	1.3	32	.22
Kidde (Walter)	208.0	16	396.8	14	7.7	15	15.3	15	3.7	3.7	12.1	10	2.72
Litton Industries (5)	675.7	9	1,298.0	6	−14.2	NM	−23.0	NM	NM	2.0	−.5	NM	−.10
Signal	[2] 378.9	11	728.4	9	10.6	68	19.2	92	2.8	1.9	6.2	12	1.67
Studebaker-Worthington	237.4	9	440.3	7	8.5	−20	13.6	−28	3.6	4.9	8.9	10	4.78
Teledyne (2)	310.4	20	591.2	12	14.8	9	29.6	4	4.8	5.3	9.0	11	1.64
Tenneco	[2] 808.6	15	1,582.6	17	41.4	13	88.1	16	6.1	5.2	15.4	10	2.40

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
CONGLOMERATES—Continued													
Textron	440.6	3	858.1	4	21.2	15	39.2	13	4.8	4.3	19.7	15	2.19
Whittaker (2)	157.5	11	284.8	9	3.1	−27	5.6	−4	1.5	2.4	8.0	12	.66
Industry composite	4,862.8	10	8,920.4	8	167.0	−5	314.7	−4	3.6	4.1	9.8	13	1.76
CONTAINERS													
American Can	533.2	11	983.8	8	18.1	11	24.1	5	3.4	3.4	6.6	12	2.72
Anchor Hocking	86.1	10	167.0	13	5.4	11	9.7	3	6.3	6.3	13.0	11	2.77
Bemis	[1] 104.6	12	206.1	13	2.7	60	4.9	32	2.6	1.8	7.5	12	1.82
Brockway Glass	56.6	2	111.6	9	4.1	13	7.4	11	7.3	6.6	12.7	9	2.84
Brown (1)	63.4	22	113.4	13	.7	154	.9	121	1.1	.5	3.7	18	.60
Continental Can	573.6	10	1,077.6	8	24.0	18	36.4	17	4.2	3.9	10.2	11	2.70
Crown Cork & Seal	1 3.0	16	243.2	9	8.6	12	15.4	9	6.5	6.7	13.8	16	1.49
Diamond International	139.5	8	270.9	5	8.8	2	17.5	2	6.3	6.6	12.5	11	3.04
Dorsey	30.8	21	57.9	28	1.5	6	2.5	14	4.7	5.4	13.4	9	1.58
Federal Paper Board	59.9	61	116.8	64	2.1	65	3.6	64	3.5	3.4	9.0	NA	NA
Fibreboard	53.2	14	101.9	16	2.0	78	3.4	123	3.7	2.4	8.8	13	1.71
Inland Container	53.8	11	108.5	13	2.3	54	3.7	49	4.2	3.0	5.8	18	2.21
National Can	126.2	22	230.5	15	3.9	27	5.6	6	3.1	3.0	13.5	9	1.72
Owens-Illinois	411.1	6	804.8	12	20.1	3	31.9	6	4.9	5.0	10.1	11	3.72
Stone Container	30.8	11	60.8	11	.8	62	1.4	64	2.5	1.8	5.0	17	.62
Industry composite	2,455.7	12	4,654.9	11	105.0	14	168.6	12	4.3	4.2	9.7	13	2.44
DRUGS													
(Ethical, proprietary, medical and hospital supplies)													
Abbott Laboratories	124.2	15	244.5	13	8.5	184	17.7	132	6.8	2.8	12.7	33	2.44
American Home Products	395.9	9	835.4	11	38.1	14	82.9	14	9.6	9.2	29.9	37	3.04
American Hospital Supply	167.6	17	322.5	19	8.4	29	15.8	34	5.0	4.5	10.8	52	.96
American Sterilizer	22.2	13	41.5	13	1.6	15	2.6	22	7.1	8.9	12.0	27	1.35
Bard (C. R.)	24.6	19	46.8	22	1.8	15	3.3	15	7.1	7.4	15.0	54	.72
Baxter Laboratories	67.3	2	135.1	15	5.7	9	11.0	20	8.4	7.9	13.7	62	.73
Becton, Dickinson (3)	74.5	10	NA	NA	5.1	34	NA	NA	6.9	5.7	13.1	40	1.18
Bristol-Meyers	296.6	12	577.6	8	20.6	16	35.2	−11	6.9	6.7	19.6	28	2.27
Carter Wallace (9)	40.6	15	79.6	18	4.0	3	6.0	−9	9.8	10.9	12.5	11	1.30
Cutter Laboratories	23.2	−3	44.8	3	.9	−44	1.9	−24	3.7	6.5	9.6	18	1.45
International Chemical & Nuclear (1)	40.2	31	78.6	30	1.8	−10	3.4	−1	4.4	6.4	14.0	17	1.20
Johnson & Johnson	338.7	18	663.2	18	31.3	17	61.8	25	9.2	9.3	18.4	60	2.03
Kendall	73.8	10	146.1	13	2.9	21	5.8	30	4.0	3.6	11.3	40	1.97
Lilly (Eli)	203.7	13	438.4	17	29.7	28	65.8	27	14.6	12.8	21.2	46	1.62
Mallinckrodt Chemical Work	29.3	10	57.7	10	1.5	14	3.3	12	6.2	6.0	9.7	43	1.79
Marion Laboratories (6)	17.2	26	30.1	28	3.6	34	5.7	29	20.9	19.7	33.8	53	.95
Merck	234.6	16	457.4	15	35.1	17	68.8	16	15.0	14.9	28.5	45	1.87
Miles Laboratories	74.6	11	152.9	15	3.2	15	6.9	21	4.3	4.1	13.2	21	2.75
Pfizer	250.6	9	487.8	8	20.9	11	43.5	11	8.3	8.2	16.0	30	1.45
Richardson-Merrell (6)	113.0	7	233.5	11	7.0	3	17.0	16	6.2	6.5	15.0	23	3.12
Robins (A.H.)	40.8	9	84.0	12	5.4	20	12.0	20	13.3	12.1	23.0	33	1.70
Rorer-Anchem	38.7	20	92.4	9	3.6	14	10.4	5	9.4	9.9	22.9	20	1.42
Schering-Plough	[1] 132.9	14	260.3	17	19.4	30	37.3	30	14.6	12.9	26.2	48	2.54
Searle (G.D.)	65.9	20	128.2	21	9.9	18	19.1	16	15.1	15.2	38.2	36	2.80
Smith Kline & French	90.3	8	184.8	11	19.7	5	21.3	9	11.8	12.1	22.9	20	3.21
Squibb	224.1	11	428.0	10	17.4	13	30.7	14	7.8	7.7	19.2	32	3.03
Sterling Drug	172.1	13	344.9	12	13.6	9	30.9	9	7.9	8.2	20.3	31	1.12
Sybron	89.3	8	173.7	10	5.1	15	9.8	11	5.8	5.4	12.8	21	1.58
Upjohn	132.1	17	251.7	17	12.7	22	24.3	24	9.6	9.2	15.0	39	3.02
Warner-Lambert	365.0	13	725.5	12	28.8	13	59.3	13	7.9	7.8	15.4	31	2.98
Will Ross (9)	42.4	13	83.6	15	1.8	15	4.0	142	4.3	4.2	14.4	31	1.38
Wilson Pharmaceutical & Chemical	13.8	0	26.3	−7	.2	39	.2	−52	1.7	1.2	1.2	90	.06
Industry composite	4,019.7	13	7,857.1	13	360.7	18	717.9	17	9.0	8.6	18.9	37	1.92
ELECTRICAL, ELECTRONICS													
(Heavy equipment, controls, components, radio and TV sets, etc.)													
Admiral	107.3	7	226.4	18	1.7	243	4.0	NM	1.6	.5	12.7	10	1.76
Ambec Industries	37.7	24	72.7	9	1.1	NM	2.2	228	3.0	NM	8.0	14	1.07
AMP	76.0	26	143.5	23	8.1	37	15.1	32	10.7	9.8	20.0	45	2.26
Automatic Radio Manufacturing (3)	13.0	28	23.9	32	.2	NM	.3	NM	1.6	NM	−3.4	NM	−.25
Bendix (3)	[1] 477.5	14	920.7	12	15.0	48	27.8	42	3.1	2.4	11.3	15	3.17
Bunker-Ramo	64.7	7	125.7	11	3.3	122	5.7	221	5.0	2.4	5.2	39	.29
Burndy	24.2	4	47.9	6	1.2	23	2.4	34	5.1	4.3	10.2	24	1.59
Conrac	14.8	26	28.7	21	.6	29	1.1	28	3.9	3.8	12.0	20	1.59
Corning Glass Works	150.0	11	316.7	14	12.2	12	25.4	17	8.1	8.0	10.6	40	5.88
Crouse-Hinds	23.4	15	42.9	11	1.4	19	2.7	28	6.1	5.9	12.8	19	1.23
CTS	27.3	29	53.7	32	2.4	68	4.7	80	8.9	6.8	17.1	16	2.40
Cutler-Hammer	70.8	18	137.9	19	2.5	31	4.9	53	3.5	3.2	9.8	19	2.66
Damon (4)	21.3	15	41.2	16	1.8	33	3.1	33	8.5	7.4	23.5	62	1.09
E-Systems	40.5	−1	72.6	−9	.7	17	1.3	14	1.9	1.6	10.1	8	.58
Echlin Manufacturing (4)	26.0	29	48.1	32	1.5	26	3.0	24	5.9	6.1	27.9	39	.99
Edo	10.4	−2	18.9	−7	.2	60	.2	46	1.6	1.0	1.1	48	.16
El-Tronics	15.0	17	26.4	16	.7	15	2.1	31	4.7	4.8	17.3	17	.87
Emerson Electric (3)	194.2	15	382.3	13	16.2	11	31.7	11	8.3	8.6	21.6	35	2.55
Fairchild Camera & Instrument	52.2	4	103.2	5	1.5	NM	2.2	NM	2.8	NM	−4.5	NM	−.61
Foxboro	37.7	−8	76.5	−3	.7	−64	1.9	−45	1.8	4.7	5.2	26	1.14
General Electric	2,555.7	10	4,773.7	8	121.5	8	225.0	10	4.8	4.8	17.5	23	2.71
General Instrument (10)	70.0	7	140.3	7	1.7	45	2.9	55	2.4	1.8	3.7	42	.66
General Signal	79.8	47	156.5	46	3.5	40	6.5	47	4.4	4.6	15.3	24	2.20
Globe-Union	38.1	34	77.0	26	.3	68	1.0	22	.7	.5	9.3	16	2.09
Gulton Industries (10)	21.8	4	40.6	15	.1	NM	1.0	NM	.6	NM	1.9	69	.14
Hazeltine	14.1	95	25.7	68	.1	NM	.1	NM	.7	NM	−.5	NM	−.06
Hewlett-Packard (2)	117.3	24	216.8	20	8.6	58	14.8	45	7.3	5.7	12.1	69	1.04
Honeywell	510.0	10	960.2	8	13.4	64	24.7	62	2.6	1.8	11.0	38	4.09
I-T-E Imperial	97.4	11	188.2	11	4.5	21	8.4	17	4.6	4.2	11.7	19	2.16
Johnson Service	52.1	12	100.9	11	2.1	6	4.3	4	4.0	4.2	19.4	15	2.32
Lear Siegler	153.7	13	295.1	12	4.1	NM	7.3	NM	2.6	NM	16.3	19	.51
Leeds & Northrup (7)	28.6	14	55.5	25	1.6	96	2.4	166	5.6	3.3	7.7	21	1.52

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
ELECTRICAL, ELECTRONICS—Continued													
(Heavy equipment, controls, components, radio and TV sets, etc.)—Continued													
Magnavox	149.6	10	311.6	8	4.3	−37	10.7	−27	2.9	5.0	15.6	16	1.77
Mallory (P.R.)	46.4	19	91.1	23	1.7	58	3.3	71	3.7	2.7	9.4	18	1.77
McGraw-Edison	[1] 183.2	5	351.3	4	9.2	16	17.6	13	5.0	4.5	10.3	19	2.27
Microdot	47.4	11	91.8	4	2.2	22	3.9	12	4.6	4.2	17.4	13	1.54
Microwave Associates (3)	10.8	39	20.4	32	.6	32	1.1	30	5.7	6.0	11.0	24	1.44
Motorola	281.6	28	530.3	27	13.7	72	21.8	63	4.9	3.6	10.8	40	2.98
National Semiconductor (7)	17.0	66	31.8	73	.7	32	1.1	52	3.9	4.9	19.3	65	.56
North American Phillips	171.6	17	313.9	18	7.9	34	12.9	33	4.6	4.0	11.7	11	2.99
Oak Industries	25.5	13	48.9	14	.8	91	1.2	182	3.1	1.8	11.2	14	1.13
Ohio Brass	17.4	−2	35.8	2	.5	−12	1.1	27	2.8	3.1	4.9	12	1.93
RCA	925.1	9	1,850.0	10	40.1	14	76.4	12	4.3	4.1	14.8	20	1.76
Raytheon	379.7	14	738.4	12	10.9	7	21.1	7	2.9	3.1	13.4	13	2.49
Robertshaw Controls	42.5	14	84.7	17	2.7	40	5.0	44	6.4	5.4	11.3	19	2.22
Rucker	18.5	13	38.0	17	.2	−35	.5	−15	1.0	1.7	4.4	26	.24
Sangamo Electric	21.9	18	42.4	6	1.0	36	1.8	37	4.4	3.7	4.3	30	.64
Sony (2)	179.6	27	372.9	28	14.5	73	31.7	71	8.1	5.9	30.7	37	1.11
Sperry Rand (9)	499.7	21	1,049.5	19	17.9	35	41.7	23	3.6	3.2	8.3	22	1.94
Square D	80.6	15	153.3	13	9.1	26	17.0	32	11.3	10.3	24.2	26	1.50
Standard Kollsman Industries	23.3	49	44.8	22	−2.9	NM	−3.2	NM	NM	NM	−44.2	NM	−4.01
Tektronix (7)	43.8	21	92.9	17	4.2	88	7.1	44	9.7	6.2	8.5	45	1.33
Telex (9)	[1] 19.5	−21	32.2	−34	.7	−60	−.1	NM	3.7	7.2	5.6	34	.19
Texas Instruments	236.4	22	452.1	18	11.8	39	22.6	36	5.0	4.4	12.0	48	3.59
TRW	436.7	13	820.5	8	20.8	14	36.2	2	4.8	4.7	17.6	17	1.93
Varian (3)	52.5	11	104.0	13	1.2	116	1.6	NM	2.2	1.2	2.0	52	.34
VLN	26.6	12	54.3	10	1.0	59	1.9	41	3.6	2.6	9.6	13	.64
Westinghouse Electric	1,257.2	8	2,436.5	11	52.6	14	95.4	20	4.2	3.9	11.5	20	2.21
Zenith Radio	140.3	32	322.0	26	3.7	126	13.8	45	2.7	1.6	15.7	22	1.87
Industry composite	10,557.0	13	20,455.2	12	465.6	22	884.6	23	4.4	4.1	13.3	28	2.02
FOOD													
Baked goods, canned and packaged foods, dairy products, meat, condiments, etc.)													
American Bakeries	76.3	−2	176.3	0	.5	−18	1.0	2	.6	.7	−2.5	NM	−.45
American Crystal Sugar (9)	[1] 22.6	−1	49.8	7	.7	105	1.5	62	3.0	1.5	5.8	13	2.34
American Maize Products	34.5	11	67.4	12	.9	2	1.7	−16	2.7	3.0	10.3	8	1.20
Amstar (6)	169.3	5	326.2	3	4.9	−19	7.3	−26	2.9	3.7	10.1	9	3.75
Beatrice (Foods (10)	642.3	15	1,462.2	38	21.0	11	43.4	22	3.3	3.4	18.2	18	2.52
Borden	579.5	7	1,106.6	8	18.8	9	33.0	9	3.2	3.2	9.3	13	2.09
CPC International	405.8	6	790.7	8	14.9	5	28.9	5	3.7	3.7	11.9	13	2.36
Campbell Soup (5)	277.7	7	570.4	8	14.7	−11	32.2	−12	5.3	6.4	10.9	16	1.71
Campbell Taggart	83.3	5	161.6	5	2.9	16	5.8	15	3.5	3.1	13.9	16	2.55
Castle & Cooke (9)	[1] 134.6	12	280.0	8	7.0	298	11.5	326	5.2	1.5	7.7	14	1.31
Del Monte (7)	237.7	8	463.5	12	8.4	6	13.7	5	3.5	3.6	10.0	11	1.93
Deltown Foods	16.8	6	33.7	11	.4	5	.6	13	2.5	2.5	11.8	13	1.88
DiGiorgio	124.9	15	235.4	13	2.6	17	4.3	31	2.1	2.1	12.1	11	1.24
Fairmont Foods (10)	94.2	7	180.0	6	1.5	28	2.4	1	1.6	1.4	8.2	19	1.01
Federal (7)	75.6	15	136.0	8	1.7	66	3.2	251	2.3	1.6	7.1	9	2.62
General Foods (9)	604.3	0	1,262.2	3	25.0	−7	54.0	−9	4.1	4.7	13.9	11	2.22
General Host	[1] 133.4	286	262.4	293	−.1	NM	−.3	NM	NM	.4	8.1	13	1.23
General Mills (7)	333.6	20	652.1	20	12.1	19	23.1	23	3.6	3.6	19.2	24	2.33
Gerber Products (9)	69.8	0	140.3	2	4.7	1	9.6	1	6.7	6.7	16.8	15	2.41
Great Western United (7)	67.8	−5	118.6	−6	.3	−90	1.8	−68	.4	3.7	4.8	11	.85
Green Giant (9)	72.5	28	159.6	20	1.4	90	4.2	63	2.0	1.3	10.1	11	2.10
Greyhound	708.5	4	1,355.5	2	16.3	9	24.7	5	2.3	2.2	14.5	11	1.63
Heinz (H.J.) (8)	353.3	22	611.8	21	16.7	15	23.5	17	4.7	5.0	11.3	16	2.80
Helme Products	18.2	3	40.8	2	.6	11	1.3	1	3.2	3.0	10.1	11	1.52
Hershey Foods	81.6	−1	195.6	4	2.6	−27	9.1	−5	3.2	4.4	12.7	14	1.52
Hormel (George A.) (2)	162.2	4	344.7	5	.8	−76	3.1	−63	.4	1.7	12.1	8	2.38
Interstate Brands	67.2	3	153.1	5	1.1	−21	1.9	−27	1.6	2.1	9.4	8	1.89
Iowa Beef Processors (2)	315.6	26	595.9	18	1.4	NM	2.9	81	.4	NM	12.5	14	2.13
Koebler	47.2	5	93.0	6	1.0	24	1.8	23	2.2	1.9	8.8	18	2.04
Kellogg	191.1	9	351.3	5	14.6	12	26.8	10	7.6	7.5	21.9	15	1.57
Kraftco	775.1	7	1,554.9	6	22.5	14	47.4	11	2.9	2.7	13.0	12	3.41
Mayer (Oscar) (2)	176.0	6	343.0	5	4.0	−29	7.7	−32	2.3	3.4	15.0	13	1.99
Nabisco	295.5	16	572.0	13	12.3	10	25.5	7	4.1	4.4	16.7	16	3.42
Needham Packing (9)	69.2	9	136.3	1	.4	−21	.8	−23	.6	.8	20.0	6	2.09
Peter Paul	14.4	−3	33.8	−1	.6	−13	1.8	−11	4.3	4.7	16.5	17	1.75
Pillsbury (7)	185.6	2	355.1	2	4.8	53	7.6	44	2.6	1.7	10.4	13	3.12
Ralston Purina (3)	122.8	4	866.2	0	13.7	11	28.9	11	3.2	2.8	15.8	20	1.81
Rath Packing (3)	69.4	3	140.1	1	−1.4	NM	−2.9	NM	NM	.9	−12.7	NM	−1.81
Russell Stover Candies (4)	12.7	−1	36.2	7	1.0	4	4.2	12	8.3	7.9	21.5	29	2.01
Seabrook Foods (10)	21.5	19	39.4	15	.6	26	1.2	41	2.8	2.7	10.4	12	.91
Staley (A.E.) Manufacturing (3)	87.2	2	169.9	1	1.4	30	2.4	−31	1.7	1.3	3.4	21	1.31
Standard Brands	[2] 314.1	7	604.2	8	10.1	11	20.2	11	3.2	3.1	14.4	16	3.10
Stokely-Van Camp (7)	82.1	8	160.2	8	2.4	16	4.1	9	3.0	2.8	7.0	10	1.91
Swift (2)	810.0	8	1,573.0	7	7.9	17	15.6	2	1.0	.9	8.9	13	2.68
Tasty Baking	22.4	6	44.7	7	.8	12	1.7	18	3.7	3.5	14.9	11	1.51
Tropicana Products (4)	27.1	13	53.8	24	2.4	21	4.4	25	8.8	8.2	25.6	52	.86
United Brands	432.7	15	826.0	14	6.2	42	8.2	34	1.4	1.2	−.4	NM	−.17
United Foods (10)	22.4	17	42.7	12	.7	10	1.3	18	3.0	3.2	17.7	13	.31
Wilson-Sinclair	199.5	15	389.1	15	.9	−66	1.1	−81	.5	1.5	8.8	14	.42
Wrigley (William) Jr	56.6	12	103.9	11	5.6	7	9.6	12	10.2	10.7	14.7	14	9.26
Industry composite	10,306.2	10	20,430.8	10	296.6	7	569.8	5	2.9	3.0	12.1	15	2.04
GENERAL MACHINERY													
(Machinery tools, industrial machinery, metal fabricators, etc.)													
Acme-Cleveland (3)	24.9	9	48.9	5	.9	165	1.7	127	3.6	1.5	4.0	27	.66
American Chain & Cable	45.9	9	84.6	0	.9	99	.9	37	2.0	1.1	3.8	15	1.39
Aro (1)	10.6	24	19.7	22	.8	31	1.4	24	7.9	7.5	10.9	13	1.76
Associated Spring	38.3	21	76.6	22	1.7	4	3.1	4	4.5	5.2	8.7	15	2.27

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
GENERAL MACHINERY—Continued													
(Machinery tools, industrial machinery, metal fabricators, etc.)—Continued													
Babcock & Wilcox	234.6	−4	481.3	2	7.6	16	13.2	12	3.2	2.7	7.5	15	1.79
Baker Oil Tools (3)	38.4	58	77.0	61	2.7	51	5.0	38	7.0	7.3	17.0	27	2.01
Bolden	30.6	13	60.0	15	1.4	33	2.5	42	4.4	3.8	14.0	12	2.18
Brown & Sharpe Manufacturing	14.9	15	27.4	1	0	−93	0	NM	1	1.4	.3	NM	.06
Brunswick	173.3	37	313.1	27	8.5	56	15.8	56	4.9	4.3	13.9	25	1.67
Buffalo Forge (1)	13.8	−13	27.6	−9	5	−34	1.2	−30	3.3	5.2	11.9	12	2.43
Chicago Pneumatic Tool	50.0	29	37.9	15	3.8	9	6.9	5	7.6	9.0	8.4	18	2.42
Cincinnati Milacron	64.2	11	123.2	5	.2	−51	−1	NM	.4	.9	0	NM	.01
Cooper Industries	55.3	−4	110.0	4	3.2	48	5.9	45	5.8	3.7	7.9	15	1.55
Crompton & Knowles	[1] 32.9	78	63.6	79	1.1	155	2.1	162	3.4	2.4	8.9	16	1.58
Dorr-Oliver	[1] 24.5	10	47.4	12	.8	128	1.6	121	3.3	1.8	14.5	16	1.30
Dover	43.1	−1	90.5	5	3.4	4	5.7	6	7.8	7.4	17.6	19	2.94
Dresser Industries (2)	222.7	12	425.4	10	9.5	12	10.6	9	4.3	4.3	16.7	16	2.41
Emhart	69.1	17	135.0	17	3.1	6	6.4	15	4.5	5.0	10.8	11	2.95
Ex-Cell-O (1)	68.2	−7	132.0	−11	1.8	−32	3.6	−27	2.7	3.7	4.0	20	.86
Foster Wheeler	131.5	−2	261.5	12	1.8	−1	3.3	17	1.3	1.3	11.3	9	2.19
Gardner-Denver	54.8	7	101.1	8	6.8	8	11.2	7	12.4	12.2	14.2	20	1.31
Garlock	26.0	15	49.3	15	1.2	16	2.1	14	4.5	4.4	10.7	12	1.75
General Cable	95.3	−10	180.0	−3	4.2	−37	7.9	−27	4.5	6.4	10.7	12	1.10
Giddings & Lewis	11.5	−18	25.2	−8	−1.0	NM	−1.8	NM	NM	NM	−12.1	NM	−1.50
Hallbudon	[1] 327.9	−4	614.6	−3	15.8	19	28.3	19	4.8	3.9	15.9	29	3.46
Howme	83.2	4	155.4	4	3 9	−10	8.5	11	4.7	5.5	12.7	9	1.45
Ingersoll-Rand	225.8	10	430.8	10	18.4	6	34.8	6	8.2	8.5	14.5	16	3.92
Joy Manufacturing (3)	82.9	16	NA	NA	3.3	.7	8.0	4	3.9	4.9	12.0	12	3.24
Lessona	[1] 61.2	−11	31.8	−12	.4	25	.8	23	2.5	1.8	−2.4	NM	.48
Moltell	32.1	11	61.2	8	1.3	24	2.2	18	3.9	3.5	9.3	8	1.66
Midland-Hoss	72.0	14	133.9	9	2.2	−12	3.6	−25	3.0	4.0	3.6	19	.81
National-Standard (3)	37.3	13	74.3	13	.9	−24	1.7	−31	2.3	3.4	5.4	53	.81
Otis Elevator	194.9	16	333.7	19	6.7	7	14.7	10	3.5	3.7	10.6	13	3.21
Pittsburgh Forgings	[1] 22.8	1	44.2	17	.7	1	1.2	12	2.9	3.0	8.7	11	1.52
Pneumo Dynamics (1)	[1] 76.2	17	143.3	14	.1	−66	.3	−59	.2	.6	2.0	16	.31
Roper	77.9	18	148.6	12	2.0	62	4.0	41	2.6	1.9	10.1	12	2.72
Schlumberger	[1] 208.9	20	403.7	19	16.4	25	30.8	23	7.9	7.7	15.0	44	5.21
Scovill Manufacturing	131.9	10	252.1	12	4.4	36	8.0	35	3.3	2.7	11.7	13	2.07
Simplex Wire & Cable	11.3	1	22.7	21	−.3	NM	−.9	NM	NM	NM	−6.5	NM	−1.66
Smith Intl. Industries	[1] 25.1	25	47.9	23	1.5	28	2.6	28	6.0	5.6	11.8	24	1.59
Stewart-Warner	50.4	20	98.4	19	3.1	31	5.6	39	6.1	5.6	11.9	13	2.80
Triangle Industries	46.1	9	87.3	7	.8	3	1.5	6	1.6	1.7	5.2	13	1.17
USM (10)	[1] 119.8	6	245.1	8	1.6	32	4.2	10	1.3	1.1	2.0	18	.92
Warner & Swasey	40.8	27	75.7	19	1.3	68	2.1	46	3.1	2.4	4.0	31	1.20
Wean United	52.6	43	103.1	45	−.5	NM	.2	NM	NM	NM	.7	61	.09
White Consolidated	199.6	1	373.5	0	8.9	13	15.4	7	4.4	4.0	14.4	11	1.64
Industry composite	3,710.3	10	6,929.6	10	157.7	13	294.6	13	4.3	4.2	10.0	19	2.03
METALS AND MINING													
(Nonferrous metals, coal, iron ore, etc.)													
Aluminum Co. of America	447.9	9	865.4	12	20.6	−12	40.4	−2	4.6	5.7	4.3	19	2.41
American Metal Climax	218.1	1	420.4	3	16.5	5	30.2	−6	7.6	7.3	9.0	14	2.10
American Smelt. & Refining	206.7	3	417.0	8	12.2	−39	24.8	−23	5.9	9.9	5.6	12	1.44
Anaconda	268.7	2	506.3	3	14.7	132	23.8	218	5.5	2.4	.7	49	.35
Atlas Consolidated & Development	18.9	33	39.4	23	5.7	−9	11.8	8	30.0	33.9	45.1	6	2.24
Brush Wellman	16.2	51	31.5	54	1.7	61	3.3	69	10.8	10.2	10.6	13	2.33
Cerro	153.3	18	290.0	18	6.6	150	9.1	755	4.3	2.0	3.6	9	1.48
Cleveland-Cliffs Iron	[1] 29.7	−4	43.7	7	4.6	−9	6.7	2	15.5	16.4	10.7	11	5.20
Copper Range	24.5	−20	50.2	−5	0	MN	−.3	NM	NM	3.9	−5.0	NM	−2.23
Eastern Gas & Fuel	80.9	4	178.7	5	3.9	−42	11.5	−38	4.9	8.7	6.9	19	1.24
Fansteel	19.2	10	37.7	8	.6	521	.8	494	3.1	.5	2.4	26	.43
Gulf Resources & Chemical	[1] 33.2	13	63.9	9	1.3	NM	1.5	832	3.9	NM	−17.6	NM	−.79
Inspiration Consolidated Copper	19.8	3	37.7	14	3.9	2	7.6	24	19.7	19.9	14.2	11	4.24
Kaiser Aluminum & Chemical	276.5	1	504.8	2	8.5	−45	10.9	−48	3.1	5.6	2.5	26	.74
Kawecki Berylco Industries	17.7	10	34.6	12	.5	680	.9	267	3.0	.4	0	NM	.00
Kennecott Copper	[1] 285.0	−7	557.2	2	22.4	−36	40.8	−41	7.9	11.6	4.9	12	1.78
Martin Marietta Aluminum	49.0	−16	101.1	−2	.8	−35	2.2	−23	1.5	2.0	1.5	35	.31
Molybdenum of America	10.9	32	20.6	12	1.0	467	1.5	221	8.8	2.0	3.4	25	.64
North American Coal	25.6	41	48.5	36	.9	231	1.9	137	3.7	1.6	8.1	13	1.44
Phelps Dodge	207.4	0	389.7	3	24.9	6	46.9	−7	12.0	11.4	9.9	11	3.42
Pittston	138.3	−2	330.3	0	5.7	−49	15.7	−41	4.1	8.0	11.9	18	1.49
Reynolds Metals	305.3	1	575.1	0	.7	−88	−3.2	NM	.2	2.0	−2.0	NM	−.72
St. Joe Minerals	61.6	21	122.0	24	6.0	16	12.3	30	9.7	10.1	13.0	10	2.65
Industry composite	2,914.3	3	5,665.5	5	163.8	−9	301.1	−11	5.6	6.2	4.8	18	1.44
MISCELLANEOUS MANUFACTURING													
ACF Industries	90.2	10	177.7	7	4.5	40	9.5	23	5.0	3.9	8.8	14	3.14
A J Industries (9)	11.8	−12	26.2	12	.4	16	.9	NM	3.0	2.3	8.7	12	.34
American Greetings (10)	[1] 36.9	13	79.7	8	2.1	52	6.2	20	5.8	4.3	16.4	51	1.46
American Medical Intl. (4)	25.9	16	48.5	19	1.8	61	3.5	46	7.1	5.1	14.9	38	1.18
American Medicorp	46.8	10	96.3	17	2.3	25	5.4	13	5.0	4.4	8.4	15	1.04
American Seating	19.1	12	34.9	14	.4	2	.5	70	1.9	2.1	7.7	12	1.45
AMF	241.2	35	449.0	36	13.9	39	27.7	35	5.7	5.6	21.9	21	2.77
Amsted Industries (3)	87.4	17	156.9	12	4.2	17	5.6	6	4.8	4.8	8.2	9	3.93
Apache	[1] 30.6	21	58.1	21	1.3	2	2.4	29	4.2	5.0	10.9	10	1.68
Armstrong Cork	177.2	25	338.1	23	12.0	29	22.7	37	6.8	6.6	11.0	23	1.59
Athlone Industries	40.6	25	77.0	26	1.0	9	1.7	4	2.4	2.8	5.6	10	1.22
Berven Carpets	10.1	6	20.4	12	.6	26	1.2	33	6.1	5.2	18.6	28	.70
Binney & Smith	12.0	8	20.6	9	1.4	10	1.9	17	11.8	11.5	12.8	20	2.80
Black & Decker Manufacturers (3)	87.3	24	180.7	22	5.9	21	13.7	22	6.8	6.9	17.7	49	2.16
Carborundum	86.0	7	168.6	6	4.2	26	7.6	21	4.9	4.2	8.4	16	4.04
Champion Home Builders (10)	75.1	73	127.5	92	4.5	121	7.6	171	5.9	4.7	49.3	54	.40
Coleman	44.8	1	86.3	9	2.2	22	4.1	38	4.9	4.1	11.0	34	.97
Eagle-Picher Industries (1)	67.6	12	132.9	20	3.3	15	5.6	22	4.8	4.7	13.1	11	2.46
FMC	390.9	10	749.3	11	21.4	17	37.7	21	5.5	5.1	9.4	14	1.66

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
MISCELLANEOUS MANUACTURING—Con.													
Foote Mineral	[1] 23.7	−17	45.4	−17	0.2	−80	0.5	−81	1.0	4.1	−3.1	NM	−0.49
Fuqua Industries	[1] 95.1	13	191.7	17	3.1	30	5.7	26	3.3	2.9	13.2	12	1.72
General Development	37.4	4	81.6	18	4.5	−17	9.4	−2	11.9	15.0	15.1	10	1.97
General Refractories	42.1	−6	81.2	−6	.6	20	−.2	NM	1.4	1.1	−1.6	NM	−.33
General Steel Industries	42.5	108	72.3	108	.3	NM	−.1	NM	.7	NM	−18.1	NM	−3.02
Golden West Mobile Homes (7)	11.0	36	20.5	36	.3	28	.5	5	2.7	2.9	18.0	28	.59
Guerdon Industries	56.7	22	106.2	25	1.5	−28	3.3	3	2.7	4.5	14.8	17	1.49
Hammond (9)	17.7	26	41.1	NA	.2	170	.9	86	1.2	.6	10.6	11	.89
Hasbro Industries	15.8	18	28.0	15	.3	42	.3	18	1.9	1.6	8.9	27	.67
Insilco	85.7	17	164.0	20	3.6	20	6.5	16	4.2	4.1	14.0	12	1.17
Kirsch (6)	20.5	12	39.3	20	1.5	11	2.5	32	7.1	7.2	14.9	20	2.07
Kroehler Manufacturing	28.5	7	57.7	8	.5	341	1.1	247	1.8	.4	7.2	11	2.65
Lenox	18.2	22	33.7	16	1.2	31	1.9	29	6.7	6.2	16.7	29	1.51
Lionel	[1] 22.7	32	37.9	37	.2	360	−.5	NM	.8	.2	8.2	33	.22
Ludlow	50.0	17	96.2	18	1.5	28	2.8	45	3.1	2.8	11.9	13	1.77
Milton Bradley	20.5	3	38.4	14	.9	−11	1.4	45	4.3	4.9	18.5	31	1.39
Mobile Home Industries (4)	23.4	55	40.9	61	1.3	81	2.1	93	5.6	4.9	35.1	22	1.05
Norton	95.3	6	186.0	5	5.2	85	8.8	47	5.4	3.1	6.7	14	2.64
P. & F. Industries	22.0	2	38.9	4	.7	−7	1.0	6	3.3	3.6	8.4	13	.20
Philips Industries (9)	55.8	21	104.4	30	2.3	11	3.7	34	4.2	4.6	16.1	14	1.14
Poloron Products (1)	15.8	6	25.5	0	.4	−34	.4	−59	2.6	4.2	3.0	26	.27
Portec	[1] 19.5	24	36.3	21	.8	86	1.4	62	4.3	2.9	9.5	10	2.18
Porter (H. K.)	58.8	−14	116.5	−12	.5	−59	.5	−70	.8	1.7	1.3	34	.67
Pullman	[1] 186.3	3	369.7	11	3.9	−22	8.0	61	2.1	1.6	6.1	15	2.95
Questor	93.7	19	169.4	17	5.1	39	7.1	29	5.5	4.7	10.0	14	1.34
Redman Industries (9)	80.9	61	142.9	60	3.3	90	3.8	31	4.1	3.5	21.9	23	1.10
Roblin Industries	[1] 27.0	26	49.5	19	.6	80	.9	158	2.1	1.5	25.6	6	.99
Rockwell Manufacturing	86.4	18	160.3	22	5.5	28	8.9	63	6.3	5.8	12.8	13	2.69
Ronson	23.1	17	43.3	9	.4	97	.8	48	1.9	1.1	4.6	14	.43
Scott & Fetzer (1)	55.6	23	101.7	23	4.2	20	7.4	21	7.5	7.6	24.6	20	2.13
Signode	70.9	21	133.8	17	4.7	35	8.3	23	6.6	5.9	14.5	20	3.26
Simmons	86.6	13	165.3	11	3.1	31	5.1	16	3.6	3.1	9.3	20	1.71
Skil	24.0	33	45.5	28	1.0	83	2.0	82	4.4	3.2	10.8	22	1.67
Skyline (7)	98.2	23	161.8	27	6.7	37	10.0	40	6.9	6.2	38.5	35	1.76
Stanley Works	99.8	24	189.4	21	5.0	20	9.3	23	5.0	5.2	11.7	19	2.31
Stanray	19.8	4	37.5	4	.7	37	1.3	50	3.5	2.6	11.0	13	1.26
Sundstrand	71.5	20	138.4	14	1.9	311	3.7	493	2.7	.8	3.5	33	.88
Tonks	13.7	25	21.5	27	.7	35	.8	179	5.3	4.9	9.3	15	1.32
Trans Union	[1] 75.9	24	138.1	14	6.5	1.3	12.4	12	8.6	9.4	14.9	18	2.48
Tyler	40.2	19	72.2	15	2.3	34	3.7	32	5.6	5.1	21.0	10	2.58
U.S. Industries	397.3	14	774.1	15	18.9	14	37.8	13	4.8	4.8	18.0	9	2.30
Universal Oil Products	102.5	6	210.0	11	2.7	NM	5.5	NM	2.6	NM	.1	NM	.02
Vulcan Materials	70.6	7	125.6	12	5.3	11	5.8	48	7.5	7.2	13.5	10	2.54
Winnebago industries (10)	58.9	80	94.1	89	6.3	89	9.8	111	10.6	10.1	35.9	54	.67
Industry composite	4,243.4	17	8,056.6	17	207.9	27	371.6	29	4.9	4.5	11.6	21	1.51
NONBANK FINANCIAL													
Aetna Life & Casualty	1,056.4	4	2,112.3	4	47.2	48	72.7	39	4.5	3.1	11.6	10	5.83
Credithrift Financial (3)	25.2	11	49.1	10	3.0	26	5.2	33	11.8	10.3	15.2	13	2.00
Dial Financial	14.8	12	28.8	13	1.8	10	2.9	24	11.9	12.0	15.2	10	1.50
INA	405.5	21	778.15	21	23.6	10	46.3	4	4.8	7.8	10.2	10	4.00
Mariennan	48.3	9	87.6	11	6.2	6	13.6	9	12.9	13.3	27.6	27	1.92
Transamerica	[1] 492.9	19	956.1	25	21.0	33	39.5	36	4.3	3.8	9.0	18	1.01
Industry composite	2,044.2	11	4,022.4	12	102.7	23	180.2	25	4.0	4.5	11.2	15	2.58
OFFICE EQUIPMENT, COMPUTERS													
Addressograph-Multigraph (5)	119.4	8	221.3	6	6.0	61	9.1	76	5.0	3.4	4.8	40	1.21
Apeco (1)	33.2	17	60.5	20	1.5	17	2.7	−9	4.6	6.5	13.9	16	.60
Burroughs	[1] 252.0	12	472.6	9	20.3	2[illegible]	32.5	16	8.1	7.5	12.1	48	4.26
Control Data	164.8	17	292.5	4	17.7	35	28.2	10	10.7	9.3	5.7	27	2.61
Dennison Manufacturing	[1] 43.8	10	83.2	8	3.2	11	3.8	10	4.9	4.8	12.6	12	2.62
Dictaphone	21.9	8	42.8	6	.8	40	1.4	24	3.6	2.8	2.9	41	.24
Diebold	38.3	4	75.4	11	1.9	−31	3.7	−6	5.0	7.5	14.1	21	1.73
Hoffman Electronics	10.7	92	23.3	92	.5	102	1.0	126	4.9	4.6	13.7	19	1.24
International Business Machines	2,364.8	22	4,677.1	23	312.2	22	617.9	22	13.2	13.1	18.2	39	10.32
National Cash Register	384.5	5	711.3	0	2.8	−60	−4.0	NM	.7	1.9	−2.6	NM	−.72
Standard Register	27.3	1	53.3	−4	.8	104	1.4	−1	3.0	2.5	4.9	17	.93
Uarco (3)	28.6	13	58.4	13	.9	32	1.9	15	3.2	2.8	9.0	14	1.72
Veeder Industries	16.0	−1	31.6	1	.8	−21	1.7	−9	5.0	6.3	8.3	11	2.51
Victor Comptometer	53.7	31	98.7	27	1.4	289	2.0	158	2.6	.9	4.9	31	.67
Wang Laboratories (6)	12.9	10	22.7	12	1.1	−32	2.0	−11	8.5	13.7	13.5	51	.77
Xerox	611.3	23	1,161.1	22	62.1	19	120.5	18	10.3	10.6	21.9	54	2.93
Industry composite	4,183.3	18	8,035.8	18	434.0	20	825.7	18	10.4	10.2	16.2	30	5.47
OIL													
(Crude, integrated domestic and international)													
Amerada Hess	[1] 311.0	−4	677.3	−3	21.5	−44	52.5	−38	6.9	11.7	NM	16	2.75
American Petrofina	72.3	3	138.1	2	3.9	87	6.2	43	5.4	3.8	11.0	13	1.95
Apco Oil	[1] 31.8	7	59.9	5	1.5	14	2.8	20	4.7	4.1	9.6	9	2.23
Ashland Oil (3)	439.9	8	838.7	9	15.8	34	27.2	33	3.6	2.9	13.7	14	1.88
Atlantic Richfield	[2] 940.3	3	1,891.2	5	45.6	−9	78.7	−24	4.9	5.5	7.8	16	3.27
Cities Service	469.0	2	942.9	1	23.9	−16	53.2	−15	5.1	6.2	6.9	10	3.59
Commonwealth Oil Refining	73.8	15	139.7	14	2.6	−51	5.1	−44	3.5	8.2	7.2	13	.80
Continental Oil	[3] 883.5	14	1,724.8	14	39.7	4	82.3	7	4.5	5.0	9.6	9	2.92
Crown Central Petroleum	[1] 44.6	0	88.0	−6	0	NM	.2	−87	NM	1.5	−1.6	NM	−.47
Getty Oil	[3] 381.9	3	741.8	4	10.7	−66	33.1	−48	2.8	8.6	6.5	15	4.70
Gulf Oil	[2] 1,892.0	2	3,480.0	5	107.1	−29	246.0	−17	5.7	8.1	9.3	9	2.46
Kerr-McGee	191.0	16	353.5	13	15.6	26	25.5	18	8.2	7.5	12.0	28	1.94
Marathon Oil	[1] 293.7	−2	591.3	0	16.6	−25	32.8	−27	5.7	7.4	10.3	10	2.62
Mesa Petroleum	[1] 20.2	32	35.7	26	3.5	23	7.4	20	17.5	18.8	NM	19	3.02
Mississippi River	[1] 34.9	−1	77.8	7	3.2	1	6.5	10	9.2	9.1	11.2	10	1.43
Mobil Oil	2,560.0	27	4,780.6	19	130.3	5	271.8	6	5.1	6.2	11.4	11	5.47

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
OIL—Continued													
(Crude, integrated domestic and international)—Continued													
Murphy Oil	85.7	14	177.1	15	1.2	−25	5.3	7	1.4	1.7	7.2	24	1.96
Pennzoil	[1] 198.0	5	399.7	7	15.5	1	31.3	1	7.8	8.2	7.6	13	1.44
Phillips Petroleum	[1] 641.5	7	1,277.4	8	37.1	34	72.7	14	5.8	4.6	8.1	15	1.89
Quaker State Oil Refining	39.1	8	76.4	11	3.6	13	7.0	16	9.2	8.8	21.6	34	1.07
Shell Oil	1,021.2	4	1,994.2	5	67.9	44	121.7	32	6.7	4.8	9.7	11	4.06
Skelly Oil	130.5	4	259.5	4	7.2	−20	16.9	−10	4.9	7.1	6.6	16	3.01
Standard Oil (Indiana)	[3] 1,380.0	9	2,685.4	8	88.3	7	188.0	6	6.4	6.6	9.9	13	5.08
Standard Oil (New Jersey)	[1] 5,102.0	9	10,321.0	8	331.0	−6	686.0	−6	6.5	7.5	12.8	12	6.59
Standard Oil (California)	[1] 1,438.2	12	2,809.2	15	128.3	1	251.3	2	8.9	9.9	10.5	10	6.08
Standard Oil (Ohio)	[1] 363.8	6	726.3	3	12.8	11	24.6	−3	3.5	3.3	5.6	15	4.26
Sun Oil	[1] 445.3	−7	909.9	−10	34.4	−9	68.9	−8	7.7	7.9	13.1	12	3.28
Texaco	[1] 2,306.0	18	4,435.2	19	185.2	−9	415.1	−6	8.0	10.5	13.1	10	3.23
Texas Oil & Gas (4)	15.1	43	28.8	51	3.2	31	5.7	32	21.0	22.9	16.5	46	.65
Union Oil of California	[3] 608.9	3	1,114.5	2	27.9	4	57.8	2	4.6	4.6	9.2	9	3.24
Industry composite	22,415.1	10	43,775.7	7	1,385.2	−6	2,883.5	−5	6.2	7.0	10.9	15	3.80
PAPER													
Crown Zellerbach	277.3	20	535.3	16	12.1	164	19.8	29	4.4	2.0	6.3	17	1.50
Great Northern-Nekoosa	96.5	12	190.9	12	3.9	13	7.8	28	4.1	4.0	6.7	17	2.99
Hammermill Paper	93.4	7	185.4	9	1.6	−6	2.1	−20	1.7	2.0	1.5	42	.35
International Paper	540.8	9	1,045.5	10	26.9	27	47.1	30	5.0	4.3	7.3	20	1.79
Kimberly-Clark	243.0	9	495.3	7	14.0	73	27.9	52	5.7	3.6	7.4	18	1.76
Mead	284.1	3	553.2	3	8.4	14	13.3	9	3.0	2.7	4.1	15	.98
Scott Paper	193.8	−2	382.3	−2	9.8	−8	18.5	−7	5.1	5.4	6.0	15	.90
St. Regis Paper	257.0	12	492.7	11	10.5	81	17.7	73	4.1	2.5	5.8	18	2.20
Union Camp	150.9	15	293.5	15	10.1	45	18.3	33	6.7	5.3	10.6	19	2.03
Westvaco (2)	114.7	10	221.7	8	2.4	68	2.9	50	2.1	1.4	2.3	38	.55
Industry composite	2,251.5	9	4,395.7	8	99.8	40	175.3	28	4.4	3.5	6.3	22	1.49
PERSONAL CARE PRODUCTS													
(Cosmetics, soap, etc.)													
Alberto-Culver (3)	47.9	12	92.6	7	1.6	NM	2.7	70	3.3	.1	10.9	27	1.01
Avon Products	224.6	15	409.7	15	26.3	25	43.5	20	11.7	10.8	39.0	59	2.02
Chesebrough-Pond's	81.3	17	164.6	18	5.6	11	11.2	11	6.9	7.3	19.8	39	2.02
Colgate-Palmolive	365.7	14	719.1	12	13.6	25	22.9	19	3.7	3.4	13.9	26	3.36
Faberge	30.6	4	61.5	8	1.1	8	2.4	7	3.6	3.5	7.6	12	1.16
Gillette	206.0	21	402.3	19	16.6	27	33.8	19	8.1	7.7	22.9	22	2.31
Helene Curtis Industries (10)	13.1	−12	28.1	−3	.2	NM	.5	NM	1.3	NM	2.5	37	.19
International Flavors & Fragrances	36.3	27	69.0	25	6.0	31	10.7	31	16.4	15.9	20.9	63	1.10
Industry composite	1,005.4	15	1,947.0	14	71.1	27	127.8	23	7.1	6.4	22.0	35	2.00
PHOTO AND OPTICAL													
Bausch & Lomb	47.3	21	90.3	25	2.5	75	4.5	100	5.3	3.6	12.6	22	1.66
Bell & Howell	87.2	8	167.3	10	4.3	15	7.3	21	4.9	4.6	10.5	23	2.72
Eastman Kodak	788.5	17	1,458.0	15	118.1	34	207.1	32	15.0	13.1	19.4	47	2.91
Hunt (Philip A.) Chemical	10.2	11	19.3	13	.9	21	1.6	27	8.8	8.1	13.2	34	.54
Itek	46.0	12	89.3	15	1.3	41	2.4	74	2.9	2.3	6.7	38	1.59
Kollmorgen	10.5	11	20.1	11	.3	52	.5	20	2.8	2.0	5.0	38	.50
Minnesota Mining & Manufacturing	524.7	17	1,021.2	16	59.8	18	114.5	17	11.4	11.3	19.1	41	2.02
Polaroid	[1] 122.6	−14	234.4	1	7.3	−62	16.2	−40	6.0	13.6	9.6	77	1.53
Industry composite	1,637.0	13	3,099.7	14	194.5	18	354.0	21	11.9	11.5	17.5	40	2.38
PUBLISHING													
(Periodicals, books, newspapers)													
American Book-Stratford Press	10.4	−16	19.7	−15	−.2	NM	−.4	NM	NM	NM	−18.8	NM	−.92
Crowell Collier & Macmillan	90.7	−1	171.7	−1	1.6	111	2.9	132	1.8	.8	5.4	13	.79
Donnelley (R.R.) Sons	84.7	0	162.6	0	6.6	1	10.6	0	7.8	7.7	10.6	16	1.27
Esquire (9)	14.1	11	27.4	9	.6	75	1.2	87	4.0	2.5	10.7	15	1.01
Gannett	72.9	18	135.7	18	6.5	17	10.5	19	8.9	9.0	16.3	34	1.08
Harcourt Brace Jovanovich	36.3	5	64.3	6	1.1	38	.0	NM	3.1	2.4	14.6	16	2.35
Houghton Miffin	14.1	−4	21.1	−1	.6	−41	−1.0	NM	4.4	7.1	10.9	19	1.05
Knight Newspapers	78.6	15	150.4	15	5.8	33	9.4	27	7.3	6.3	15.7	30	1.70
McGraw-Hill	95.3	5	130.9	4	3.4	17	4.0	18	3.5	3.2	10.9	20	.81
New York Times	[1] 82.5	11	181.4	11	2.8	22	5.2	1	3.4	3.1	10.0	24	.84
Prentice-Hall	29.3	8	58.3	8	1.9	−16	3.6	−6	6.5	8.4	23.5	24	1.58
Ridder Publications	36.6	9	69.5	11	3.7	18	5.9	17	10.0	9.3	12.3	22	1.36
Simplicity Pattern	[1] 27.0	9	51.8	7	4.3	7	7.8	8	16.0	16.3	20.8	46	.97
Time	162.1	2	304.5	3	9.2	10	12.2	11	5.7	5.2	9.7	14	3.27
Washington Post	57.7	12	105.6	12	4.0	53	4.8	53	7.0	5.1	14.0	19	1.77
Western Publishing	42.0	−4	84.0	1	1.1	43	2.4	34	2.6	1.8	10.2	14	1.83
Industry composite	934.0	6	1,769.0	6	53.0	17	79.1	15	5.7	5.1	11.7	22	1.24
RADIO AND TV BROADCASTING													
American Broadcasting	206.2	19	413.5	15	10.2	131	16.6	140	6.0	2.6	13.5	24	3.25
Capital Cities Broadcasting	31.7	20	58.6	27	5.1	32	8.6	39	16.1	14.6	23.0	27	2.13
Columbia Broadcasting System	318.8	12	642.6	13	20.5	28	32.8	43	6.4	5.1	21.1	23	2.59
Cox Broadcasting	21.3	21	38.4	22	3.4	24	5.2	30	16.0	15.6	14.8	28	1.61
Metromedia	42.2	11	83.0	13	3.4	29	4.3	53	8.0	6.9	11.9	22	1.56
Storer Broadcasting	20.0	16	37.0	17	2.6	362	4.6	1,080	13.2	3.3	9.4	37	1.21
Taft Broadcasting (9)	16.3	29	31.2	36	2.7	25	4.1	32	16.4	16.9	13.5	25	2.07
Wometco Enterprises	[1] 26.1	10	49.8	10	1.6	22	2.8	21	6.3	5.6	11.8	22	1.01
Industry composite	882.5	16	1,354.1	15	49.6	47	80.0	63	7.3	5.7	16.7	26	2.19

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
RAILROADS													
Burlington Northern	278.5	6	528.8	5	13.8	2	20.9	37	5.0	5.1	2.9	13	3.42
Chesapeake & Ohio Ry	244.0	−10	475.0	−7	15.4	−21	26.8	−5	6.3	7.2	2.5	15	3.08
Illinois Central Industries	245.0	9	462.1	8	15.2	8	28.4	17	6.2	6.3	5.1	10	3.29
Missouri Pacific RR	164.2	8	316.9	7	4.2	−31	10.1	−13	2.6	4.1	1.9	13	5.43
Rio Grande Industries	33.4	7	67.4	4	3.9	11	7.3	17	11.7	11.2	6.6	8	2.49
Santa Fe Industries	238.8	5	165.9	4	18.3	31	36.7	38	7.7	6.1	5.9	9	3.09
Seaboard Coast Line Industries	284.4	5	556.5	3	23.2	43	42.3	20	8.2	6.0	8.4	10	5.38
Southern Pacific	337.8	7	843.3	7	34.1	10	53.7	9	10.1	9.8	6.5	11	3.95
Southern Ry	188.9	8	367.4	9	23.8	28	46.0	25	12.6	10.7	9.5	9	5.50
Union Pacific	274.6	9	531.6	8	24.2	8	42.3	6	8.8	9.0	5.7	13	4.10
Industry composite	2,289.6	6	4,414.9	6	176.2	11	314.5	15	7.7	7.3	5.5	11	3.94
RETAILING													
(Department, discount, mail order, variety, food stores)													
Acme Markets (9)	473.9	3	955.2	2	−.5	NM	3.0	−66	NM	.8	4.4	12	2.41
Allied Stores (11)	298.9	11	755.2	10	.2	NM	20.9	31	.1	NM	6.9	13	2.44
Amfac	176.4	30	318.2	27	5.4	25	10.3	27	3.1	3.2	12.7	17	2.00
Associated Dry Goods (11)	235.2	3	511.0	5	3.8	0	23.0	12	1.6	1.7	11.9	17	2.76
Bayless (A.J.) Markets	27.8	13	56.4	14	.6	13	1.1	13	2.0	2.0	15.6	10	1.93
Big Bear Stores (10)	56.0	12	113.9	17	.9	−2	1.8	−9	1.7	1.9	14.2	8	3.13
Borman's (11)	123.4	10	181.3	−18	.0	NM	1.0	NM	NM	NM	4.1	13	.43
Broadway-Hale Stores (11)	177.0	17	463.1	20	4.1	16	20.0	23	2.3	2.4	17.3	21	1.64
Colonial Stores	162.5	1	328.9	4	2.2	−8	4.2	4	1.4	1.5	13.2	10	2.36
Daylin (4)	[1] 112.8	34	228.5	29	2.1	33	4.7	30	1.9	1.9	14.7	13	1.55
Dayton-Hudson (11)	248.8	7	618.0	12	.9	−25	18.4	16	.4	.5	8.3	21	1.49
Fed-Mart (4)	51.7	19	108.2	17	.5	330	1.3	100	1.0	.3	9.8	11	1.51
Federated Department Stores (11)	541.8	10	1,328.8	13	15.4	8	61.4	13	2.8	2.9	13.4	21	2.22
First National Stores (9)	211.1	2	427.2	0	−.3	NM	.1	−51	NM	NM	−1.2	NM	−.67
Fisher Foods	137.1	18	269.8	20	2.1	25	3.8	33	1.5	1.4	22.9	12	1.37
Food Fair Stores (5)	471.6	5	77.4	8	.1	−95	3.9	−25	.0	.4	6.9	8	1.27
Gamble-Skogmo (11)	303.7	0	654.6	0	2.4	47	12.2	29	.8	.5	7.3	8	3.66
Giant Food (8)	[1] 184.1	24	318.5	21	1.9	2	4.3	41	1.0	1.3	17.1	8	2.54
Gimbel Bros. (11)	173.1	8	422.1	0	.1	−78	10.8	19	.1	.4	8.1	14	1.59
Gordon Jewelry (4)	27.3	14	68.9	17	.9	22	5.0	19	3.2	3.0	12.7	20	1.26
Grand Union (10)	325.8	3	666.3	5	2.4	−38	5.8	−30	.8	1.2	8.4	8	1.94
Grant (W.T.) (11)	318.7	16	768.2	12	−1.3	NM	29.7	−4	NM	NM	11.4	15	2.40
Great Atlantic & Pacific Tea (10)	1,492.4	9	2,889.4	3	−20.5	NM	−22.1	NM	NM	.8	−2.6	NM	.70
House of Fabrics	14.6	13	28.4	18	.6	5	1.2	19	4.1	4.5	17.[illegible]	25	.56
Interstate Stores (11)	129.7	−5	371.0	1	−2.8	NM	2.6	25	NM	NM	−.5	NM	−.08
Jewel (11)	428.9	9	898.2	10	4.7	9	16.2	21	1.1	1.1	12.8	11	3.65
Kresge (S.S.) (11)	729.4	16	1,740.8	16	17.5	20	57.2	40	2.4	2.3	19.2	49	.88
Kroger	834.3	−4	1,671.8	−3	4.3	−34	13.7	−10	0.5	.8	10.0	8	2.58
Kuhns Big K Stores	20.6	26	35.1	31	.4	−13	.3	3	1.9	2.7	18.0	23	1.03
Lucky Stores (11)	468.5	10	1,012.3	10	6.9	4	19.5	6	1.5	1.6	26.9	15	1.00
Macy (R.H.) (5)	222.2	6	557.3	8	−.1	NM	15.9	3	NM	.6	10.4	15	2.47
Marcor (11)	731.4	9	1,585.9	8	11.7	5	37.8	4	1.6	1.7	7.3	13	1.66
Marshall Field (11)	102.0	5	254.1	7	2.1	6	11.9	18	2.1	2.1	10.2	6	2.09
May Department Stores (11)	291.6	10	748.3	14	4.1	−1	28.0	19	1.4	1.6	10.0	15	2.75
McCrory (11)	215.6	11	520.5	7	.4	NM	12.1	1	NM	NM	26.2	6	3.63
Munford	38.5	5	72.3	9	.9	14	1.1	22	2.3	2.1	14.9	15	1.10
New Process	29.8	−6	62.7	0	1.9	−37	4.0	−24	6.3	9.4	51.3	21	.99
Penn Fruit (4)	89.5	−1	176.3	−1	.2	−66	.9	−32	.2	.7	7.3	7	1.36
Penney (J.C.) (11)	1,106.0	14	2,771.3	11	19.8	19	76.8	18	1.8	1.7	15.9	33	2.49
Peoples Drug Stores	57.7	7	112.1	9	.3	−20	.5	3	.6	.8	7.6	12	1.06
Pueblo Intl (11)	119.4	3	239.4	2	.9	−48	2.4	−12	.7	1.4	13.0	6	1.26
Rapid-American (11)	515.6	13	1,212.7	9	3.1	166	14.7	40	.6	.3	10.7	6	2.57
Rite Aid (10)	46.1	46	92.5	47	1.4	43	3.8	62	3.1	3.2	20.5	73	.70
Safeway Stores	1,374.6	13	2,700.4	13	20.8	14	38.8	19	1.5	1.5	15.8	11	3.38
Sears, Roebuck (11)	2,328.1	11	5,253.6	10	95.3	15	311.1	20	4.1	4.0	14.4	31	3.63
Skaggs Companies	83.1	9	157.4	9	.8	−30	.9	−48	1.0	1.5	8.0	30	.87
Star Supermarkets	28.7	19	54.8	16	.2	−33	.4	−17	.7	1.2	9.9	7	1.47
Stop & Shop (11)	286.7	11	520.5	13	.1	NM	3.4	58	0	NM	.7.4	11	1.45
Supermarkets General (11)	254.4	12	538.1	20	.2	−90	3.8	−14	.1	.8	15.6	11	.98
Thriftimart (9)	65.2	−1	128.7	−1	0	NM	−.7	NM	0	NM	−1.7	NM	−.49
Thrifty Drug Stores (4)	93.7	10	204.3	9	1.6	15	5.2	14	1.7	1.7	13.3	15	.92
Vornado (11)	173.9	4	426.6	−2	.2	−40	6.0	16	.1	.2	9.6	8	2.12
Walgreen (3)	205.4	3	399.8	4	1.5	−24	2.5	−11	.7	1.0	10.2	11	1.64
Weis Markets	55.4	3	110.9	4	1.9	−12	4.4	−5	3.4	4.0	18.2	11	1.55
Zale (9)	107.7	10	192.3	13	4.0	14	6.9	87	3.7	3.5	11.9	24	1.73
Zayre (11)	183.3	16	438.7	16	1.0	39	6.9	41	.6	.5	13.0	14	2.11
Industry composite	17,760.8	9	38,717.9	9	228.6	−7	934.7	10	1.3	1.5	11.9	16	2.04
SAVINGS AND LOAN													
Financial Federation	22.3	11	43.5	11	2.2	233	4.1	183	9.8	3.3	8.8	11	2.01
First Charter Financial	[1] 66.6	21	128.0	21	12.1	27	22.0	31	18.1	17.3	15.1	13	1.96
Great Western Financial	71.5	11	140.5	12	9.1	25	17.1	27	12.8	11.3	12.7	11	2.27
Industry composite	160.4	15	312.0	15	23.4	34	43.1	36	14.6	12.5	13.3	11	2.08
SERVICE INDUSTRIES													
(Leasing, vending machines, wholesaling, hotels, etc.)													
AAV (10)	12.9	10	25.0	12	.4	26	.7	37	3.1	2.7	10.1	13	1.05
Castle (A. M.)	29.4	13	59.0	18	.2	2	.4	22	.7	.8	4.5	10	1.75
Commercial Metals (4)	54.1	−3	105.2	−1	.9	71	1.1	13	1.6	.9	5.6	12	1.02
Disney (Walt) Productions (3)	[1] 86.2	89	161.6	100	10.3	53	19.4	73	11.9	14.8	12.2	74	2.56
Dun & Bradstreet	[1] 99.8	12	191.6	11	8.4	16	15.8	15	8.4	8.1	23.2	30	2.46
Filmways (4)	14.1	−6	29.0	−6	0	NM	.2	NM	.2	NM	−4.9	NM	−.29
Fleming	186.7	7	432.9	8	1.3	16	3.1	13	.7	.7	13.3	10	1.10
Foremost-McKesson (9)	489.7	8	975.3	11	7.7	14	15.2	16	1.6	1.5	18.1	11	2.08
GAC	90.5	1	193.2	4	1.1	64	2.1	101	1.2	.8	−4.9	NM	−1.27
Genuine Parts	109.9	14	210.7	14	3.7	13	6.3	13	3.4	3.4	18.6	36	1.12
Gino's	[1] 33.1	22	59.5	25	1.7	136	2.2	229	5.1	2.6	23.7	25	1.02

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
SERVICE INDUSTRIES—Continued													
(Leasing, vending machines, wholesaling, hotels, etc.)—Continued													
Grainger (W. W.)	50.2	23	89.5	24	3.1	26	5.1	28	6.2	6.1	20.4	38	1.71
Hilton Hotels	[1] 89.1	8	172.6	7	5.4	18	9.1	15	6.0	5.5	8.8	19	1.88
Holiday Inns	[1] 199.6	9	372.2	10	11.8	−3	18.5	4	5.9	6.7	13.4	30	1.36
Howard Johnson	[1] 82.6	6	152.1	7	5.3	23	7.8	32	6.4	5.5	14.2	33	1.59
Interphoto (10)	14.9	6	44.5	57	−.3	NM	0	−54	NM	.8	3.3	18	.50
Intl Industries (4)	[1] 20.2	36	40.0	37	0	NM	.2	NM	0	NM	−39.9	NM	−1.52
Kane-Miller	102.1	29	194.0	25	.8	20	1.2	−17	.8	.9	5.4	8	1.21
Kaufman & Broad (1)	62.1	30	117.4	32	4.1	94	7.8	92	6.6	4.4	17.5	41	.99
Marriott (5)	101.0	20	215.7	17	4.8	30	8.4	27	4.7	4.4	13.8	60	.59
McDonald's	[1] 96.3	32	174.4	32	10.3	34	16.9	42	10.7	10.5	22.9	71	.81
Metro-Goldwyn-Mayer (4)	[1] 33.9	−6	NA	NA	1.1	49	3.7	15	3.1	2.0	9.9	13	1.46
Nielsen (A.C.) (4)	33.1	16	64.8	15	2.6	30	5.1	22	7.9	7.0	17.3	33	1.80
Ryder Systems	91.8	20	172.2	20	4.4	28	7.0	34	4.8	4.5	15.2	35	1.22
Saxon Industries	81.7	2	158.0	0	2.1	11	3.9	4	2.5	2.3	0	NM	0
Sperry & Hutchinson	[1] 157.3	10	299.3	9	9.2	4	17.4	5	5.9	6.2	19.0	8	3.44
Super Valu Stores (10)	356.7	22	NA	NA	2.3	6	NA	NA	.6	.6	2.08	13	2.22
UMC Industries	39.3	26	72.1	25	2.3	15	4.1	14	5.9	6.5	12.6	13	1.66
U.S. Home (10)	60.0	80	130.0	98	2.9	59	6.6	90	4.8	5.4	24.7	16	1.58
Vendo	33.1	13	58.8	17	1.1	50	1.6	79	3.4	2.6	1.2	90	.18
Warner Communications	115.7	29	230.2	32	12.1	25	24.3	21	10.5	10.8	17.7	19	2.29
Industry composite	3,027.2	17	5,201.0	18	121.1	42	215.2	37	4.1	3.4	14.8	29	1.39
SPECIAL MACHINERY													
(Farm, construction, materials handling)													
Allis-Chalmers	242.3	7	459.8	5	3.0	20	6.0	14	1.2	1.2	1.7	19	.60
American Hoist & Derrick (1)	46.9	21	99.2	18	1.4	66	2.0	72	3.0	2.2	5.8	15	.89
Bucyrus-Erie	45.6	−5	84.8	−14	4.2	28	7.2	16	9.2	6.8	13.0	13	2.00
Caterpillar Tractor	653.6	12	1,274.4	11	54.5	45	97.4	26	8.3	6.4	14.1	24	2.61
Deere (2)	418.6	29	691.6	26	33.3	137	50.8	147	8.9	4.3	12.7	10	6.34
Intl. Harvester (2)	925.4	14	1,547.4	17	32.0	45	34.8	279	3.5	2.7	6.2	13	2.59
Koehring (1)	75.5	18	133.0	19	1.8	47	1.8	238	2.4	1.9	4.9	19	1.05
Wickes (11)	157.4	24	303.2	25	2.9	24	4.1	45	1.6	1.8	9.5	21	1.63
Industry composite	2,565.3	15	4,593.3	15	133.0	59	204.0	66	5.2	3.8	9.7	17	2.67
STEEL													
Alan Wood Steel	29.8	−13	60.6	−5	.4	−65	.5	−63	1.3	3.3	−1.4	NM	−.73
Allegheny Ludlum Industries	150.6	6	29[illegible].8	6	6.5	71	11.1	47	4.3	2.7	−.7	NM	−.20
Armco Steel	471.6	−2	913.7	4	19.4	12	34.4	22	4.1	3.6	4.8	12	1.64
Bethlehem Steel	804.4	−20	1,506.7	−15	36.8	−23	61.8	−24	4.6	4.8	5.8	10	2.70
Copperweld Steel	50.7	11	93.4	11	2.5	30	4.5	28	5.0	4.2	12.9	8	3.21
Cyclops	103.2	3	192.9	3	1.4	−47	1.5	−62	1.3	2.6	.8	45	.42
Easco	54.6	10	110.2	12	1.6	28	2.8	16	2.8	2.4	8.9	11	1.62
Florida Steel (3)	21.3	12	42.5	24	1.3	2	3.0	51	6.2	6.8	18.8	8	4.00
Inland Steel	[1] 376.7	1	718.2	2	19.2	−20	36.9	−7	5.1	6.4	5.6	14	2.29
Interlake	99.9	1	192.9	0	4.0	−17	6.9	−20	4.0	4.9	6.1	10	2.70
Jones & Laughlin Steel	310.9	−14	574.1	−11	14.1	−27	22.6	−25	4.5	5.4	1.1	38	.47
Jorgensen (Earle M.)	33.5	21	84.9	19	1.3	45	2.4	89	3.8	3.1	10.6	8	3.19
Kaiser Steel	129.6	4	210.4	−24	1.7	975	−9.6	NM	1.3	.1	−3.9	NM	−1.51
Latrobe Steel	12.7	26	26.4	26	.2	NM	.3	NM	1.7	NM	−2.1	NM	−.41
Lukens Steel	35.8	−9	70.0	−9	1.9	121	3.1	96	5.3	2.2	5.9	10	1.96
Lykes-Youngstown	[1] 269.9	−8	500.9	−4	6.9	−43	11.9	−17	2.6	4.1	−1.1	NM	−.33
McLouth Steel	77.5	12	147.8	7	2.0	NM	2.9	NM	2.5	NM	−.9	NM	−.37
National Steel	[1] 429.8	−11	827.3	−5	21.3	−12	36.2	−2	5.0	5.0	5.3	15	2.69
NVF	87.2	11	166.3	12	2.7	50	4.3	37	3.1	2.3	12.1	4	5.21
Phoenix Steel	21.0	9	42.2	14	−.3	NM	.3	NM	NM	NM	−35.0	NM	−.72
Republic Steel	409.6	−15	780.2	−10	17.3	−7	28.7	2	4.2	3.6	.2	NM	.12
U.S. Steel	[1] 450.0	−12	2,575.0	−9	52.4	−37	71.4	−45	3.6	5.1	3.0	14	1.98
Washington Steel (3)	14.8	12	26.9	13	.9	0	1.4	−11	5.9	6.7	10.0	8	1.80
Wheeling-Pittsburgh Steel	156.7	−7	290.9	−3	5.7	−37	8.8	−35	3.6	5.4	−1.3	NM	−.92
Industry composite	5,602.4	−9	10,419.4	−6	220.6	−19	346.1	−19	3.9	4.4	3.4	NA	1.69
TEXTILES AND APPAREL													
Adams Millis	16.1	13	28.3	5	.1	−80	.1	NM	.7	4.1	1.8	49	.17
Aileen (1)	15.6	−16	28.7	−14	.9	−57	1.8	−55	5.9	11.5	12.5	10	.96
Avondale Mills (4)	[2] 37.2	5	71.5	3	1.2	−8	2.1	−15	3.3	3.7	8.8	12	3.15
Blue Bell (3)	86.8	12	175.6	15	4.0	3	8.7	8	4.6	5.1	16.3	15	2.44
Brown Group (2)	141.6	10	272.6	8	5.6	4	11.0	7	3.9	4.2	12.8	12	2.79
Burlington Industries (3)	471.0	10	914.4	6	12.7	20	24.6	8	2.7	2.5	5.4	20	1.53
Cluett, Peabody	125.2	11	250.5	11	2.5	61	5.5	39	2.0	1.4	8.4	13	1.34
Collin's & Aikman (10)	80.9	4	154.3	7	4.6	−1	8.8	8	5.7	6.0	17.8	15	1.58
Concord Fabrics (4)	15.9	−21	34.0	−16	−.6	NM	−.8	NM	NM	2.7	NA	NA	NA
Cone Mills	92.9	10	173.0	2	2.9	46	4.6	34	3.1	2.3	6.0	9	2.65
Dan River	92.0	16	176.4	13	1.1	NM	1.7	NM	1.2	NM	.7	63	.15
Fieldcrest Mills	57.4	4	108.3	7	1.9	12	2.9	15	3.3	3.0	10.2	13	2.32
Garan (3)	15.4	11	30.1	16	.9	24	1.6	39	6.0	5.4	24.2	12	1.41
Genesco (5)	336.3	5	715.5	7	.4	−29	11.4	−34	.1	2.2	10.0	10	1.54
Graniteville	42.5	25	83.4	26	1.2	25	2.0	−1	2.9	2.9	6.7	9	2.26
Hanes	58.7	42	113.8	51	1.7	288	3.9	66	2.9	1.1	7.9	13	1.57
Hart Schaffner & Marx (1)	98.7	17	206.7	14	3.0	43	6.5	38	3.1	2.5	8.3	19	1.38
Huyck	13.2	19	24.3	17	1.6	80	2.5	54	11.9	7.9	16.9	40	.86
Interco (1)	222.6	11	444.9	10	7.2	12	16.5	14	3.2	3.2	14.8	13	3.43
International Stretch Products (4)	13.4	16	23.9	9	0	−97	−.1	NM	0	5.0	7.1	12	.51
Levi Strauss (1)	121.9	29	221.5	27	7.4	47	12.3	32	6.1	5.3	17.9	25	2.08
Lily Lynn (1)	12.2	11	20.7	5	.3	35	.5	−4	2.6	2.2	8.6	14	.33
Melville Shoe	137.4	9	257.5	13	5.3	0	7.9	5	3.8	4.1	25.4	30	1.05
Munsingwear	20.9	25	44.5	20	.9	37	2.2	25	4.3	3.9	13.7	10	3.17
Puritan Fashions (1)	38.7	4	70.2	11	1.5	17	2.6	27	4.0	3.6	29.4	7	1.70
Riegel Textile (3)	53.2	20	103.6	20	1.2	53	2.3	65	2.2	1.7	6.4	12	1.58
Russell Mills	18.2	19	35.0	26	.9	72	1.4	115	5.0	3.5	9.3	8	1.58
Springs Mills	97.0	27	186.0	25	2.8	25	5.0	78	2.9	2.9	4.3	14	1.24

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
TEXTILES AND APPAREL—Continued													
Stevens (J. P.) (2)	230.6	12	430.0	14	2.9	NM	6.2	NM	1.3	0.1	2.2	20	1.33
Stride Rite (1)	12.2	10	25.0	7	.8	7	1.8	10	6.4	6.5	19.1	12	1.44
U.S. Shoe (2)	102.9	14	188.5	12	4.1	18	7.5	13	4.0	3.8	12.3	12	1.76
V F	[1] 73.5	12	141.4	7	4.1	27	8.1	20	5.6	5.0	17.4	17	1.64
Warnaco	71.0	18	136.5	15	1.5	52	3.2	58	2.1	1.6	12.6	10	2.03
Wayne-Gossard	12.0	−8	25.6	−2	.3	2	.6	55	2.4	2.2	8.8	10	1.21
West Point-Pepperell Manufacturing (4)	108.1	20	203.8	16	3.1	89	4.7	64	2.8	1.8	4.7	13	1.88
Wolverine World Wide	24.0	29	49.2	26	.1	−39	.6	0	.6	1.2	7.9	13	.62
Work Wear	34.3	8	66.0	8	1.1	25	2.2	18	3.2	2.8	12.8	9	1.45
Industry composite	3,201.5	13	6,235.5	11	91.2	14	184.2	17	2.8	2.8	8.9	17	1.60
TIRE AND RUBBER													
Amerace Esna	47.3	16	95.0	15	2.2	23	4.5	24	4.6	4.4	29.2	11	2.57
American Biltrite Rubber	36.4	4	70.6	9	1.3	113	2.4	701	3.5	1.8	8.2	8	1.47
Armstrong Rubber (3)	66.0	21	113.3	24	2.6	16	3.9	15	4.0	4.2	9.7	9	4.38
Cooper Tire & Rubber	36.3	11	65.7	15	1.4	36	2.1	77	3.9	3.2	10.4	10	1.60
Firestone Tire & Rubber (2)	674.2	5	1,247.5	7	34.5	5	56.2	11	5.1	5.1	10.2	11	2.05
General Tire & Rubber (1)	266.3	4	481.5	−1	18.6	53	27.2	55	7.0	4.8	12.6	9	2.93
Goodrich (B.F.)	394.4	21	741.9	22	17.0	46	25.8	54	4.3	3.6	7.0	9	2.89
Goodyear Tire & Rubber	1,061.8	11	1,980.9	12	54.5	13	93.2	16	5.1	5.0	12.6	12	2.51
Mansfield Tire & Rubber	26.4	0	47.9	4	1.1	1	1.7	19	4.1	4.1	7.8	7	1.66
Mohawk Rubber	30.5	12	51.1	9	1.1	53	1.7	38	3.8	2.7	13.0	9	2.69
Uniroyal	484.8	4	912.7	4	16.8	8	28.1	8	3.5	3.4	8.0	11	1.49
Industry composite	3,124.5	9	5,808.0	10	151.2	18	246.9	21	4.8	4.5	10.6	10	2.31
TOBACCO													
Cigars, cigarettes													
American Brands	[3] 758.6	9	1,471.6	9	30.9	4	59.8	3	4.1	4.3	13.9	10	4.40
Loews (4)	[3] 209.4	6	408.5	9	14.9	16	28.0	17	7.1	6.5	15.5	14	3.61
Philip Morris	[3] 524.1	11	1,010.3	14	31.8	24	59.2	26	6.1	5.4	21.2	25	4.39
Reynolds (R.J.) Industries	[3] 750.5	2	1,440.6	3	64.0	8	121.1	8	8.5	8.1	18.3	12	5.29
U.S. Tobacco	[3] 23.5	1	46.2	1	2.6	13	4.8	14	11.2	10.0	19.4	11	1.29
Industry composite	2,266.1	7	4,377.0	8	144.3	11	272.9	11	6.4	6.1	17.3	15	4.40
TRUCKING													
Carolina Freight Carriers	17.5	8	35.2	11	.6	7	1.1	15	3.5	3.5	25.4	10	1.38
Consolidated Freightways	142.5	24	281.3	29	6.2	22	11.3	38	4.4	4.4	23.7	13	2.03
Cooper-Jarrett	12.4	7	24.7	9	.2	9	.4	10	1.4	1.4	15.8	10	.99
Eastern Freight Ways	10.7	3	20.7	4	.4	−25	.7	18	3.7	5.2	25.9	10	1.39
McLean Trucking (6)	51.4	15	100.4	16	2.8	41	4.6	34	5.4	4.4	23.1	12	3.08
Merchants	13.3	7	25.5	8	.9	13	1.7	16	6.9	6.6	20.5	13	1.89
Overnite Transport	19.4	16	38.5	19	2.0	18	4.1	27	10.4	10.2	35.0	15	2.74
Roadway Express	84.7	24	165.2	24	5.7	47	11.0	54	6.7	5.6	29.1	21	2.23
St. Johnsbury Trucking	11.1	7	21.8	7	.5	9	.9	23	4.3	4.2	20.2	8	2.77
T.I.M.E-DC	38.2	2	75.4	5	.6	−36	1.3	2	1.7	2.7	12.9	9	1.13
Transcon Lines	33.4	25	62.3	22	.8	−31	1.2	−36	2.4	4.3	15.2	10	1.37
Tri-State Motor Transit	10.8	8	20.2	12	.4	27	.5	58	4.0	3.4	6.2	10	.83
Woods	17.4	27	32.7	26	1.0	56	1.8	39	6.0	4.9	12.6	14	1.26
Yellow Freight Systems	64.2	22	124.0	23	4.5	38	7.7	39	7.0	6.2	28.7	16	2.16
Industry composite	527.1	18	1,027.9	20	26.7	23	48.2	32	5.1	4.8	22.7	12	1.92
UTILITIES													
(Telephone, electric, gas)													
Allegheny Power System	83.9	9	171.9	9	15.8	16	32.8	17	18.9	17.7	13.3	9	2.22
American Electric Power	208.2	12	419.1	12	44.2	22	86.1	20	21.2	19.6	13.3	11	2.48
American Telephone & Telegraph (1)	5,135.2	12	10,055.6	12	619.7	6	1,186.5	4	12.1	12.7	8.7	10	3.98
Baltimore Gas & Electric	97.3	8	214.3	11	15.9	19	36.5	21	16.4	14.9	12.7	10	2.80
Boston Edison	66.0	8	137.3	6	7.9	−4	16.8	−1	12.0	13.5	11.8	10	3.49
Carolina Power & Light	71.8	23	143.3	23	13.6	91	28.0	100	18.9	12.1	15.4	10	2.62
Central & South West	100.1	13	191.1	12	15.1	10	28.0	7	15.0	15.5	15.4	13	3.07
Cincinnati Gas & Electric	73.8	7	170.6	7	9.8	15	26.3	8	13.3	12.4	13.4	11	2.03
Cleveland Electricillum	71.0	7	144.8	7	11.5	22	23.9	14	16.2	14.3	13.7	11	3.13
Commonwealth Edison	271.1	16	553.6	15	37.8	18	81.1	20	13.9	13.7	13.2	12	2.93
Consolidated Edison of New York	345.4	16	714.8	14	30.5	33	76.0	17	8.8	7.7	8.1	10	2.44
Consumers Power	176.1	14	403.5	11	20.6	2	46.4	0	11.7	13.1	9.7	11	2.62
Detroit Edison	160.6	12	328.3	11	23.5	50	46.3	31	14.7	10.9	10.6	10	1.93
Duke Power	120.8	13	243.2	12	19.8	20	39.1	22	16.4	15.5	11.4	11	1.88
Florida Power & Light	129.0	16	246.4	15	18.4	18	36.2	31	14.3	14.0	15.3	11	2.73
General Telephone & Electronics	1,048.5	11	2,057.0	12	72.0	12	134.4	13	6.9	6.8	12.9	11	2.45
Houston Lighting & Power	87.2	17	158.2	16	15.1	16	25.2	18	17.3	17.4	16.1	14	3.03
Lone Star Gas	68.2	10	158.7	7	7.1	24	27.4	9	10.4	9.2	15.0	13	2.37
Long Island Lighting	91.7	15	196.9	13	13.2	21	30.5	10	14.4	12.9	12.9	10	2.17
Mountain States Telephone & Telegraph (1)	219.0	11	427.5	11	26.8	−2	51.6	−5	12.2	13.9	9.9	10	2.09
New England Elec	99.5	16	209.9	15	10.9	24	25.6	20	11.0	10.3	11.4	10	2.28
New England Telephone & Telegraph (1)	256.6	15	496.2	13	23.2	−1	43.4	−6	9.1	10.5	7.4	14	2.31
New York State Electric & Gas	57.1	4	123.5	6	8.4	16	17.8	18	14.7	13.1	9.9	11	2.80
Niagara Mohawk Power	153.0	12	336.0	10	20.1	46	44.9	34	13.2	10 1	11.3	9	1.80
Northeast Utilities	114.2	18	240.1	17	22.7	55	44.9	51	19.9	15.2	13.7	9	1.57
Northern Illinois Gas	105.1	14	262.2	10	14.4	17	36.7	3	13.7	13.4	15.4	9	2.82
Northern Indiana Public Service	87.7	10	195.8	9	9.6	3	22.9	2	10.9	11.7	14.8	11	2.12
Northern States Power	102.7	10	224.0	15	15.4	23	33.9	23	15.0	14.1	14.3	9	2.81
Ohio Edison	82.5	12	168.8	12	12.9	12	26.5	9	15.6	15.5	13.5	11	1.84
Pacific Gas & Electric	320.7	8	690.0	10	53.0	14	113.0	13	16.2	15.4	11.7	9	2.91
Pacific Lighting	195.9	6	408.8	10	−0.3	NM	22.7	−15	NM	4.7	10.5	10	2.25
Pacific Northwest Bell Telephone (1)	131.6	14	254.4	13	15.2	16	27.6	10	11.6	11.3	8.0	12	1.28
Pacific Telephone & Telegraph (1)	576.2	6	1168.1	9	43.4	−11	104.2	11	7.5	8.9	7.7	11	1.46
Pennsylvania Power & Light	84.6	16	174.3	15	13.8	9	28.0	18	16.3	17.5	10.6	10	2.42
Philadelphia Electric	161.9	13	340.3	15	27.1	26	57.8	28	16.7	15.0	12.0	10	2.23
Public Service of Colorado	63.1	12	139.7	11	8.0	27	19.0	11	12.6	11.2	11.8	10	1.86
Public Service of Indiana	52.2	15	104.8	11	8.3	13	16.5	5	15.9	16.2	12.2	14	2.64
Public Service Electric & Gas	228.7	10	494.8	7	26.9	−12	60.5	−18	11.7	14.7	10.3	9	2.47
Southern California Edison	219.8	22	444.4	21	33.0	29	59.3	6	15.0	14.3	9.9	10	2.46

See footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 2D QUARTER 1972—Continued

Company	Sales: 2d quarter 1972 (million dollars)	Sales: Change from 1971 (percent)	Sales: 6 mos. 1972 (million dollars)	Sales: Change from 1971 (percent)	Profits: 2d quarter 1972 (million dollars)	Profits: Change from 1971 (percent)	Profits: 6 mos. 1972 (million dollars)	Profits: Change from 1971 (percent)	Margins: 2d quarter 1972 (percent)	Margins: 2d quarter 1971 (percent)	Return com. eqy. 12 mos. ending June 3	P-E July 31	12 mos. earnings per share
UTILITIES—Continued													
(Telephone, electric, gas)—Continued													
Southern	221.6	17	436.0	17	27.4	21	58.1	20	12.4	12.0	10.4	11	1.73
Texas Utilities	131.6	18	239.0	14	25.0	21	42.3	9	19.0	18.8	14.2	15	1.72
Union Electric	89.0	6	174.5	8	12.3	−14	23.6	−10	13.9	17.0	10.0	12	1.44
Virginia Electric & Power	105.7	17	216.5	14	18.3	39	40.4	23	17.4	14.6	11.9	9	1.90
Western Union	[1] 113.6	13	227.6	17	9.2	600	16.1	163	8.1	1.3	5.1	29	1.97
Industry composite	12,385.4	12	24,903.8	12	1,496.7	10	3,044.5	9	12.1	12.1	9.9	12	2.72

[1] Sales include other income.
[2] Sales include excise taxes.
[3] Sales include excise taxes and other income.

Note: (1) 2d quarter ending May 31; (2) 2d quarter ending Apr. 30; (3) 3d quarter and most recent 6 months ending June 30; (4) 3d quarter and most recent 6 months ending May 31; (5) 3d quarter and most recent 6 months ending Apr. 30; (6) 4th quarter and most recent 6 months ending June 30; (7) 4th quarter and most recent 6 months ending May 31; (8) 4th quarter and most recent 6 months ending Apr. 30; (9) 1st quarter and most recent 6 months ending June 30; (10) 1st quarter and most recent 6 months ending May 31; (11) 1st quarter and most recent 6 months ending Apr. 30; NA, not available; NM, not meaningful.

Source: Investors Management Sciences.

GLOSSARY

Sales—Includes all sales and other operating revenues. For banks, includes all operating revenues.

Profits—Net income before extraordinary items. For banks, profits are before security gains or losses.

Margins—Net income before extraordinary items as percent of sales.

Return on common equity—Ratio of net available for common stockholders to average common equity, which includes common stock, capital surplus, retained earnings.

Price earnings ratio—Based on July 31 stock price and earnings for latest 12 months.

Earnings per share—For latest 12 months, includes all common stock equivalents.

AMERICAN POLICIES IN THE MIDDLE EAST

Mr. RIBICOFF. Mr. President, a few days ago, Florida State Representative Lewis Wolfson II spoke to a large gathering in North Miami Beach, Fla., on the subject of American policies in the Middle East.

Mr. Wolfson perceptively analyzed the current situation there following the Soviet pullout from Egypt and pointed to the great dangers to American interests still remaining. He also called attention to the vital role of the Congress in initiating military and economic assistance for Israel.

Representative Wolfson's persuasive arguments for strong American economic, military, and diplomatic support for Israel provide a blueprint for future American policies in the Middle East. I commend him for his forthright position on this vital issue, and would encourage all my colleagues in the Congress to read this important address.

Mr. Wolfson is a most able and dedicated public servant who as a State legislator has devoted his energies to the problems of the people of Florida. I am confident that as a Congressman he would bring great wisdom and ability to the task of finding solutions to the problems of his congressional district, the State of Florida, and the United States.

I ask unanimous consent that the text of Mr. Wolfson'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 STATE REPRESENTATIVE LEWIS WOLFSON II

Important and dramatic changes are occurring in the Middle East. While the full significance of the partial Soviet withdrawal from Egypt is yet to be assessed, it is only a single piece of a shifting mosaic. Rational behavior and logic have never in the past characterized Middle East politics. But what does remain clear is that the limited withdrawal of Soviet advisers does not mean the end of a significant Soviet role both in Egypt and in the entire Middle East.

Economically and diplomatically, the Russians have scored notable gains in an area not only of great strategic importance, but one which contains two-thirds of the world's known oil reserves. Predictions of an "energy crisis" in the 1980's are linked with an estimate that 50% of American oil will have to come from the Middle East by 1985. The implications of these predictions are certainly ominous for the United States. For Israel they could become nightmarish if the United States were in fact to become dependent on Arab oil.

Danger signals are already flashing. Only recently Iraq rationalized the Iraq Petroleum Co.—a consortium controlled by British, French, Dutch and American oil interests. The Soviet presence in Iraq can be expected to increase greatly as a result, and along with it Soviet control over Iraqui oil.

Communist nations also provide the Arab oil nations with oil markets, which give the Arabs more flexibility in their moves to squeeze the international oil companies. Libya, which is pushing for union with Egypt has already shown its skill at playing this kind of blackmail. But Russia's target in this area is really the Persian Gulf, where most of the Mideast oil reserves are located. For decades Britain dominated this area militarily while American oil companies did so economically. Britain's recent military pullout from this area, however, left a political vacuum which Russia is rapidly filling.

With the Russians able to meet their own oil requirements, it is not difficult to see why the Soviet Union is actively seeking control over the sources of Mideast oil. Simply put, Russia would like to become the middleman for Mideastern oil, supplying its friends and controlling the oil tap for Western European countries.

The Russians undoubtedly would like to see the U.S. and other Western nations as well as Japan forced to obtain their oil supplies through the grace of Moscow. The economic leverage at their disposal could conceivably destroy NATO and make a shambles of the western alliance.

How have American policymakers reacted to these direct challenges to vital American economic and strategic interests? Until the beginning of this year our government's position with respect to Israel, the major obstacle to Soviet encroachments, have been weak and vacillating.

In fact, a very serious crisis in U.S.-Israel relations had existed for the past three years. It began with the Rogers Plan in December of 1969 which called for almost total withdrawal of Israeli forces from all Arab territories—including strategically vital Sharm-el-sheikh. The crisis was aggravated by the massive Soviet-Egyptian ceasefire violations in August 1970—and the massive American silence which followed these blatant violations. Relations deteriorated further with the refusal of the Administration to meet Israel's requests for Phantom jets and other advanced military weapons so desperately needed. During the first three years of the Nixon Administration, and during Nasser's war of attrition against Israel, only 18 Phantom jets were sold to Israel. This virtual arms embargo by the United States against Israel was being used to force Israel into agreeing to a disastrous political settlement.

This unfortunate situation has now changed—temporarily at least. Israel is now able to buy a variety of weapons from the United States, including Phantom jet aircraft, air-to-ground missiles, M-60 tanks, heavy field guns, C-130 transport planes, and advanced electronic equipment.

Mainly because of actions started in the Congress during the past three years, Israel is now receiving both military credits and direct economic supporting assistance. Another Congressional initiative, calling for an $85 million appropriation to aid Israel in the resettlement of Soviet Jews is in its final stages. All of these legislative proposals to help Israel were met with Administration opposition when they were introduced.

Throughout Israel's history the Congress has sought to counter the pro-Arab bias and bad advice of the State Department on the Middle East. If the State Department's views had prevailed—Israel would have never been born in the first place. During the recent crisis in American-Israel relations the Congress has been the focal point for strong pressures on the Administration to give Israel greater economic, military and diplomatic support. These pressures have included round robin letters to the Secretary of State and to the President citing the Soviet threat and

calling for Phantom jet deliveries. In September of 1970, over Administration objections, $500 million in military credits for Israel was approved by the Congress by an overwhelming margin. This Amendment authorizing military credits for Israel is being extended by Congress through the end of 1973 to ensure the continued flow of arms. Through these decisive actions a reluctant Administration was repeatedly reminded of the Congress' firm position on the issue of assistance to Israel.

As your Congressman you know where I will stand on this vital issue. My firm and unwavering support for measures to assist Israel diplomatically, economically and militarily is based on my belief that these policies are in the best interests of the United States of America and of world peace.

Another crucial factor in the recent shift in American policies was the courage and steadfastness of the people of Israel and the remarkable qualities and skills of Prime Minister Golda Meir.

At her meeting with President Nixon last December 2nd, she stated Israel's case frankly and eloquently. No American President, or any world leader for that matter, could have failed to be impressed by her courage, compassion and tenacity. This meeting resulted in the temporary shelving of the Rogers' Plan and the beginning of a flow of desperately needed armaments. One wonders, however, what the situation will be after the elections in November. Should President Nixon be reelected will he be more likely to listen to the advice of the President of Standard Oil, or the President of the UJA?

One important factor which appears constant is Arab belligerency and unreasonableness. Allies may be fickle—as the French Government has shown to its discredit—but Israel's Arab enemies have been remarkably consistent in their intransigence. Mrs. Meir's recent eloquent pleas in the Knesset for direct peace negotiations with Egypt were met with total hostility by President Sadat. Until the day when an Arab leader is ready to go before his people and utter the magic words "peace with Israel", Israel must maintain its vigilance and insist upon secure and defensible borders. But if Israel is to persevere in reaching these goals it must have the solid support of the United States Government and of the Congress.

The history of the Middle East since the Six Day War clearly demonstrates that during the times that the United States has lent Israel its diplomatic and military support the chances for peace have improved. By the same token during the times when Israel was threatened with a cut-off of arms and was pressured to commit itself to withdrawal as a precondition to negotiations, the threat of hostilities increased.

A medieval scholar once said—"The height of stupidity and weakness is not to know an enemy from a friend." It would be the height of folly for the United States to ignore this dictum. While seeking the friendship of the Arab world and while wrestling with the problem of oil, the United States must continue to treat Israel as a true friend. Failure to do so can only result in tragedy for Israel, for the United States, and for the entire world.

If I am elected to Congress my voice will be heard and my vote will be counted in defense of Israel's right to exist, to flourish, and to live in peace.

THE IMPRESSIVE F-111

Mr. GOLDWATER. Mr. President, when the TFX airplane, which later became the F-111, was introduced into the Air Force inventory, it was a subject of much criticism and more confusion. To begin with the airplane should never have been considered as a multimissioned one and, thank goodness, the Air Force dropped that idea. It is now proving to be one of the finest aircraft this country has ever had; and should it ever be called upon for combat duty, it will perform in the highly successful manner it flies in its practice missions.

We are fortunate in this country that the engineers of General Dynamics, combined with the experience and intelligence of the Air Force, has been able to produce that airplane, which is now the finest of its kind in any air force in the world.

I have had a number of flights in the 111, each one more impressive than the one before, and I know that every pilot who has ever flown it has that same feeling.

I ask unanimous consent that an article written by Mr. Drew Middleton and published in the New York Times of August 5 be printed in the RECORD.

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

COSTLY AND CONTROVERSIAL F-111 IS FULLY ACCEPTED BY AIR FORCE

(By Drew Middleton)

WASHINGTON.—"Any time there's anything wrong with an F-111 it's all over the newspapers," said Lieut. Col. Robert Morrison, "but believe me, I've put in plenty of hours on it and the F-111 can do more things, things the Air Force needs, than any other aircraft—and it's stable and safe, too."

Born in controversy and reared in criticism, the F-111 has been plagued by the "bugs" common to all aircraft that embody technological breakthroughs. But the F-111 and the fighter bomber version, the FB-111, are fully accepted by the Air Force.

Col. Louis Gagnon, who has been with the aircraft from the start, and Colonel Morrison said that it had "one of the better records" among combat aircraft after 150,000 hours operational flying.

The Air Force lists 30 major accidents for F-111's between January, 1967, and June 18 of * * *

The official accident * * * the loss of three aircraft in Southeast Asia. The two-man crews of two of the latter are listed as missing in action. The other 27 accidents have claimed the lives of 19 crewmen.

MODULE SAVED CREWS

* * * The accidents * * * notes eight instances in which the lives of crews were saved by the F-111's unusual crew module. This is a self-supporting unit allowing the crew to eject from the aircraft at any moment.

An exploding wire severs the module from the fuselage and a single large rocket motor propels the module clear of the aircraft before the parachutes open.

Political doubts about the plane's capacity and its high cost—about $10-million a copy—have magnified every accident in the public mind, Air Force officers argue.

They point out that criticism of the plane flourished during its first 80,000 hours even though the F-111's record of 21 accidents in that period compared favorably with 39 for the F-4 and 33 for the F-106 in the same time frame.

WARTIME MISSION

Experienced F-111 pilots here and with the Third Air Force in Britain called the plane the best aircraft for nighttime and bad weather strikes deep inside enemy territory. In wartime, the F-111 would be assigned to interdict enemy airfields. This was the decisive mission of the Israeli Air Force in the Six Day War of 1967.

F-111 pilots believe that, if the Israelis had F-111's at that time, they would have completed their mission at night with less aircraft and greater destruction of the Egyptian Air Force.

The aircraft's advanced design enables it to perform at least three roles—tactical fighter, tactical reconnaissance and strategic bomber.

The advent of new Soviet fighters has prompted discussion of the F-111's chances with the Soviet MIG-23 or Foxbat. Intelligence sources say the MIG-23 has a ceiling of 90,000 feet and a speed of Mach 2 plus, with a 4,000-pound payload.

EFFECTIVE ALTITUDE

Aerial combat is unlikely in upper altitudes. Most such fighting takes place around 20,000 feet. There, American pilots argue, the F-111 is superior. Air Force experience in Vietnam is that the MIG-21J, the basic Soviet interceptor, was not effective against F-105's at that and lower altitudes and note that the F-111 is much faster at low altitudes than the F-105.

The MIG-23 has what airmen call a "look down, shoot down" capability, enabling it to fire missiles on fighters below. The Air Force contends that the tail radar in the F-111 will give sufficient warning of such attacks.

The ultimate answer is that the F-111 is built to operate at night, at low altitudes and in bad weather. These are conditions that do not favor the MIG-23, according to intelligence officers. Aerial combat is not the F-111's job, they add. Its job is "destroying the other fellow's planes and bases on the ground."

TWO MAJOR ADVANCES

The F-111 incorporates two major advances in military aviation.

One is its swing or variable sweep wing. The F-111, with wings extended, takes off in less than 3,000 feet. In flight, the wing can be folded back to a delta wing configuration for high speed.

The aircraft's most remarkable attribute is its capacity to fly automatically at low level under the "eyes" of enemy radar.

It is this capacity to penetrate radar defenses that is believed to be behind the Soviet delegation's suggestion at the recent talks on the limitation of strategic arms that the F-111's be included in the discussion. It was the only aircraft mentioned by the Russians during the talks.

The F-111's Terrain-Following Radar, or TFR, can be set to fly the plane at a selected low level.

TFR guides the plane over the contours of the earth, swooping into valley and clearing mountains at a fixed altitude day or night, regardless of weather. Should any of the TFR circuits fail, the system puts the plane automatically into a climb to a higher altitude.

EVADES ENEMY RADAR

The F-111 has a speed of Mach-1 plus at sea level. Moving at that speed "on the deck," no eye, human or radar, can pick it up in time for effective action. During a short operational tour in Vietnam, the F-111 was engaged by enemy fire on only 42 per cent of its missions.

At high altitude the F-111 has a speed of Mach 2 to 2.5 times the speed of sound. (At sea level and at 32 degrees Fahrenheit, sound travels at a speed of 1,088 feet a second.)

Along with its other attributes, the F-111, a two-man aircraft, is a comfortable "fly."

"Moving from the ordinary fighter to the F-111 is like moving from a Jeep to a Cadillac," said Maj. Cornelius Kelly.

However, the aircraft has been controversial from its birth.

Early in the Kennedy Administration, Secretary of Defense Robert S. McNamara began thinking about a multimission aircraft. He wanted a plane that could do a variety

of jobs at greater cost effectiveness rather than single-mission planes.

UNPOPULAR CONCEPT

This was not a popular concept with the Air Force and the Navy. But, under pressure, they agreed and listed their individual requirements.

The Air Force wanted a long-range fighter bomber capable of flying at high speeds and low altitudes, carrying conventional or nuclear bombs. The Navy asked for a carrier-borne interceptor of medium range for fleet defense.

In January, 1968, six years after the Defense Department awarded the F-111 contract to the General Dynamics Corporation, the British, who had agreed to purchase 40 F-111's, pulled out of the program. In July, 1968, the Navy followed suit.

The effect was to increase public doubts about the plane's effectiveness.

Since then the British, in cooperation with the West Germans and Italians, have embarked on the MRCA, or Multiple Role Combat Aircraft, program to build a fighter with many of the F-111's characteristics.

RESULTS IN VIETNAM

The aircraft's history in Vietnam was not happy. A six-plane force flew 55 combat missions and then, Colonel Morrison said, "ran out of missions." It began to fly early in March, 1968, and at the end of that month the Johnson Administration stopped its bombing of North Vietnam.

Officers say the F-111 did its job. The results, as estimated from reconnaissance photographs, showed that the plane could hit its targets at night and in bad weather as effectively as other fighter bombers could do in daylight.

The F-111's cost has been another suorce of criticism.

The fighter version's "fly-away cost," that is, airframe and two Pratt and Whitney TF-30-P-3 turbofan engines, is about $9.5-million for the fighter and just under $10-million for the fighter bomber. When support and spares are added, the prices rise to $11.8-million and $13.9-million.

$8.8 BILLION PROGRAM

The total program cost is estimated at $6.6-billion for the fighters and $1.2-billion for the bombers. There are two wings of bombers in the United States, one at Plattsburg Air Force Base in New York and the other at Pease Air Force Base in New Hampshire. One wing of fighters, 72 aircraft, is deployed at Upper Heyford in England.

Air Force officers are generally convinced that the F-111 is worth the money in either version. This is not only because it can do things no other aircraft can do, they argue, but because it incorporates technology—the variable wing, TFR, the crew module, the main strut landing gear—that represent the future in combat aircraft.

"There is no comparable aircraft," Colonel Gagnon said.

POLITICS IN THE PEACE SIGNALS

Mr. SCOTT. Mr. President, the Philadelphia Inquirer sums it up the best in an editorial entitled "There's a Touch of Politics in All Those Peace 'Signals.'" It bears reading by every Senator and I wish more persons could be exposed to the editorial writer's views, because they make so much sense.

I ask unanimous consent to have the editorial included in the RECORD at this point.

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

THERE'S A TOUCH OF POLITICS IN ALL THOSE PEACE "SIGNALS"

A growing number of voices, including George McGovern's and Sargent Shriver's—all of them Democrats—are crying that the Nixon Administration "blew" a chance to negotiate peace in Vietnam in early 1969. A swelling chorus of others, including William P. Rogers' and Henry Cabot Lodge's—Republicans all—is rebutting.

And then, Ramsey Clark returns from Hanoi and environs with the advice that a North Vietnamese newspaper editor told him that if "there is a change of administration" in the U.S., all prisoners could be released the day of the inaugural—presumably George McGovern's.

It is the quadrennial national political season, that time which the balance of nature has set aside for such noises to be heard throughout the land. It has something to do, we believe, with the preservation of the species.

So just as we are incapable of resentment on being awakened at 4 A.M. on a Maine lake by the call of the nesting loon, we tend toward forgiveness of excess of political oratory, in consideration of the season.

Nonetheless, there is a disturbing element of nonsense in Mr. Shriver's allegation of last Thursday that "Nixon had peace handed to him literally in his lap. He blew it."

There is at least as much nonsense in the suggestion that unofficial talks—especially with a newspaper editor, which in Communist countries means professional propagandist—are going to contribute much light on the road to peace in Southeast Asia.

Mr. Shriver's claim was broadly supported on Saturday by Sen. McGovern and by Averell Harriman, who was head of the U.S. peace negotiating team in Paris at the end of the Johnson Administration, and by Cyrus Vance, who was Mr. Harriman's chief subordinate.

But what the Harriman-Vance statement did not contend is what Mr. Shriver said: that peace was "literally in (Mr. Nixon's) lap."

The entire ghastly history of negotiations with the North Vietnamese has been crammed with interpreting, misinterpreting and sometimes imagining "signals" from Hanoi's councils. The essence of Mr. Shriver's charge—and that of his supporters, to the extent that they really support him—is that such a signal was sinisterly or negligently misread by the Nixon Administration in its first few weeks or months in office.

Mr. Shriver was U.S. ambassador to France during the beginning of that period. As such, he was only peripherally involved in the peace efforts. He claims that his points were made at the time—but through channels. Mr. Rogers and Mr. Lodge, who succeeded Mr. Harriman, say there is no record of his criticisms.

And Mr. Shriver has done nothing to settle the question: If all those overtures were being made in late 1968 and early 1969, why didn't President Johnson, with the help of Messrs. Harriman, Vance, Shriver et al., come to peace terms?

Even if the criticisms had been made loudly and promptly, subsequent experience has strongly indicated that the Hanoi negotiators' use of "signals"—including flat public statements—has been a cynical practice. An elaborate record of that practice, for example, was made public last Jan. 25, when Mr. Nixon set side by side the North Vietnamese statements about negotiations over several months. Public and secret positions were often exact opposites.

Debate about the war is proper campaign fodder. But peace will not be found in 1968 or 1969. It may be found in 1972. But not by disputable readings of questionable events, nor by simplistically accepting as diplomatic mortar the informally offered propaganda of brilliantly cynical negotiators.

DANGER IN PRECIPITATE U.S. WITHDRAWAL FROM INDOCHINA

Mr. SCOTT. Mr. President, an editorial published in yesterday's Washington Evening Star and Daily News elucidates a warning to those who advocate a precipitate total U.S. withdrawal from Indochina. I, myself, have issued this warning on several occasions, and believe the point is well worth making again.

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

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

MASSACRE IN BINHDINH

It is a fervently held article of liberal faith that if the United States will just get out of Indochina, all will be sweetness and light among the Vietnamese people, North and South, Communist and non-Communist. Those who chant this doxology ignore the execution of thousands of Vietnamese and flight of tens of thousands more when the Communists took over in the North in 1954. They ignore the mass graves containing the bodies of more than 2,600 South Vietnamese civilians murdered at Hue during the 1968 Tet offensive. So they should have no difficulty whatsoever in glossing over the less numerous casualties of the more calculated reign of terror which has taken place at Binhdinh province on the central coast of South Vietnam the past three months.

Binhdinh fell quickly to the North Vietnamese in early April and it was not until July that Saigon's forces launched a serious effort to retake it. So the Communists had plenty of time. There was no need to hurry, as there was in Hue in 1968, when American and South Vietnamese forces counterattacked within days of the city's fall.

According to intelligence reports and on-the-spot interviews with survivors, the Communists were extremely methodical. They rounded up hamlet and village chiefs, pacification workers, policemen, militiamen, teachers, doctors, nurses, clerical workers, literally anyone who had had any connection with the Saigon government. "People's courts" executed several hundred (perhaps as many as 500) and shipped an estimated 6,000 others off to "people's prisons" in remote areas of the Communist-held Anlao valley. Most of those killed apparently were executed by rifle fire but others were buried alive, beheaded or hacked to pieces.

None of this represents any new departure in tactics on Hanoi's part. Aside from the general massacres in the North in 1954 and in the South during the 1968 Tet offensive, the murder and kidnaping of South Vietnamese officials has been part and parcel of Communist "liberation" since the war began. In the past four and a half years, nearly 25,000 South Vietnamese civilians and officials have been executed by the North Vietnamese Communists and the Viet Cong.

There have, of course, been atrocities on the Allied side. But anyone who is still prepared to maintain that a Communist takeover in South Vietnam would not lead to a bloodbath of major dimensions is simply ignoring the evidence at hand. A politician like Senator McGovern, who advocates a quick and unilateral American withdrawal from Southeast Asia, need look no farther than the shallow graves of Binhdinh prov-

ince to see where the policies he advocates would lead those who have placed their trust in the United States.

THE DEFINITION OF GENOCIDE

Mr. PROXMIRE. Mr. President, a source of many of the arguments against the ratification of the Genocide Treaty has been the misunderstanding of the treaty's definition of genocide. The concern that individual acts of prejudice will bring charges and convictions of genocide under the treaty is without basis.

Article II of the convention defines genocide in such a way as to differentiate it from individual acts of murder or prejudice. The crucial words are:

> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.

The Committee on Foreign Relations in its report on the convention has pointed out that it is necessary to prove intent to destroy, in whole or part, a group before a conviction of genocide is possible.

The report clarifies this definition further:

> There have been allegations that school busing, birth control clinics, lynchings, police actions with respect to the Black Panthers, and the incidents at My Lai constitute genocide. The committee wants to make clear that under terms of Article II none of these and similar acts of genocide unless the intent to destroy the group as a group is proven . . . This convention does not aim at the violent expression of prejudice which is directed against individual members of groups.

We are all opposed to such acts against individuals, and it is important that we commit ourselves to eliminating that behavior. However, this treaty leaves that problem under the jurisdiction of individual nations. Only when the intention of the transgressor is the destruction in whole or part of a national, ethnical, racial, or religious group as outlined in article II does the act become genocide.

This treaty joins nations together only to outlaw the crime of genocide. That crime is clearly differentiated from isolated acts of violence or prejudice by the intentions of the transgressor.

It is time that we declare our opposition to genocide. This treaty is so constructed as to allow us to do so without interferring with any issues which must rightfully be handled by our Nation alone. Therefore, I urge the Senate to move for the immediate ratification of this humanitarian treaty.

PENNSYLVANIA FLOOD RELIEF

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Agnes, Romney, and Shapp" relating to flood relief in Pennsylvania and published in the Pittsburgh Press of August 13, 1972.

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

AGNES, ROMNEY, AND SHAPP

President Nixon sent HUD (Housing and Urban Development) Secretary George W. Romney to Wilkes-Barre to get the "snags" out of the relief program for victims of the unprecedented floods generated by Hurricane Agnes.

One of the first "snags" Mr. Romney encountered was Gov. Milton J. Shapp of Pennsylvania. Gov. Shapp demanded the federal government do more than it is doing. A typical snide remark of the governor:

"I can't believe you would just leave people without any help."

Gov. Shapp also has been insistent that the "federal government make these people whole," which has been translated to mean that the government restore in full all the losses of the flood victims.

Regardless of the compassion which the sufferers of this calamity merit, holding out the promise of 100 per cent restoration of losses is cruel and impractical. There is a limit to which government can go to alleviate losses in any major disaster.

The government is laying out an enormous sum—$1.2 billion—just in Pennsylvania alone. It is trying to help people find temporary homes in six states affected by Agnes.

Obviously, the relief has not been instant and thousands of victims still are frustrated. Bureaucratic sluggishness has been evident in some cases and this is inexcusable.

But what has Gov. Shapp been doing? If he is as concerned about the flood victims as he says, he must have more to do than quarrel with Mr. Romney, who went to the area to help.

But the real handicap to fast relief is the sheer magnitude of the disaster. Consider the statistics calculated by the federal Office of Emergency Preparedness:

Agnes spread her destruction along 4,500 miles of major rivers and 9,000 miles of tributaries. In the six states, 27 cities and 206 counties suffered disaster.

Thousands of people at all levels of government, in the Red Cross, Salvation Army and many volunteers, are working their hearts out to give the flood victims a hand. Mistakes, honest or just clumsy, are bound to happen.

But public griping, buck passing and sniping by politicians help nobody.

FEDERAL FUNDING OF SOCIAL SERVICES PROGRAMS

Mr. ROTH. Mr. President, last Friday I invited the attention of the Senate to an article published in the Washington Post concerning a request by the State of Maryland for Federal funding under the social services program. The article pointed out that Maryland had increased its request for funding under the program from $22.9 million last March to $417 million in June, a 1,825-percent increase over a 3-month period.

Today, I ask unanimous consent to have printed in the RECORD an editorial published in yesterday's Washington Post. The editorial, I believe, points out some of the many problems with the social services program as it is now administered. As I have said before, the program needs to be reformed in some way; and I think the editorial may help Senators to understand my point of view.

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

WHY NOT ASK?

So the federal government has lost control of one of its grant programs, and the states want to draw $5 billion this year in aid to their social services. Is that bad? Social services are worthy and useful. Even if this sudden outpouring of federal money is inadvertent, why cut it off?

The answer lies no farther away than Maryland. Last March, Maryland budgeted only $22.9 million in federal aid to its social services for this fiscal year. But in midspring the word got around that the federal administrators would grant very nearly whatever the states requested. Under the law, a state can ask for three federal dollars for each state dollar spent in this field and the legislation contains no limit. Maryland officials frantically combed through the entire state budget, listing every expenditure that could conceivably be considered a social service and requesting the federal treasury to match it, three for one. The state hired consultants to help in the search. They listed not only the expenditures of state agencies but a wide variety of private and voluntary social agencies. By the deadline in June, they had pulled together an application for $417 million. That is an 1,825 per cent increase over the first version of the request three monthe earlier.

That application is "conservative," argues Maryland's Secretary of Employment and Social Services, Mrs. Davidson. Conservative, one asks, compared to what? Having been busy drawing up the application, Mrs. Davidson and her staff have not yet been able to draw up the plans for spending it. As Herbert Denton reported in this newspaper after an illuminating interview with Mrs. Davidson, she expects to use the new money to expand existing programs and create additional ones. Unfortunately, she is not yet able to tell precisely which existing programs will be expanded, or how much, or what new ones might be created. She could not, of course, begin to estimate how many of Maryland's citizens might benefit from this massive infusion of nearly half a billion dollars, or which citizens. Qualified staff is hard to find in the social services, but staffing is another question being left to the future.

In its extreme vagueness, the Maryland application is similar to most other states. It is exceptional only in the rate of expansion from last year. That rate is exceeded only by Mississippi's application, which is nearly as large as its entire state budget last year.

The political origins of the present imbroglio are not entirely clear. The basic legislation accumulated during the 1960s, but it has only been in the past several years that the states have been exploiting it. The first to obtain spectacularly large benefits under it was California, a state with a Republican administration. Whether the Californians found their way to the well through their own ingenuity, or through the assistance of their many friends in Washington, is not yet known. But Mrs. Davidson's chief defense seems to be that Maryland is entitled to the same unlimited benefits, under the same rules, as California. That, at least, is correct.

Undoubtedly Maryland can develop many useful and important projects on which to spend federal money. But the time to make the grants is after the planning, not before. As a method of government, the present grant program has its comic aspects. The President and Congress have sweated and fought all year over the horrendously intricate formula to distribute $5 billion in shared revenue, while the states line up for another $5 billion in social service grants distributed according to no principle but the respective state administrators' ingenuity. The President and Congress have been struggling for

three years over the welfare reform, and still cannot reach compromise. But the accidental grants to social services would cost nearly as much as the leading proposals for welfare reform, without reforming the present welfare system in any respect. With this application for $417 million, Maryland is asking a bit too much.

RETIREMENT OF GORDON F. HARRISON

Mr. EAGLETON. Mr. President, the retirement of Gordon Harrison as staff director of the Committee on Rules and Administration is truly a loss not only to the Senate but also to the country. Since my first day in the Senate, Gordon's assistance and counsel were of immeasurable help to me and to my staff.

Gordon's long and distinguished career of public service began in 1937 as legislative assistant to Senator Green, of Rhode Island. After serving in the U.S. Navy and in the U.S. Department of Justice he returned to Capitol Hill in 1955 as staff director of the Rules Committee, a position he held until his recent retirement, serving under five chairmen. The foremost example of a dedicated, talented, and conscientious public servant, Gordon is indeed a man deserving of the highest praise. His energy, insight, and commitment have been major sources in improving the efficiency and productivity of the U.S. Senate.

Senator JORDAN has described, more eloquently than I can, Gordon's knowledge, understanding, and compassion, and the deep respect and affection felt toward him by all who had the opportunity to know him.

The Senate and the Nation have been fortunate to have his services for so many years, and all of us who regard him as a friend will miss not only his wisdom and knowledge but also his charm and wit. I join his multitude of friends in extending thanks and best wishes for every happiness in the years ahead.

WILLIAM O. DOUB AND HERMAN POLLACK

Mr. MATHIAS. Mr. President, I was pleased to learn that the President has nominated William O. Doub and Herman Pollack, two very qualified Marylanders, to be Alternate Representatives of the United States to the 16th Session of the General Conference of the International Atomic Energy Agency, which is scheduled to be held at Mexico City, Mexico, from September 26 through October 3, 1972.

At present a Commissioner of the Atomic Energy Commission, Mr. Doub has had a long and distinguished career in public service. Over the years he has served as chairman, Maryland Public Service Commission; vice chairman, Washington Metropolitan Area Transit Commission; chairman, Committee on Electrical and Nuclear Energy, National Association of Regulatory Utility Commissioners; member, the President's Air Quality Advisory Board; and president, Great Lakes Conference of Public Utility Commission.

Mr. Pollack is also an able and dedicated public servant. Within the Department of State he has held positions as Deputy and Acting Executive Director of the Bureau of European Affairs; executive assistant to the Assistant Secretary for Administration; director of the management staff; and deputy assistant secretary for personnel. From 1964 until the present he has held positions with the Bureau International Scientific and Technical Affairs and in 1967 was appointed Director of that Bureau.

The Nation is fortunate to be represented by Mr. Doub and Mr. Pollack at an international conference of such vital importance as the world confronts an energy crisis that ignores political boundaries.

TORTURE IN SOUTH VIETNAM

Mr. HUGHES. Mr. President, additional evidence of the appalling brutality of the war in Vietnam keeps coming to light as this tragic conflict drags on.

The reprisals inflicted by the North Vietnamese and Vietcong, when they have retaken a village, are extensively publicized in official communiques.

Our knowledge of harsh and repressive acts on the part of our ally, the Thieu dictatorship in Saigon, comes from independent press sources.

On Sunday of this week, the New York Times reported "widespread torture of people jailed by the Saigon government."

Reporter Sydney Schanberg based his story on documents smuggled out of South Vietnamese prisons and interviews with former prisoners. He also noted that it is impossible to get firsthand verification of the stories because journalists are denied permission to visit prisons.

According to Schanberg:

Some said that water had been forced down their mouths until they nearly drowned. Others told of electric prods used on sensitive parts of the body, of fingernails pulled out and of fingers mashed.

Several of the informants said they had discovered, while in prison, a sardonic saying favored by the police—"Khong, danh cho co"—"If they are innocent, beat them until they become guilty."

Mr. President, I ask unanimous consent that Mr. Schanberg's report, published in the New York Times of Sunday, August 13, 1972, be printed in the RECORD.

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

TORTURE BY SAIGON IN JAILS REPORTED

DOCUMENTS AND INTERVIEWS INDICATE WIDE ABUSE OF POLITICAL PRISONERS

(By Sydney H. Schanberg)

SAIGON, South Vietnam, August 12.—Documents smuggled out of South Vietnamese prisons and extensive interviews with former prisoners paint a picture of widespread torture of people jailed by the Saigon Government since the North Vietnamese offensive started four and a half months ago.

Here is a sampling of the prisoners' accounts:

"Nguyen Thi Yen was beaten unconscious with a wooden rod. Later, when she revived, she was forced to stand naked before about 10 torturers, who burned her breasts with lighted cigarettes."

"Trinh Dinh Ban was beaten so badly in the face that the swelling shut and infected his eyes. The police drove needles through his fingertips and battered him on the chest and soles of his feet until he was unable to move."

"Vo Thi Bach Tuyet was beaten and hung by her feet under a blazing light. Later, they put her in a tiny room half flooded with water and let mice and insects run over her body."

STORIES ARE TYPICAL

These particular accounts are said to describe the torture of three student leaders still being held in South Vietnamese jails on suspicion of being Communist sympathizers. The accounts in these documents and many others obtained by this correspondent were purportedly written by prisoners—and in some cases by sympathetic guards—and then smuggled out.

The three accounts are typical of the stories told in the other documents and in the interviews about the treatment of the thousands of students, workers, peasants, women and children arrested by the national police and military authorities in the "pre-emptive sweeps" made in the search for Communist sympathizers and agents since the North Vietnamese Army began its offensive.

Some of the documents reached this correspondent through friends of prisoners or critics of the Government to whom the papers had been passed. Some of the interviews were also arranged this way. Additional information was gathered on the basis of other leads.

There is no way to verify the accounts of torture first hand, for the Saigon Government refuses to allow journalists to visit its prisons, which it calls "re-education centers." A formal written request was denied.

All of those interviewed said their names could not be used because they feared police reprisals.

REPORTS ARE SIMILAR

As with the smuggled documents, it is impossible to corroborate the accounts given by former prisoners in interviews. But although one cannot establish after the fact that the welts and scars visible on their bodies were inflicted by the police, the widespread reports bear out the prisoners' version.

Government officials and pro-Government legislators defend the recent repressive measures by arguing that the survival of South Vietnam is at stake. Critics reply that only the Government of President Nguyen Van Thieu, not South Vietnam, is at stake.

"Necessity requires us to accept a flexible view of the law," said one official. "You wouldn't wait until the Vietcong agent pointed his gun at your back before you handcuffed him, would you? Legal aspects do not count when there is a question of survival involved."

The victims obviously feel differently. Here, for example, is part of an account given by a woman who was interrogated intensively but not beaten in a police detention center in Saigon and then released:

"When you were being interrogated, you could hear the screams of people being tortured. Sometimes they showed you the torture going on, to try to frighten you into saying what they wanted you to say.

"Two women in my cell were pregnant. One was beaten badly. Another woman was beaten mostly on the knees, which became infected.

"One high school student tried to kill herself by cutting both wrists on the metal water taps in the washroom, but she failed. They had tortured her by putting some kind of thick rubber band around her head to squeeze it. It made here eyes swell out and gave her unbearable headaches.

The girl was so badly tortured that the police left her in the corridor outside the interrogation room for a day—so that other prisoners would not see her condition."

This was a typical story of those interviewed. Some said that water had been forced down their mouths until they nearly drowned. Other told of electric prods used on sensitive parts of the body, of fingernails pulled out and of fingers mashed.

Several of the informants said they had discovered, while in prison, a scardonic saying favored by the police—"Khong, danh cho co."—"If they are innocent, beat them until they become guilty."

The accounts of the informants indicated that the worst torturing took place while prisoners were being interrogated in police centers—before they were transferred to prisons such as Con Son and Chi Hoa. Con Son is South Vietnam's biggest civilian penitentiary, situated on Con Son, an island 140 miles southeast of Saigon. Chi Hoa, the country's second largest prison, is in Saigon.

The informants said that most of the torture and interrogation took place between 10 P.M. and 3 A.M. They said some of the prisoners, under torture or fearing torture, agreed to become police agents to win their release.

NAMES ARE GIVEN

Some of the documents purportedly smuggled out of the prisons gave the names of five persons who had been tortured to death recently in jail, and said this was only a part list. The documents listed Buu Chi and Nguyen Duy Hien, students from the Hue area who were said to have died in Con Son. Also listed were a Ta Xuan Thanh, Dinh Van Ut and Bu Duong of Saigon, who were said to have died in Chi Hoa.

It is impossible to tell, without Government cooperation, how many thousands have been arrested since the North Vietnamese offensive began. Most foreign diplomats think the figure is well over 10,000. One American source said that slightly over 15,000 people had been jailed and about 5,000 released later. But whatever the exact figures, it is clear that thousands remain in prison and that arrests continue.

The bulk of the arrests have been in the Mekong Delta south of Saigon and, in the extreme north. Many students were seized in Hue, some of them reportedly while working in refugee centers.

LITTLE DISTINCTION INDICATED

It is also impossible to tell how many of those arrested really have Communist connections and how many are simply opposed to the Government of President Thieu, because the police seem to make little distinction. There is a third category of prisoners as well—people who were apparently seized at random and who commited no crime. They just happened to have been in the wrong place.

Critics of the Government say that each district administration has been given a quota of arrests and that local officials have been trying to meet the quotas quickly with little regard for legal niceties.

According to one document, purportedly written by a sympathetic jailer, an old woman has been imprisoned in Con Son because one of her sons is regarded as a Communist sympathizer and is in hiding. Her four other sons are in the South Vietnamese Army. She wants to write them about what had happened to her, the jailer said, but she has forgotten their military addresses and the prison authorities will not help her communicate with them.

FAMILY LINKS ONE CAUSE

This woman seems to be typical of many of those arrested recently. They were picked up because they have relatives who are active Vietcong or suspected of having some link with the Communists. But according to the Vietnamese officials themselves, most families in South Vietnam have a relative or relatives "with the other side" and the Government would have to arrest millions if it were to apply this criterion across the board.

Nguyen Van Thong a pro-Government member of the lower house and chairman of the committee that deals with police and prison legislation, said in a recent interview that the Government should have carried out these arrests a lot earlier. Though Mr. Thong acknowledged that some innocent people had undoubtedly been arrested, he said, "These people will sooner or later get out of jail."

Legal form, rarely observed with fidelity at any time in South Vietnam's recent history, has clearly been abandoned since the enemy offensive began. On the one hand, President Thieu continues to declare that the back of the North Vietnamese drive has been broken, yet on the other he has been using his recently granted special powers to narrow civil liberties further.

LAWS SEEM TO BE IGNORED

Although no Government edict has been issued, the normal laws governing the rights of the accused appear to have been virtually suspended. Often those arrested are reportedly not told the charge against them nor allowed to consult a lawyer. Prisoners are sometimes kept for months and years without a hearing or trial. Often the police will not acknowledge that they are holding a particular person so his family is unable to locate him.

In a sense, many of these people and their cases simply disappear—except for reports that leak out clandestinely.

The same jailer at Con Son who purportedly wrote of the old woman with four sons in the army also was said to have given the following description of an area of the prison holding 1,500 people from Hue and other northern areas:

"I was horrified to find that the place was full of women and old people and more than 50 children under 9 years old. None of them knew why they had been brought here. In general, their arrests had happened like this: Village officials would come and call them to the village headquarters. Once they were there, the officials would tell them falsely that they had to be evacuated, presumably because of near-by fighting. And then they would find they had been deported to Con Son."

This prison made headlines two years ago when the treatment of hundreds of prisoners jammed into small cells known as "tiger cages" was publicized by two American Congressmen on a fact-finding tour of Vietnam. The Congressmen managed to enter the "tiger cage" area over the objections of both the South Vietnamese warden and his American adviser.

Although the United States is the major provider of aid to the South Vietnamese police and prison system, the American mission here refuses to discuss the situation on the record, contending that it is entirely a South Vietnamese program.

AIRLINE ROLE CHARGED

According to authoritative sources however, Air America, the airline operated in Indochina for the Central Intelligence Agency, has been used to transport arrested people to Con Son.

The two top American advisers to the South Vietnamese on police and prison matters—Michael G. McCann and Theodore D. Brown, director and deputy director, respectively, of the American mission's public-safety directorate—do not deny the widespread torture or the use of Air America; they simply refuse to comment. Requests for interviews with both men were rejected.

A high American source who granted an interview but insisted on anonymity said that being outside the situation "I cannot affirm that tortures don't take place" and he acknowledged that "all kinds of deplorable things may well be going on." But he argued that some of those arrested were known anti-Government and Communist activists who had been involved in terrorist incidents—"and who aren't exactly the nice college kids next door."

Critics of the Government describe what has been happening recently as a police-state operation. And while repressive tactics are not so obvious on the streets of Saigon and other cities as they apparently are in the jails, there have been disquieting signs of intimidation.

The police set up checkpoints from time to time in Saigon, on the pretext of searching people and vehicles for weapons or explosives destined for terrorist activities. But on the several occasions this correspondent has stood close by and watched these searches, it appeared that the checkpoints were often no more than means of shaking down Vietnamese for money or goods.

Despite these tactics, there has been little protest.

FIREARMS CONTROL

Mr. KENNEDY. Mr. President, the Senate has recently completed debate on the Handgun Control Act of 1972. Although we have now disposed of that particular piece of legislation, we have not laid to rest the issue of firearms control. It is my belief that this legislation is considerably less than that which the national crisis of wholesale slaughter by gun demands, and that in a year, or 2 years, or 5 years, we will again be shocked into taking some action to control these horrible weapons of death.

The Medical Society of the District of Columbia has long been interested in and worked for the passage of strong gun control measures and I wish to commend them for their efforts. Last spring the society failed in its attempt to persuade the House of Delegates of the American Medical Association to fully endorse their position. However, the delegates in their national convention in June did express "strong abhorrence and continued opposition to the use of a firearm or any weapon in the commission of a crime."

In the face of the national society's rejection of their plan, the latest effort of the Medical Society of the District of Columbia has been to request the American Medical News to poll all American physicians to determine their views on firearms control in the hopes of proving to the American Medical Association's House of Delegates that most physicians agree with the District society's views. Should this prove to be the case the delegates will certainly wish to reflect the opinions of the physicians and take a much more positive stand in the future. I strongly urge the American Medical News to conduct this poll and I am sure many other Senators in addition to myself will be awaiting the results.

Again, I wish to congratulate the members of the District of Columbia Medical Society for its overwhelming show of concern for the need to enact a national system of effective gun laws. The Senate might well profit from their example.

I wish also to praise the Washington Post for its editorial of Sunday, August 13, 1972. "Some Gun Control This Year?" clearly states the situation facing

this Congress. The problem is: Now that the Senate has refused to pass a strong gun control bill, will Congress enact at least the modest proposal that has passed the Senate, or will we do nothing at all again this year?

I ask unanimous consent to have printed in the RECORD, "Some Gun Control This Year?"; "A Modern Plague," an editorial published in the March 1972 issue of the Medical Annals of the District of Columbia; and the results of a poll taken among the members of the Medical Society of the District of Columbia in April 1972.

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

[From the Washington Post, Aug. 13, 1972]

SOME GUN CONTROL THIS YEAR?

Well, half of the congressional elephant has labored to bring forth a tiny, but useful mouse. The Senate voted a ban on the sale of the cheap and inefficient handguns, called Saturday Night Specials, the other day. Our limited hurrah reflects no lack of pleasure at that accomplishment, but rather an acknowledgement of our concern with the mountain of arms now in private hands in this country and the length of legislative road remaining—even to make the Senate's small step a practical reality. The House Judiciary Committee has held hearings and has had an executive session on the issue, but has yet to send a bill to the floor, and it is late in the legislative session in an election year.

The Senate's proposed limitation on the murderous, inefficient little handguns of the type used against Sen. Robert Kennedy and Gov. George C. Wallace, which pass through commercial channels in this country for $35 and less, is both welcome and necessary. If the House wrapped that up in a legislative package, we couldn't complain, but we could still lament the dangers yet to be overcome. It is estimated that five million guns are manufactured in this country each year. Of those, two and a half million are long guns, which are in no way touched by the legislation passed by the Senate, and one and a half million more are handguns which are suitable for sportsmen and others, and which are consequently not banned in the Senate bill.

Nor does the Senate bill touch those guns currently in private hands. Four years ago, the Eisenhower commission on violence estimated that there were 30 million handguns and 90 million long guns in civilian hands in this country.

The Senate, even in the face of this mountain of arms, rejected a number of more serious proposed limitations on the arms traffic in this country. It might have banned the Saturday Night Specials and also required the registration of all guns and the licensing of their owners. It also had the option of banning the sale of all handguns, except those to be used for law enforcement and military personnel. It chose, however, to follow neither of these courses or a number of other useful options.

In any event, the Senate has passed, and sent over to the House, for its consideration, a measure banning the sale by importers, manufacturers and dealers the litte handguns which are generally useful only to murder, to maim and to rob. On the effective date of the legislation, public sales of such weapons would be halted, although transactions moving such weapons from one private hand to the other would not be affected nor would current private possession be touched. But, since one million such weapons are produced in this country each year, the bill would have some limited checking effect on the arms traffic, and that is all to the good.

So, the issue is now put to the House as to whether we will have at least a first step down the road to a safer and more civilized society. Or, on the other hand, in this election year, will the Congress prove too busy to notice that each time President Nixon plunges into a crowd to discuss the fortunes of the Detroit Tigers or George McGovern grabs hands to relive old times in New Hampshire, we all flinch with the fear of remembered pain.

It has often been said, by lobbyists against gun control that "guns don't kill people, people kill people." The point is that more often than not, in our country, people kill people with guns. Whatever the House may do, in limiting that possibility, even if it is as little as the Senate has done, will be welcome. We would urge the House to take the occasion to go at least that far this year.

[From the Medical Annals of the District of Columbia]

A MODERN PLAGUE

Webster defines "plague" as "that which smites or troubles . . . any afflictive evil; a scourge; an infestation". Until recently the plagues which doctors bent their efforts to prevent and treat were those caused by pathogenic microorganisms, and they were to be combatted by whatever was available in the medical armamentation and by public health measures such as by drying up the breeding places of malaria-causing mosquitoes. But now we must deal with other plagues which are social rather than bacterial. One of these, which has reached epidemic proportions is a plague of guns responsible for the fearsome death toll among our citizens of 6,000 per year in the form of homicides alone as well as 47 per cent of all completed suicides. And if we are going to be effective in dealing with this plague we must employ other means than those which eradicated malaria.

Some myths about firearms which nurture the intensely felt opposition to the kind of gun control legislation which would begin to end this plague of guns have been exposed in a recent article in the American Journal of Psychiatry by Judge George Edwards of the U.S. court of Appeals for the Sixth Circuit and a member of the National Commission on Reform of Federal Criminal Laws. Judge Edwards points out that the large majority of murders are the product not of cupidity, but rather of uncontrolled emotion in the course of quarrelling among relatives or friends, quarrels that "might well result in nothing more than bloody noses or a lot of noise if there were not present a deadly weapon—handy and loaded". This statistic is supported and refined in another article on the subject by Dr. Emanuel Tansy, a psychiatrist and lawyer, who describes most murders as resulting from the combination of a state of consciousness temporarily altered and impaired by psychopathological or chemical factors, and a handy weapon, usually a gun. The contention that our citizens need guns to protect themselves from criminals is vitiated not only by the above disclosure, but also by the fact that the police unanimously counsel against attempting to resist robbery because to do so is generally useless and dangerous. Actually there are far more innocent victims of accidents with guns than there are dead robbers killed by householders defending themselves.

The National Commission on Reform of Federal Criminal Laws has recommended that Congress:

1) ban the production and possession of, and trafficking in handguns, with exceptions only for military, police, and similar official activities, and

2) require registration of all firearms.

The medical profession has a duty and responsibility to fight the plagues which afflict mankind, whatever their source or their nature. It is time for us to use our influence as guardians of the public health to support these sensible recommendations which ultimately will save lives. Accordingly, the Committee on Public Health of the Medical Society of D.C. has submitted to the Executive Board a resolution asking that the Society and the A.M.A. go on record as supporting, and actively support the enactment on a national level of gun control legislation.

PAUL CHODOFF, M.D.,
Chairman, Mental Health Committee.

RESULTS OF A POLL OF THE MEDICAL SOCIETY OF THE DISTRICT OF COLUMBIA ON GUN CONTROL (APRIL 1972)

Poll on whether the following resolution recommended by the Mental Health Committee of the Medical Society should be presented at the American Medical Association convention in June by the Society's delegates:

"Whereas the too easy availability of firearms in many parts of our country puts an instrument of destruction into the hands of individuals who may be unable to resist various irrational and anti-social impulses, and thus gives rise to both a mental and general health problem of epidemic proportions;

"Therefore, be it resolved that the Medical Society of the District of Columbia place itself on record as favoring 1) enactment at a national level of gun control laws; 2) instructing the Medical Society of D.C. Delegates to introduce this resolution for action by the AMA House of Delegates; 3) that legislation by the United States Congress furthering this end be supported by all available means."

The vote was 519 yes; 82 no.

Results of a poll on the following propositions:

1. I am in favor of more stringent gun control laws; 580 yes, 78 no.
2. I am in favor of an enforceable code of responsible gun ownership; 617 yes, 47 no.
3. All owners of usable *firearms* should be licensed; 520 yes, 141 no.
4. All owners of usable *handguns* only should be licensed; 348 yes, 188 no.
5. All usable *firearms* should be registered; 541 yes, 110 no.
6. All usable *handguns* only should be registered; 375 yes, 186 no.
7. The production, possession of, and trafficking in *handguns* with exceptions only for military, police and similar official activities, should be banned; 288 yes, 207 no.

RETIREMENT OF GORDON F. HARRISON

Mr. GRIFFIN. Mr. President, in the recent retirement of Gordon F. Harrison as staff director of the Committee on Rules and Administration, the Senate has lost one of its ablest and most dedicated staff members.

In all, he had 35 years of public service. For more than 17 of those years, and under four chairmen, Gordon served continuously as staff director of the Committee on Rules and Administration. With unfailing good humor, tact, and wisdom, he fulfilled the exacting demands on his time and energy. All of us who have served on the committee have many reasons to be grateful for his assistance over the years.

A lawyer as well as a former naval officer, Gordon exemplified the finest tradition of public service, and did so in such a quiet and effective way as to win the friendship and respect of all who were associated with him.

I join with his many friends in wishing for him many happy retirement years.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION SUPPORTS INDIAN PARTICIPATION IN FEDERAL REVENUE SHARING

Mr. KENNEDY. Mr. President, over this past weekend I received a telegram from the National Tribal Chairmen's Association containing a resolution in support of Indian participation in Federal revenue sharing. The NTCA, whose membership consists of chairmen of the over 200 federally recognized Indian tribes in the United States, met last week in Eugene, Oreg., to consider and discuss current problems facing the American Indian. One of the top issues on the agenda was Federal revenue sharing.

Senator METCALF has sponsored an amendment to the revenue-sharing bill that would include Indian tribes as eligible participants. I am a cosponsor of this amendment and fully support it. The revenue-sharing bill (H.R. 14370) is still pending before the Senate Finance Committee, and I believe that this resolution clearly points out the substantial interest of the Indian people in this legislation.

I ask unanimous consent that the telegram be printed in the RECORD.

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

NATIONAL TRIAL
CHAIRMEN'S ASSOCIATION,
Eugene, Oreg.

Senator EDWARD KENNEDY:

A resolution: Whereas the exclusion of Indian Tribal Governments from the Federal assistance under revenue sharing would be inconsistant with President Nixon's clearly announced policy of Indian self-determination and

Whereas: the denial of Indian participation in revenue sharing is abdication of the Federal trust responsibility for the welfare of reservation Indians and denies Federal recognition of reservation Indian tribes as local governments: and whereas, the National Tribal Chairmen's Association, commends Senator Metcalf and Co-sponsors of Amendments Numbered 1357 for bi-partisan effort to include Indian Tribes in revenue sharing:

Now, therefore, be it resolved: That the whole of the reservation Indian community in the United States of America be duly assembled and represented by this conclave of the National Tribal Chairmen's Association respectfully urges the congress not to leave the Reservation Indians and all other Federally recognized tribes out of this important revenue sharing program under which all local Governments will be assisted: That, we believe this amendment is a test of Congressional Willingness to grant Reservation Indians the right to shape their own future; we request that you not leave us out, thereby confirming the principle that the Government of the Indian country should be by consent of the governed, that, we hereby request that this resolution be placed in the CONGRESSIONAL RECORD.

Certification: the foregoing resolution was unanimously adopted by the National Tribal Chairmens' Association, a quorum being present at their first annual convention held in the Eugene Hotel, Eugene, Oreg. this 10th day of August 1972.

WILLIAM YOUPEE, *President.*

S. 632, THE LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

Mr. MUSKIE. Mr. President, there have been numerous reports and speculation that there is a jurisdictional dispute regarding S. 632, the Land Use Policy and Planning Assistance Act of 1972.

S. 632 substantially differs from the bill as originally introduced.

S. 632 affects at least 112 Federal programs and other matters which are in the substantive jurisdiction of several Committees of the Senate.

S. 632, despite its broad implications, was subject to only 4 days of hearings last year.

But far more important than any jurisdictional matters are basic substantive issues relating to the impact of S. 632, issues which are not clarified on the face of the bill or in the report explaining it.

Mr. President, there is no question of the need for national land use policy. In fact, elements of land use policy have been incorporated in a great many Federal laws relating to development, economic growth and environmental policy. Many Senate committees have been involved in developing these elements of land use policy and, it would seem to me, that these same committees should be involved in the development of a "national" land use policy.

The broad input of Members of other committees would be beneficial to the goals which S. 632 articulates. Hearings on the impact of the legislation on other Federal programs by relevant committees would be beneficial. I think the wise course for the Senate and the Nation would be to have those hearings and have that input.

My concern with the jurisdictional questions is not the narrow one of committee prerogatives. It is not my desire to assert these in any obstructionist way whatsoever.

I am concerned that several relevant committees—each with broad background and expertise—have not made their input into the shaping of a national land use policy with its far-reaching implications.

Apparently this course—further committee review—is not available. Apparently it is the desire of the Senate to act on this legislation without the broad consideration it deserves. Therefore, it is essential that consideration of this legislation on the floor of the Senate be as thorough and complete as possible. I will do my best to identify the important issues raised by S. 632.

The Land Use Policy and Planning Assistance Act now awaiting Senate consideration has significant implications—perhaps greater than any domestic legislation we have yet considered in this session of Congress.

It mandates that States closely supervise or control land use decisions which have long been the province of local government;

It requires States to coordinate all State and local services which significantly affect land use;

It establishes the Federal Government as procedural supervisor of these newly centralized State responsibilities; and

It proposes policies for land use and resource conservation which appear to be oriented toward development and may conflict with environmental legislation we have enacted.

These proposals will have significant ramifications on the financial structure and sovereignty of State and local government, on the relationship of the Federal Government and the States, and upon the future of Federal and State laws to protect the environment.

Mr. President, this bill creates an outline for national land use policy with no substance; declares a national policy but concedes to the several States responsibility to determine what that policy should be; and directs all Federal programs to subject themselves to the State-determined policy.

Federal legislation of this magnitude, with far-reaching impact on many Federal programs—at least 112 by the Interior Committee's count—should provide some Federal policy guidance. This legislation provides none.

In an effort to meet some of these deficiencies and highlights this area of concern, I will propose amendments to S. 632 to set national policy criteria. These policy positions, if enacted, would provide valuable public benefits.

Today I suggest several criteria as a possible direction for national land use policy. I urge discussion of my proposals so that when the time comes for amendments to S. 632 we can adopt a national land use program that includes a true national policy adequately considered by the Senate; a clear statement of statutory indices to establish the basic elements of good land use.

As a basis to begin the discussion of criteria for national land use policy, I suggest the following:

That legislation affecting national land use patterns incorporate as a minimum the requirements and land use controls of the Clean Air Act, the Federal Water Pollution Control Act, and other environmental regulatory legislation;

That further commercial, industrial, or residential development of flood plains be limited to that which is absolutely necessary and so constructed as to minimize land damage;

That productive agricultural land be preserved for farming activities, with development limited, except where a State deems development essential to health and welfare or where it is necessary to provide adequate housing;

That new development be limited to that which can be supported without exhausting available energy supplies, water and sewer systems, roads, or transit systems, and other necessary services;

That wetlands and coastal areas be protected from development;

That further development covering lands so they cannot absorb storm waters

be required to include holding systems to prevent rapid runoff of storm waters into sewers or natural streams;

That the ecological characteristics of upland watersheds be preserved;

That redevelopment and improvement of existing communities be favored over industrial, commercial or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped land areas, and that development contrary to these principles be allowed only where it will provide significant jobs, housing and educational opportunities for low and middle income families.

These are some of the criteria for good national land use policy which I propose for discussion. My proposals are intended to fill the void of S. 632 as reported. I would hope, after discussion, that the Senate will approve a responsible set of criteria to serve as a national land use policy guide.

But lack of policy direction while it purports to set Federal policy is only one of my concerns with S. 632.

The legislation before us would require, in a short time, great strides in coordination and consolidation of land use planning efforts, but it entirely ignores the other side of the coin—the excessive dependence of cities and counties on property taxes which has led to the haphazard and confused land use patterns of today. This cannot be ignored. You cannot seriously consider land use planning reform without property tax reform, for they are inextricably tied together in a complex series of relationships dating back to the early days of the Republic.

Mandating major reform of land use planning authority, as S. 632 does, without also addressing the local property tax dependence issue, can further strangle many of our major cities that are already on the verge of bankruptcy.

Today 66 percent of all locally generated revenues come from the property tax—$38 billion.

Today about 40 States set maximum limits on the property tax rates cities may charge and set limits on local borrowing which relate to the property tax base.

When a city reaches the limits imposed by State law—as some cities such as Detroit and Cleveland have—its only recourse is to somehow influence use of land for greater tax productivity. If this fails, municipal services—police, fire protection, sanitation, et cetera—must be cut back.

S. 632 would require States to strip cities of this essential revenue raising option—an option which has created well recognized problems—but S. 632 suggests absolutely nothing be substituted to assure that local revenues will be there to support local services if control of the property tax base is lost or its expansion is restricted. Further, this bill grants supervisory authority for program implementation to the Interior Department which has no experience in cities, no experience in State and local finance, and no experience in comprehensive planning.

I submit we cannot act so casually and after so little consideration on an issue of such vital impact to our grassroots of government at the local level.

Let me emphasize that in taking this position, I am in no way justifying the present property tax system which is often regressive, haphazard, and unfair. Nor am I downplaying the need for more sensible land use planning. I am only stating that we cannot have reform of one without reform of the other.

Last year my Subcommittee on Intergovernmental Relations published a study entitled "Property Taxation: Effects of Land Use and Local Government Revenue." This study clearly identified the close identity of property tax and land use. It stated:

> The low taxation of land based on present-use value also facilitates speculative holding of land in the path of urban development for large capital gains. An added incentive for withholding land from the market for large price rises comes from the favorable capital gains treatment of land investment profits under the Federal income tax laws. Another Federal income tax feature, the allowance of business building depreciation, creates local pressures to allocate more value to building improvements and less to nondepreciable land. A focus on building improvements in assessments for local property taxation inhibits rehabilitation of older residential properties.
>
> Large acreages of vacant close-in suburban land as well as rebuildable central city sites are withheld from the market for large price rises under the present property tax system. That occurs as land is taxed at low effective rates, in relation to realistic market value, and building improvements are subject to a relatively greater tax burden. Consequently land prices are high in urbanizing areas and builders "leapfrog" further out to cheaper lands for residential development. Less than optimum size communities are created, entailing high per-unit costs of services, increased daily commutation, and an extension of urban sprawl.

The deadening impact of property taxes on land use in central cities has been starkly illustrated by Mayor Kenneth Gibson of Newark, N.J., who stated.

> We must rely upon our local property tax for 65% of our revenues. In a city where we already have one of the highest and most confiscatory rates in the country, we were forced to raise the rate of taxation this year by almost 10%. This increase means that an owner of a $20,000 home will pay about $1,850 in annual property taxes. We have reached a point where our property tax has only hastened the flight of industry, commerce, and the remaining middle class homeowners out of Newark. The excessive rates we are forced to impose have actually been the cause of abandonment, deterioration, and a decline in our tax base. The stark reality finds buildings being abandoned at the clip of one a day.

I shall propose amendments to force consideration of the property tax issue as part of this land use reform package.

Also, because I believe that no single Federal agency has either the breadth or the competence to assume the responsibility implicit in this legislation, I will offer an amendment to place responsibility for ths program in the Executive Office of the President.

Beyond my general concern about lack of policy direction and failure to deal with or even recognize the property tax side of the land use issue, I have several very specific questions about the impact of this legislation which, I believe, must be answered before S. 632 is enacted:

First. Will the State assumption of land use control required in this bill shift liability for damages from incompatible land uses—such as airport noise—from local governments to the States? This is no small matter. It will mean shifting up to $10 billion in damage claims from Los Angeles to the State of California. As States are specifically required to assume "determinative" authority over land use around airports, it would appear they also might be liable for allowing continuation of incompatible uses.

Second. Will the uncertainties of impending State controls compromise the capacity of municipalities to borrow money? The borrowing capacity of municipalities is closely tied to property values and property tax income. Changes in zoning designations from agricultural to commercial or from low-density to high-density residential, for example, can mean thousands of dollars of revenue and hundreds of thousands or even millions of dollars in increased tax base on which to borrow. Any federally required State actions or potential actions which might restrict use designations to less valuable uses could compromise capacity of some localities to sell bonds and if the more restrictive use designations were imposed could make some bond sales based on the higher assessed valuations actually illegal.

Third. If a State assumes major responsibility for land use control, what concurrent responsibility does it assume to pay the cost of local services, particularly in those communities whose levels of service are restricted by a low property tax base? Already in three major cases, Serrano against Priest, Van Dusartz against Hatfield, and Rodriguez against Edgar, courts have held that disparities in the level of educational services caused by differing property tax bases are a violation of the equal protection clause of the 14th amendment. The Supreme Court will consider the issue this fall. It would appear that assumption of a major State role in determining local property values would invite similar rulings relating to other local services—police, fire, sanitation, transportation. Certainly the courts would not permit States to keep levels of local services permanently low in some communities by prohibiting higher value land uses. The potential impact of this radical reform in the way we pay for local services must be seriously contemplated as we examine the ramifications of the bill before us.

Fourth. What is intended by the requirement that States set up a method for coordinating programs and services of "all State and local agencies significantly affecting land use?" Just what agencies are intended, and what degree of coordination? Almost every major State or local function has a "significant" effect on land use—police and fire protection, welfare, trash disposal, sewage treatment, parks and recreation, schools,

transportation. Are all of these activities to be coordinated at the State level? This broad based mandate for coordination in section 302 is typical of the many general phases of potentially severe impact which are unexplained in the legislative development of this bill.

Fifth. Is the legislation, by setting policy for equal consideration of environment and economics and for "balanced" land use and by requiring States to override local laws designed to restrict development, intended in any way to conflict with nondegradation policies and air and water quality improvement mandates of other Federal laws or with State laws intended to restrict development? What will be the impact of these new Federal policy positions on court cases involving those other laws?

Sixth. Will any State constitutional changes be required by this legislation, and if so, does it give States time enough to consider and act? It would appear that the major redirection of responsibility S. 632 requires will necessitate some constitutional changes, particularly in those States that have strong local home-rule laws.

Further, all States which act responsibly and undertake property tax reform and land use reform together will probably have to adopt constitutional changes. But they may not have time. Eighteen States require that constitutional changes be adopted by two sessions of the legislature and then be approved by the electorate. This would be a 3- to 7-year process at best, more if adequate consideration of these vast reforms is to be allowed. In three States where two-session approval is required—Nevada, Tennessee, and Vermont—the legislature only meets biannually, and if major reform was not approved in their 1973 session, which might be difficult, final approval would not be possible until at least 1977 and probably 1980.

Just what is intended by this legislation, and what the ramifications of that intent are must be examined in much greater detail before this bill is approved.

The real issue now is whether or not legislation of this scope and magnitude will be adequately digested by the Senate prior to its passage. I would hope, in the days ahead, my colleagues will address themselves to the issues covered by the bill, will bring to bear on this legislation their knowledge of other programs which will be affected by it, and bring to the Senate their recommendations for perfecting changes which shape a national land-use policy with real direction designed to protect the environment and enhance the quality of life in America.

Mr. President, I intend to explore the full implications of the issues which I have raised during the debate on the bill. Whenever the leadership is prepared to call up the bill, I will be prepared to discuss its implications and propose amendments to address the concerns I have put forward today.

THE MOUNT McKINLEY NATIONAL PARK COMMEMORATIVE POSTAGE STAMP

Mr. STEVENS. Mr. President, on July 28, in my State of Alaska, the Mount McKinley National Park stamp was dedicated commemorating the national parks centennial.

At the dedication, the keynote address was delivered by Mr. Henry Albert, executive assistant to the Postmaster General for government relations.

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

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

REMARKS BY HENRY R. ALBERT

It is a pleasure for me to be here today.

Representing the Postmaster General at this dedication ceremony is a rare privilege indeed and being here, at Mount McKinley, the highest point on the North American Continent is exciting.

This event has given me the opportunity to visit your fine state after too long an absence. Before joining the Postal Service, my employment brought me to Alaska many times, and seeing this beautiful park again brings back many fond memories.

We have found that the commemorative stamps which we issue are powerful communication devices. They emphasize our nation's achievements and help to instill a sense of national pride. They also point up our great natural resources, such as this splendid spot where we are gathered today.

Four months ago, Postmaster General Klassen dedicated the first in a series of five commemorative stamps honoring the centennial of the National Park Service. That issuance marked the 100th anniversary of Yellowstone National Park, which was an appropriate beginning for the series since it is the oldest of our national parks.

Each stamp in the series highlights a different kind of park in the National Park system. After Yellowstone, we issued stamps for the Cape Hatteras National Seashore, which is a recreational park; The City of Refuge in Hawaii, which is an historical park; and the Wolf Trap Farm Park for the Performing Arts in Vienna, Virginia, which is a cultural park.

The stamp which we are issuing here today honors Mount McKinley Park which is, of course, a natural park, and one of the most beautiful in the world. Even though it is the last in the current series, it is certainly not the least. Each of the five issues was designed to underline the unique and vital contribution these parks make to our country's environment. They were released in different values to meet the rate for different type mail. This 15-cent stamp is for international letters and international air mail cards and was designed by James Barkley, of Yonkers, New York.

Our Philatelic Division ordered a printing of 40 million of this stamp and, I am advised that from early indications based on demand and orders actually placed, it will be sold out in a very short while and become a collector's item at an early date.

In closing let me reiterate what a real pleasure it is for me to return here to the great land up north. Our 49th state now has a stamp to match its greatness. A stamp that will communicate to the world the majestic beauty of this rich and bountiful land endowed with more natural resources than any other area in the world.

This land—the great land—is not for the meek—the feeble and the weak—no it's a land peopled with the doers, the strong, the adventurers, and it is appropriately referred to as the last frontier.

We hope that this series of stamps, and this one in particular, will encourage many Americans to visit our National Parks. We also hope that the stamps will remind all of us that conservation of our natural wealth and beauty must continue to be of vital concern to us all.

It is with great pleasure and a sense of deep personal pride that I dedicate this Mount McKinley Alaska Commemorative Stamp.

HOSPITALS AND FEDERAL REGULATIONS: MANY WILL DIE WHO MIGHT HAVE SURVIVED

Mr. METCALF. Mr. President, one of a series of articles describing the various problems confronting small hospitals in Montana carries a most descriptive headline that reads "Small Hospitals Struggle Could Wind up on Deathbed." That headline has a dual implication: The hospitals may be forced out of existence, and as hospitals disappear, health care for the sick and injured becomes progressively more remote, leading to unnecessary deaths.

One person describing the situation said:

Many will die who might have survived.

The villain, if there is but one villain, is the Federal Government with its maze of rules and regulations, designed for densely populated areas with no consideration for the needs of small hospitals.

Mr. Donnis Curran describes this problem in a series of articles. The problem is created by the Federal Government, and it demands congressional oversight. I ask unanimous consent to place two of the three articles in that series in the RECORD.

The third article was the initial article in the series and describes the impact upon small hospitals of dwindling populations and a shortage of medical personnel. I have previously discussed those problems and in the interests of brevity do not ask to include that article. For those who might be interested, copies of the entire series are available from my office. I have maintained that passage and enactment of the Rural Development Act of 1972 will at least start correcting those problems of outmigration and the conditions that prevent medical personnel from locating in our rural areas.

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

SMALL HOSPITALS' STRUGGLE COULD WIND UP ON DEATHBED

(By Dennis E. Curran)

HELENA.—"I'm not pushing the panic button," a disgruntled hospital executive complained to federal health officials last week, "because the panic button is already here."

Trapped between steadily rising costs and sometimes decreasing revenues, many of Montana's smaller hospitals are having financial struggles, and some are facing extinction.

And the situation promises to get worse before it gets better.

Consumers are demanding more services, a new minimum wage threatens to upset precariously balanced budgets, and inflation spirals faster than hospitals are allowed to raise rates. Competition between nearby hospitals will probably increase as rural populations dwindle, and new federal regulations, which probably will be costly to meet, appear to be just around the corner.

So while a number of possible solutions to the dilemma have been proposed, the future doesn't look overly bright for many of Montana's small hospitals.

"I don't know what the answer is. I wish I did," says George Fenner as he surveys a list of Montana's 70 licensed hospitals, 45 of which have less than 50 beds.

Fenner, a veteran in the health care field, is administrator of the hospital and medical facilities division of the State Department of Health and Environmental Sciences, and is as concerned as anybody about the plight of small medical facilities.

One short-term solution calls for tighter management, including rate increases in hospitals whose rates have not kept pace with rising costs, according to Fenner. Another immediate step is for local physicians to keep local hospitals filled.

"The small hospitals are under a lot of pressure, and the only way they are going to survive is through very efficient management and lots of cooperation between the community, the administration and the physicians serving that facility," Fenner says.

"It's all based on utilization—if you don't use that facility, you can't operate it," he adds.

Another stop-gap approach is cutting staff and combining jobs.

"In small hospitals we have to double up," says Mrs. Chloe Rossma, director of nursing at Sanders County Hospital in Hot Springs. Mrs. Rossma also doubles as acting administrator, anesthetist and purchasing agent for hospital services.

Still, the small hospital can cut its staff only so far. It must have nurses, cooks, laundryworkers and so on, and they must be on duty whether the hospital has one patient or 20.

Subsidies from cities and counties and utilization of volunteer help from the community are helping some small hospitals today, but few place much faith in either as a long-term solution unless the amount of aid is dramatically increased.

If subsidies are the answer, they probably will come from the federal government, possibly through expanded Medicare and Medicaid programs, Fenner suggests.

William Leary, executive secretary of the Montana Hospital Association, predicts that expanded federal programs for alcoholism and drug abuse treatment in local communities could benefit small hospitals.

Beyond direct and indirect subsidies lie proposals like national health insurance, which Fenner says, "could save many of these small hospitals."

Not everybody agrees, however.

National health insurance "isn't going to be a great thing, because the quality of care is going to go down," says Edwin V. Richards, administrator of the hospital in Dillon.

Realists like Fenner and Leary don't think that all of the hospitals presently operating in small towns can make it. They see the future bringing, like it or not, some kind of consolidation of services and a changed role for some community hospitals.

"Some of our smallest facilities in a short time, two to three years, are going to be faced with some crucial decisions on whether they really should exist as short-term acute care centers," Leary says.

"Medicare and Medicaid are going to demand that these facilities meet certain requirements, and that's probably going to force some into a different situation," Fenner says.

The "different situation" envisioned by Fenner and Leary includes conversion to either a long-term care nursing home or an emergency medical center or outright closure.

One concept being explored is a "satellite" system in which a small community facility would be tied by contract to a larger city hospital either as an emergency center or as a branch unit with more complete services.

Either way, the small hospital would have to give up some of its independence. "We're talking about consolidation of services, and it's a tough concept," says Fenner.

As a branch, the small hospital could continue to provide many of the services it now provides, but the core hospital would provide base services and administration. Some even see the large hospitals sending out specialists to the satellites as modern-day medical circuit riders.

But Leary envisions that under the present structure of medical care, the specialists will likely remain in the cities. Small facilities would be geared mainly for emergency medical treatment.

Such community health centers would provide extensive emergency care through shock until the patient could be transferred to the larger center, according to Leary.

"I don't think you can completely close doors of facilities, but I think you can change their image," he says. "If they could be reclassified as community health facilities, with different standards, the cost perhaps wouldn't be so great. They could still provide a service without having to close their doors."

The community health center concept would require changes in the licensing standards, but, according to John Kern of the federal Department of Housing and Urban Development, such changes are presently under discussion in Washington.

"The regulations are written for the most complicated facility there is," complains Edwin Richards, administrator of Dillon's Barrett Memorial Hospital. "The need for these people in a small hospital is just not there."

"We've had a terrible time getting a dietitian, because there aren't any here—there just aren't any."

The standards do have their supporters, however, and even the hospital administrators praise some of the regulations.

"Basically, the standards are not all that bad. They're designed primarily to provide quality health care for the patient where ever he is," says George Fenner, administrator of the State Department of Health's Hospital and Medical Facilities Division, which administers the federal programs.

Fenner is in the middle. On one hand, financially strapped health care providers ask for a break. On the other, the federal people, who pay for much of his staff, are checking to see that standards are enforced.

"Many hospitals feel that we're really out to close them down or make them first aid stations or elaborate ambulance loading docks, but we're legally required to enforce the standards," Fenner says.

For their part, federal HEW officials defend the standards but are not blind to the problems they cause.

"Most standards have been applied with a tremendous amount of patience. We don't feel we have been unreasonable," a federal HEW official from Washington, D.C., Gerald Sheinbach, told Montana health care providers in Helena last week.

"For six years at least, the standards were not enforced with vigor. Now we're trying to catch up. We're catching up in this country, and we're paying a price for years of not doing enough.

"We honestly feel the sprinklers are long overdue. We don't feel we dragged some arbitrary standard out of the clear blue. Sprinklers are not that much different from any other staffing requirement," Sheinbach said.

"If you stop enforcement because people say they can't afford it, then you have no enforcement," he said.

Sheinbach also complained that HEW too is in the middle—between the hospitals and the politicians, for whom health care has become "a political football."

Perhaps the real significance of the dislike of the federal standards, however, is not the past battles over sprinklers and staffing but fears of coming battles.

Health care providers in Montana are feeling a pinch, and they are watching Washington warily for signs of new standards which for some could mean the end.

"Once the federal government gets into anything, it just grows," warns Dillons's Richards. "We worked hard to comply with these Medicare standards and have done a good job, but I can see the day when they are going to demand things we simply can't provide."

"I think that in a very short while there won't be any hospitals in small towns," he laments. "It will be a very sad day for the American people. They'll be many lives lost. Many will die who might have survived."

Tomorrow: A cloudy future.

SMALL HOSPITALS FEEL FEDERAL RULES PINCH

(By Dennis E. Curran)

ENNIS.—Two weeks ago Madison Valley Hospital grudgingly made peace with the federal government by completing a federally required sprinkler system to protect the 11-bed wood frame hospital from fire.

"We were the last hospital of our type in the nation to put this in," Hospital Administrator Phil Loucks says with a note of pride in his voice.

"But I still think it's an absolute farce in the main building," he adds. "With smoke detectors, we could have provided better protection at a third of the cost.

"These people are suffering from east-of-the-Potomac fever—they have no idea what's going on here."

Phil Loucks typifies the growing resentment, especially from rural hospitals, against federal health care programs in Montana.

The villain in his case—and in most cases—is a federal regulation governing participation in the Medicare and Medicaid programs. If a hospital wants to be certified for the programs—and most do because they need the money—then it has to meet federal standards.

And those standards, which some complain are geared to big city hospitals, are proving difficult for many small hospitals to meet. While hardly the only reason for small town Montana's hospital crisis, they often loom as the most dramatic and costly problem.

The standards are lengthy and detailed. Some deal with the physical conditions in the building, like overcrowding, sanitation and fire protection. Others deal with staffing—requiring such services as 24-hour nursing care, radiologists, pathologists, medical record technicians, dietitians, social workers and more.

The small hospitals want to upgrade the quality of their health care, but they complain loudly that some of the regulations seem to be designed for big city hospitals and can't be met. They argue that some standards are either inapplicable or can be met by alternate means.

And they argue loudly that while the federal government has blithely required them to make costly improvements, it has not provided the financing.

"Every time you guys come along with a new regulation, it costs us money. But you never give us any money," a hospital administrator complained to visiting federal officials in Helena last week. "We have to go someplace else and they're always broke."

Sprinkler systems are a case in point. Two years ago the Medicare people, the federal Department of Health, Education, and Welfare (HEW), decreed that all health care facilities should have sprinkler systems for fire protection.

Montana's State Department of Health, the Montana Hospital Association and the congressional delegation fought the standard vigorously on the grounds that alternate protection methods—like smoke detectors or other early warning systems—would do a better job.

"We were not opposed to fire safety for patients—we were telling the federal government we thought there was a better way," says William Leary of the Montana Hospital Association. Their argument was simple:

Smoke detectors would be triggered early, allowing patients to be saved before they were burned. But the sprinkler systems are triggered by heat, and patients could be burned badly, even killed, before the sprinklers would go off. Sprinkler systems also are two to three times more expensive than smoke detectors.

Eventually, Montana won a change which allowed many facilities to use combinations of smoke detection and sprinkler systems. But for Madison Valley Hospital and eight others, sprinklers were still required.

The others gave in, but Loucks held out, convinced that his plan to use sprinklers in the attic and basement and smoke detectors in patient rooms was right.

"They could care less if you save the patient as long as you save the damn hospital," he complains. "Sure, we'd like to save the building, but the patients come first."

But this past March the power of the federal government caught up with Madison Valley Hospital. Loucks received notice from HEW that he had 15 days to comply or the hospital would no longer be certified for Medicare.

With that, Loucks gave in. With the help of the congressional delegations, he won a 60-day reprieve and went to work on the sprinkler system.

"Some of the people who nailed this hospital together are Medicare patients now," he says. "I felt an obligation to them to keep Medicare."

Like most small hospital administrators, Loucks also felt an obligation to his budget. About 35 per cent of the patients at Ennis are on Medicare, more than the difference between the hospital's present financial success and red ink.

But the benefits have not been without costs. The ugly black pipes which officially protect the hospital ultimately cost $18,000, including cost of a new water main because the old one wasn't big enough. It also cost the hospital a start on a new building planned for the other side of town.

"We had hoped that by this fall we might do something, but I had to put the money for the land into the sprinkler system," the administrator complains.

For other small hospitals, the staffing requirements have been a major problem. Lacking a full-time pathologist or anesthetist or dietitian, they have had to turn to costly consultants.

However, there are obvious problems in relying on the big city hospital, especially in winter when many rural communities are more isolated.

T. Millar Bryce, a stockholders' representative of Plains' Clark Fork Valley Hospital, cites victims of heart attacks and industrial and auto accidents as justification for local hospitals with complete medical care.

"Nothing can save those people except proper hospital care," he says. Bryce, who thinks subsidies may be the answer, also argues that without hospitals, many small towns will lose doctors they have struggled so hard to attract.

A key to the question of small hospitals versus emergency care centers is the solution to rural Montana's doctor shortage. Small hospitals undoubtedly would continue if more doctors, especially general practitioners, located near them, or if the population started returning to rural areas. But if Montana turns to paramedics or other non-doctor professionals to provide health care in rural areas, many small hospitals may well become emergency care centers.

Beyond satellites and emergency centers lie experimental concepts such as HMO (Health Maintenance Organization) plans and statewide medical foundations that could provide more structure for medical care. These could revitalize rural hospitals.

"But that's quite a ways down the road," says Leary.

For their part, small hospital administrators are not happy about the changes they can see coming. Partly because of community pride and partly because of a belief that the best medical care comes closest to home, the small hospitals that are in trouble are not going to close their doors without a struggle.

But unless Montana experiences a sudden reversal of the trend toward urbanization of both population and medical care, for some small hospitals the struggle for survival probably will end on the deathbed.

TAX REFORM—TESTIMONY OF SENATOR HATFIELD BEFORE REPUBLICAN PLATFORM COMMITTEE

Mr. HATFIELD. Mr. President, this week I submitted testimony to the Platform Committee of the Republican Party on the issue of tax reform. Because of the timely interest of this subject, I ask unanimous consent that this testimony be printed in the RECORD.

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

SIMPLIFORM: HOW TO SIMPLIFY AND REFORM OUR TAX SYSTEM

(By Senator Mark O. Hatfield)

Mr. Chairman, I would like to preface my testimony by expressing my appreciation to you and your committee members for allowing me to present my thoughts on one aspect of federal income taxes before you today.

Mr. Chairman, we are all familiar with two aspects of our Federal income tax system which are wrong: it is much too complicated and it is not as fair as it could and should be.

It is horribly complicated and confusing when:

Nearly $2 billion are spent in filling out tax forms, and even then the more than 50,000 "tax preparers" cannot get it right most of the time. In fact, former Treasury Secretary John Connally pointed out that a Treasury survey of such returns found 97% inaccurate.

The income tax form has grown from 18 lines to 63 lines, not counting the multitude of additional schedules. And the book of instructions is so complex that even college graduates cannot understand all of it.

A Treasury official (quoted in the Washington Evening Star News, August 4, 1972) stated that "if we don't simplify taxes, the system will fall of its own weight . . . the seeds of decay are growing."

As a matter of fact, even the Internal Revenue Service with its 70,000 employees cannot complete the tax forms properly any more. In a test by the Wall Street Journal (April 13, 1972) five different IRS offices came up with five different tax results for the same taxpayer.

When the tax system has reached this point, we must all admit it is in a shambles. Even acknowledged tax experts say "they are knowing less and less about more and more." From a one paragraph amendment to the Constitution, the income tax has emerged as a hydra-headed monster that now takes more than a 6-foot bookshelf to contain its laws and regulations .

We also know that the tax system is not fair: a Harris Poll last year found that 69% of the public had joined the "tax revolt"—up from 43% two years earlier. The tax system is unfair when:

21,317 persons in 1969 with incomes over $20,000 paid no taxes whatsoever, including 56 millionaires who paid no taxes at all.

People with income under $2,000 paid one-half of this in all forms of taxes (federal, state, and local), as computed by the U.S. Census Department in its 1970 Census, at the same time that one multi-millionaire paid $500 and another paid $4500 in federal income taxes, which is less than they make in one hour. The rest of us end up paying about 30% of our income in all forms of taxes regardless of the income level despite the alleged progressive nature of the federal income tax that should rectify all this.

The Congress and the Treasury have tried to correct these admitted deficiencies in the tax system. It was tried in 1954, 1964, and finally in the "Tax Reform Act of 1969." An attempt was made to fill loopholes but more were created. It seems as though an effort was made to achieve reform through complexity but only more complexity resulted. The 1969 Act became so complex it was labeled "The Lawyers and Accountants Relief Act of 1969" by the Assistant Secretary of the Treasury for Taxation. A year after reform still 3000 people with incomes over $30,000 paid no taxes.

We have tried reform through making the tax laws more complicated but only succeeded in the latter. It is now high time we aim for tax reform through simplification to achieve both.

What I am proposing today owes its genesis to many individuals. It is a suggested direction in which I believe we should move and a vehicle for discussion and perhaps improvement. I offer it in anticipation of major tax reform efforts during the next Congress in order that we in the Congress might examine as many of the complexities and implications of our present system as possible—and hopefully produce a better tax system.

I call my approach the "Simpliform" system. This is how it would work.

We must move to a simple gross income tax system eliminating all deductions except the personal exemption. (This resembles state income tax laws in Indiana and Pennsylvania). This would mean more than 90% of our taxpayers could complete their form on a small IBM card using only four lines: total income, gross tax, credit for personal exemptions, and net tax (or refund) due.

All income flows (wages, salaries, interest, dividends) would be subject to a 10% withholding at the sources. The payers of such income flows would (as now except for interest and dividends) send copies of such withholdings to both the IRS and the taxpayer. At the end of the year the taxpayer would simply attach the withholding forms to his "simpliform" tax card, fill in the four lines, and that would be it.

The mathematics are quite simple: in rough orders of magnitude, in 1972 there is a total personal income tax base of about $914 billion (based on a Brookings Institution study by Drs. Okner and Pechman). A 10% withholding rate across the board would bring in $91 billion, roughly the current yield ($86.5 billion in fiscal 1972). The exemptions would be in the form of a straight dollar "tax credit" of $250 per adult (over 18). (Under a 10% tax rate these tax credits would be equivalent to a $2,500 adult deduction compared to the current $750 deduction under present law). These personal exemptions would reduce the revenue yield by about $28 billion. However, this amount will be more than recouped in the progressive surtax provisions I propose to keep in the income tax base of our tradition of "ability-to-pay". (To raise additional revenue, a surcharge should be made on the actual amount paid, rather than increasing the specific surtax).

It might be asked, why use "tax credits" instead of "deductions" from the total income base? The answer is simple equity: it would give each person the same dollar tax break. Under the present law a person in the 70% tax bracket gets a $525 tax cut for his exemption whereas a person in the bottom 14% bracket only benefits by $105. My plan

gives to each one equally: $250 per adult—18 years old and above. (Children are regarded here as "choices" for parental consumption expenditures in our age of targeted "zero population growth." There is no reason why single or married individuals without children should have to "subsidize" other people's children, which is what the present system does. Obviously poor families are still taken care of under welfare).

Would this "proportional" 10% tax rate system be "progressive" that is, be based on our tradition of "ability to pay"? Yes, in fact, while the present system is supposedly "progressive" it turns out to be "proportional because of loopholes." My system would be "progressive" because of the use of personal credit exemptions. Thus, under my system a family of four would pay no taxes below a level of $5,000. At that point ($5,000) the tax rate would rise from zero and approach 50% at the level of $1 million under my surtax provisions. This is accomplished by a "surtax" of 5% on income between $10,000—$15,000; 10% between $15,000–$20,000; 15% between $20,000–$25,000; 20% between $25,000–$50,000; 25% between $50,000–$100,000; and 30% between $100,000–$500,000; 35% between $500,000–$1,000,000; and 40% on incomes over $1 million. Thus, establishing a top bracket rate of 50% (10% base plus 40% surtax). (At present the actual top rate on upper incomes is not the 70% statutory rate, but is really an average 32%). This surtax would not complicate the system for nearly one-half of all American families have incomes below $10,000 and would hardly be difficult for those above the $10,000 bracket to compute—indeed, it would resemble many state income tax systems in its simple 5% brackets. This is illustrated in the following table:

SIMPLIFORM INCOME TAX SYSTEM

[Assume family of 4: 2 adult tax credits of $250–$500; in thousands of dollars]

Tax bracket (thousands of dollars)	0 to 10	10 to 15	15 to 20	20 to 25	25 to 50	50 to 100	100 to 500	500 to 1,000	1,000 plus
Marginal tax rate (highest)	10 percent	15 percent	20 percent	25 percent	30 percent	35 percent	40 percent	45 percent	50 percent.
Tax (before $500 2-adult credit)	10 percent	$1,000+15 percent above $10,000.	$1,750+20 percent above $15,000.	$2,750+25 percent above $20,000.	$4,000+30 percent above $25,000.	$11,500+35 percent above $50,000.	$29,000+40 percent above $100,000.	$189,000+45 percent above $500,000.	$414,000+50 percent above $1,000,000.
Illustrative tax (on middle of income tax bracket):									
Sample income	$7,500[1]	$12,500	$17,500	$22,500	$37,500	$75,000	$300,000	$750,000	$2,000,000.
Tax	$250	$875	$1,750	$2,875	$7,250	$19,750	$108,500	$301,000	$913,500.
Average tax rate	3.3 percent	7 percent	10 percent	12.8 percent	19.3 percent	26.3 percent	36.2 percent	40.1 percent	45.7 percent.

[1] No tax on 2-adult family with income $5,000 and below; $7,500 taken as middle of 1st taxable range of $5,000 to $10,000

Another question might be raised: Would not the "middle income" American lose by eliminating deductions for property taxes, mortgage interest, medical expenses and charitable contributions? No, he would only be treated more fairly. On the average those with incomes below $20,000—85% of all families—will gain by this new system. Under the present law the "middle income" American is really subsidizing the rich. The "middle income" American, say in the 20% tax bracket, gets the benefit of 20 cents on the dollar for his property taxes, interest payments, contributions, etc.—the wealthy get up to 70 cents on the dollar for the same activities. Why should the "middle income" American pay higher taxes so the rich can deduct $70 of a $100 ticket to a Charity Ball when he gets only a 20 cents tax break for each dollar he puts in the church collection plate? Why should he pick up the tab for 70% of the tax and interest payments on a $200,000 mansion? By my system the "middle income" American could get direct relief through special grants or credits for property tax reductions. In addition, the homeowner and rentor would be treated equally. So would those who bother to "itemize" and those who use the standard deduction. Instead of medical deductions favoring the wealthy, he would get better medical care through expanded health insurance programs, Medicare and Medicaid, and federally-funded improved health care delivery systems provided by these tax savings. Let's not complicate our tax system to give "welfare" to the rich when we can get lower property taxes and better health care by a more direct and cheaper method.

How would this "Simpliform" system work in practice for different income groups? The following table may help: (based on a family of four now taking the standard deduction). (I have included the social security "tax" on employee wages to provide a consolidated income and social security tax rate on earned income.)

	Present system					Simpliform				
Family income	Income tax	Social security tax	Total	Rate	Average rate, percent excluding social security	Income tax	Social security tax	Total	Rate	Average rate, percent excluding social security
$2,000	0	$100	$100	5.0	0	0	$100	$100	5.0	0
$4,000	$39	200	239	6.0	1.0	0	200	200	5.0	0
$5,600	271	280	551	9.8	4.8	60	280	340	6.1	1.1
$8,000	672	400	1,072	13.4	8.4	300	400	700	8.75	3.75
$10,000	1,000	450	1,450	14.5	10.0	500	450	950	9.5	5.0
$12,000	1,342	450	1,792	14.9	11.1	800	450	1,250	10.4	6.7
$15,000	1,996	450	2,446	16.3	13.3	1,250	450	1,700	11.3	8.3
$20,000	3,210	450	3,660	18.3	16.1	2,250	450	2,700	13.5	11.3
$25,000	4,636	450	5,086	20.3	18.5	3,500	450	3,950	15.8	14.0
$50,000	14,960	450	15,410	30.8	29.9	11,000	450	11,450	22.9	22.0
$100,000	42,660	450	43,110	43.1	42.7	28,500	450	28,950	29.0	28.5

Note: Negative tax equals refund. Present system based on 1971 income tax tables. Social security tax based on a 5-percent tax on first $9,000 income. (Actual 1972=5.2 percent.)

Notice that the "Simpliform" system would *reduce* taxes for all income groups based on combined federal income tax (and/or social security tax payments) and using the standard deduction; lower and middle income groups (using standard deductions) substantially benefit, especially those below $20,000. The overall equivalent yield of "Simpliform" at much lower tax rates is based on the elimination of "itemized deductions" plus the inclusion of all income (half of capital gains, tax-exempt bond interest, etc.) which are now excluded from the tax base.

How would business and entrepreneurs be affected? Full capital gains would be included in our income tax base. (This would require a separate form for the 5% of the population who receive capital gains; for those in mutual funds, capital gains would be reported the same as dividends or other ordinary income and included on the same simple 4-line "Simpliform" requiring no other schedule). But remember the top rate for most Americans would still be well below 25%, which is the rate for most capital gains under the so-called alternative schedule use by most capital gainers, so there would be no direct change. (The highest marginal rate does not go above 25% until $25,000 in income.) (At present capital gains tax rates range between 7–35% but the predominant bulk is at 25%) For those earning between $50,000-$100,000 the rate would go to only 35%, which is not the maximum rate. For those earning over $100,000, the highest rate would still be 40% until $500,000. But this is more than compensated for by the *reduction* in the top rate of 70% down to 41% on ordinary income for a millionaire. Overall incentives will be increased for business enterprise. Indeed, for a young single executive who now faces marginal income tax bracket rates of 40% by the time he reaches $23,500, he will still be in the 25% tax bracket under "Simpliform." Those just below $50,000 will face only a 30% bracket under "Simpliform," as contrasted to 60% under present law. Incentives thus will be *increased* rather than diminished for rising young executives. And they will not have to waste time worrying about converting ordinary income to long-term gains because all will be called simple income under my system.

Let me summarize some of the simple arithmetic and actual shift in tax burdens of this proposal:

SENATOR MARK O. HATFIELD, REPUBLICAN PLATFORM TESTIMONY—TAX REFORM

TAX BURDENS AND REVENUES UNDER SIMPLIFORM AND PRESENT SYSTEM

[Taxes in billions of dollars]

Income class (thousands)	Gross income (expanded AGI) 1972 tax base under simpliform [1]		Simpliform		Present system [2]	
	Number of families (thousands)	Gross income (billions)	Tax	Average rate (percent)	Tax	Average rate (percent)
Under $3	5,923	$8.0	0	0	0+	0.5
$3 to $5	6,874	27.6	0	0	$0.5	1.7
$5 to $10	19,387	145.0	$4.8	2.5	7.7	5.3
$10 to $15	17,535	216.5	14.9	6.9	18.8	8.7
$15 to $20	10,486	180.3	17.9	9.9	19.4	10.7
$20 to $25	4,954	109.9	14.7	13.4	13.3	12.1
$25 to $50	4,463	142.9	24.9	17.4	20.7	14.5
$50 to $100	625	41.2	10.3	25.0	9.7	23.5
$100 to $500	189	31.4	11.2	35.7	9.2	29.5
$500 to $1,000	6	4.4	1.8	40.9	1.3	30.4
$1,000 and over	3	7.1	3.2	45.1	2.3	32.1
Total	70,445	914.3	103.8	11.4	102.9	11.3

[1] Based on all-inclusive personal income tax base (Okner-Pechman) including full-enclosure of capital gains.

[2] Revenue Act of 1971 applied to 1972 incomes. (Fiscal 1972 yield was $86,500,000,000 initial budget estimate for fiscal 1973 was $93,900,000,000 in tax revenues.)

Note: Under Simpliform those under $20,000 income on the average would benefit compared to the present system. This means 85 percent of families would benefit by Simpliform. (Of course, those above $20,000 who take the standard deduction or small amounts of itemized deductions would also benefit while those families with huge itemized deductions below $20,000 might lose a little.)

In conclusion, it is time to think anew and act anew to solve the mess of our present tax system. It is both too complex and unfair—and attempts at making it more fair have succeeded in making the system only more complex. We have tried the route of filling loopholes and making marginal adjustments. It is time to "redo" the system from the bottom up. We can do it. We can make a substantial simplification which also brings reform—for the poor, for the elderly, for the business entrepreneur, and for the overburdened and overbothered middle class.

My "Simpliform" approach is a way of fresh "new thinking" about tax reform. I do not know all the answers and my proposals are not yet ready to be carved in granite. Indeed, as of March 1 of this year already 1,149 tax bills have been proposed for consideration by the House Ways and Means Committee. I do not propose to kid you into thinking a bill based on this proposal would sail through the Congress. Time is far too short this session to expect "instant reform" be it simple or not.

But a dialogue should begin. I believe tax reform and simplifying reform are the wave of the future. The President has promised us new legislation on tax simplification and reform next year. The dialogue should begin now so that we will see soon both a simple and fair tax system.

NATIONAL HOUSING NEEDS

Mr. BROOKE. Mr. President, Mr. Albert A. Walsh, president of the National Association of Housing and Redevelopment Officials, testified recently before the platform committee of the Republican National Committee in Miami. Mr. Walsh is a knowledgeable and respected leader in the field of low-income housing, and also serves as administrator, housing and development administration, city of New York.

Mr. Walsh's comments deserve careful attention, as they concisely set forth the major problems facing the Nation in meeting our housing needs. I ask unanimous consent that Mr. Walsh's statement be printed in the RECORD.

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

PRIORITY AREA FOR ACTION IN HOUSING AND COMMUNITY DEVELOPMENT

(By Albert A. Walsh)

Mr. Chairman, my name is Albert A. Walsh, President of the National Association of Housing and Redevelopment Officials (NAHRO). I am also the Administrator of the New York City Housing and Development Administration. NAHRO is the professional Association representing about 10,000 local housing, urban renewal and housing codes administrators who administer the federally-assisted programs of low and moderate income housing, urban renewal and neighborhood improvements. The Association was founded in 1933, and thus has almost 40 years of involvement with efforts to improve the housing and living conditions of American communities. I am pleased to have this opportunity to appear before you today and present NAHRO's recommendation for inclusion in the 1972 platform of the Republican Party.

I stand before you today, representing not only NAHRO, but the near fifty percent of our population who cannot afford to rent or purchase housing at current market prices. It is this enormous mass of people—not only the small sector of the deeply poor—who turn to the federal government for fulfillment of its pledge of "safe and decent home and suitable living environment for all Americans."

For nearly four decades the federal government has struggled to devise programs for the improvement of community life—building decent and adequate housing in safe and healthy neighborhoods. A myriad of programs has been enacted and billions of dollars spent to accomplish this goal. Our performance record is impressive; it has produced major accomplishment, of which both federal and local officials may be justly proud. However, we cannot rest upon this record; new problems are emerging which require new approaches and new solutions:

Federal assistance has funded thousands of local planning efforts, yet the continuation of urban and suburban sprawl is but one piece of evidence of our lack of a national urban growth strategy.

Federally-assisted urban renewal has revitalized hundreds of cities and small towns, yet the rate of urban deterioration, middle class exodus and local tax base erosion continue to increase in most urban areas.

Federal housing insurance programs helped create a suburban society and a nation of homeowners, yet some of this same housing is increasingly being subjected to the same decline and decay as housing in urban neighborhoods.

Federal housing programs have reached all time high production records with 433,000 units of low and moderate income housing started last year, yet in some cities, including my own, whole neighborhoods are being abandoned and millions of families are still unable to find adequate shelter in a safe environment.

In short, Mr. Chairman, the sad fact is that we have no national growth policy, no unified national housing policy, no concrete community development policy, and finally no policy for interrelating these nonpolicies. Our task, therefore, is to establish such policies by combining new approaches with those methods and devices which have proven themselves by past accomplishments. It is within this context that we wish to suggest three priority areas for inclusion in the resolutions of the 1972 Platform of the Republican Party.

I. *The Establishment of a National Urban Growth Policy To Marshall the Public and Private Resources Necessary to Bring About Balanced National Growth.* During this century the entire fabric of American society has been altered bringing about changes in our institutions, our attitudes, and our life styles. We have moved from a smalltown, rural-oriented society to an urban industrialized one; and now are moving to a suburban-based society with a service-oriented economy. We have become a highly mobile and prosperous land, better educated and better fed than ever before, less concerned about tradition, more concerned about leisure and recreational opportunities. Yet, these changes have been accomplished in a laissez-faire fashion resulting in new social, economical and political problems which might have been averted had there been a visible national growth policy.

Center cities, once vibrant keystones of the American economic and social system, are eroding—being transformed into the home for the very poor, the elderly, the deviant, the infirm, the unemployable, and the "problem" family. Small towns, once prosperous market centers for the hinterlands, have either remained stagnant because of outmigration or have been overwhelmed by growth and new problems if they happened to be in the path of runaway metropolitan expansion. Suburbs, where the vast bulk of recent growth has occurred, have been developed as racially, socially, and economically segregated areas forming the oft-referred to "white noose" around the center city. Mr. Chairman, I call your attention to the direct relationship between this growth phenomenon and such current political problems as the busing of school children, battles over the location of low-income housing and court suits over local zoning practices.

In short, Mr. Chairman, national growth issues really are questions of how best to conserve our limited assets and resources. How do we develop our vacant land; redevelop land which is now underutilized or inappropriately developed? How do we guarantee the quality of the environment in periods of rapid change? How do we conserve and strengthen our human resources, rather

than crippling, twisting and destroying them by inhuman living conditions?

The urgency to develop a national urban growth policy is therefore obvious. Without one, our future national development will continue in a haphazard fashion, one which is expensive in terms of our institutions, national resources, fiscal capabilities and the well-being of our citizens. Such a policy must address itself to a number of crucial areas of which the following are key:

It must guide in the development and redevelopment of our most precious natural resource—our land.

Growth must be balanced between urban, suburban and rural areas with prime importance given to saving and revitalizing our center cities, *the* vital link in organizing the economy and the society; they cannot be deserted. Those who *use* cities find them exciting, productive and necessary; those who *live* in them too often find them demanding, destructive and demeaning. It is this schizophrenia which a urban growth policy must address—urban centers must be preserved, made liveable as well as usable, even though some of their functions may change.

This policy must devise methods to preserve our shrinking natural resources. The right to adequate shelter is also the right to clear water, clean air, and green places.

It must recognize the inescapable role of the federal government in determining the future shape of the nation. Since the government has the power to alter the face and economics of an entire state or region by the location of new installations, the placement of public works projects, and the allocation of federal funds, it cannot evade its responsibility for using this power to help communities develop in a coherent way. The failure to do so results in chaos.

Finally, the policy must have as its primary focus the establishment of socially and economically-balanced communities. This can be accomplished through new town developments in the outlying areas, in existing metropolitan areas, or within the political boundaries of established cities. But these new towns must not repeat the mistakes of the past. They must not become isolated enclaves but must be balanced in terms of employment and housing opportunities.

II. *The Development of a Unified Housing Policy and Translation of This Policy Into Action.* We have made great progress in meeting the national housing goals established in 1968, and have reached all time-production records to the point where one out of every four units receives federal assistance.

This increased production is largely due to new mechanisms including interest rate subsidies and a broad range of new approaches in public housing bringing it into closer cooperation with the private sector, but millions of families are still priced out of the housing market and the problems of location and increasing cost of both construction and management are rapidly making even these new efforts inadequate. Finally, our response to the need to preserve and to upgrade the existing housing stock, particularly in urban neighborhoods, has been almost nil. Thus, if we are to reach our goal of housing every American family in a safe and decent home, we must have a national policy and we must reform the tools we now have to implement it.

Briefly, let me describe our current housing "policy". It consists of a variety of separate programs which were enacted in a piecemeal fashion over the past forty years, each with different eligibility standards, definitions, guidelines and regulations—a morass of confusing, often conflicting, pronouncements which create havoc for the public officials, the private developer, and worse, the family in need of a home.

In spite of new approaches, public housing, the only major program designed to serve the very low income, faces serious problems precisely because of this purpose. Increasingly, public housing projects, especially those in major cities, have isolated low income families from the rest of the community, because of program restrictions limiting admission and continued occupancy to only the lowest income families. As a result of this segmentation there is a stigma attached to living in a "project"; upwardly mobile families, potential leadership forces, strive to move out of public housing, concentrating more and more problem families within the project.

In addition, recent changes in the law reducing tenants' rents have created a fiscal crisis within the program as the operating subsidies enacted into law to compensate for these rent reductions have not been forthcoming from the federal government. This federal withholding has reached the point where many local housing authorities face imminent bankruptcy and the low income families for whom the housing was intended may be unable to live in it. Other housing agencies are curtailing staffs, deferring maintenance, eliminating tenant services to forestall the day of reckoning, but unless the Federal government meets its financial commitments, pledged by statute, there will be no opportunity to transfer the valuable inventory of our 1,000,000 low income housing units into a new framework of socially and economically-balanced housing developments.

FHA-assisted housing, such as that produced through the Section 235 and Section 236 programs, faces similar financial problems which could lead to massive mortgage defaults and foreclosures. For these programs, maximum subsidies have been established by statute. If operating costs and taxes increase faster than family income (which has already occurred in more than a few cases), families already receiving maximum subsidies cannot afford the rent increases necessary to offset these increased costs and the project, or the home mortgage, is endangered.

Recent media accounts of these problems and additional ones have led some to suggest that these programs should be scrapped and new ones substituted. While we have no quarrel with new approaches, we strongly disagree that our past effort should be discarded. The basic concepts of our existing programs are not only sound but absolutely necessary. Their structure and mode of operation, however, must be changed to face the realities of today: the cost of housing, the wide income range of those unable to pay for it, and the gaps and inequities among the programs that now exist.

What we need is a single, basic, workable program with two major components: housing developed by public agencies, and housing developed by non-profit and limited profit agencies, with public assistance.

To achieve this, six basic program reforms are necessary:

1. *Consolidation and Simplification of Programs.* To avoid the confusion resulting from overlapping programs, we recommend their consolidation and simplification. A consolidation of the FHA-assisted housing programs has been proposed in an excellent bill designed by the Administration and heartily supported by NAHRO. Many of its provisions were incorporated in this year's Housing and Urban Development Act of 1972, as passed in the Senate, and may also appear in the comparable House bill, if it ever gets out of Committee. However, we urge an even more basic consolidation between FHA-assisted housing and public housing, whereby each would be component of a single, comprehensive housing program—serving the full range of families eligible for federally-assisted housing, with the same eligibility criteria, the same rents for similar units, and the same level of housing quality. The only difference between the two types of housing would be their sponsorship and their method of financing.

2. *Eligibility Criteria.* All families whose incomes were at or below the medium level for the local area should be eligible for both public agency and FHA-assisted housing. This would insure eligibility for most of those millions of families who fall between the present publicly-assisted programs and the cost of new housing that the private sector can produce without public assistance.

3. *Cross-Section of Income.* Complementary to the first two reforms, would be a requirement that each federally-assisted multi-family project maintain a cross-section of income, perhaps 70–80 percent moderate income families and 20–30 percent low income families. This would end income segmentation by project, and our near-primitive practice of isolating the poor from the rest of society. It would give the local public housing agency more flexibility in responding to the gaps in community housing needs, filling in where private enterprise cannot serve. Conversely, it would allow non-profit and limited dividend companies to house the poor, as well as moderate and middle income families; this should benefit areas where there are no local housing authorities. It would eliminate with one stroke in the racial economic ghettoization that destroys the viability of publicly-assisted projects.

4. *Variable Subsidy Method.* It is our recommendation that subsidies equal the difference between project expenses and project rent (based on a reasonable rent-income ratio). If operating costs increased or taxes were raised and the tenants were unable to absorb these increases, the subsidy would be increased; likewise, if tenant income increased, the subsidy would be reduced. The average cost per unit for the vast majority of projects could well be less, because of the 70–80 percent that would receive less than the maximum subsidy. If such a system were now operational, the vast majority of projects now in financial trouble would be economically sound.

Increased Authorizations and Appropriations. Housing production for low and moderate income families must be increased to provide additional housing opportunities for the millions of Americans who now live in dilapidated, deteriorating or overcrowded housing, or who cannot meet housing costs. To do so will require more money—a firmer federal commitment. Shelter is not only a necessity but a major component of our economic life. Priority for expending funds to assist families who cannot afford this necessity should therefore be of the highest order, comparable if not superior, to that afforded to national defense. The waiting lists for public housing—over 150,000 in New York City alone—and the national backlog of 500,000 units of unfunded public housing applications, attest to these demands by the lowest income households, and this represents only one segment of the need.

Preservation of Our Existing Housing Stock and Neighborhoods. One of the major gaps in existing law is the lack of a cohesive approach for maintaining our existing housing stock. Priority attention must be given to assembling and improving the present piecemeal efforts for rehabilitation and conservation of housing, such as rehabilitation grants and loans, and adding to these new elements, such as FHA insurance for the refinancing of existing mortgage, financial aid to tenant cooperatives, and expanded home improvement loans. All of these then must be combined into a total program effort at the neighborhood level.

III. *The Establishment of a Concrete National Community Development Program Providing Block Grants to Localities to Meet National Priorities.* Mr. Chairman, our cities need renewing, redeveloping, rehabilitating and revitalizing. A tour of my city, or of Newark, Cleveland, Detroit, Des Moines, St.

Louis or of any older center city verifies this statement. Blight, slums, abandoned neighborhoods, deteriorated downtowns, dilapidated public facilities are the highly visible signs of the growing rate of urban decay; immediate action is needed to save urban America.

Urban renewal, the major existing tool now used for community development is not sufficient in its present form. A new program, building upon the successful approaches of urban renewal, consolidating related physical development programs, expanding eligible activities, simplifying administrative requirements and increasing local flexibility is urgently needed. President Nixon is to be congratulated for offering one approach to accomplish such a program through his proposal for special revenue-sharing for urban community development. Congress appears likely to adopt some modified form of his proposal. There are, however, a few points to be made about the components of such a program:

1. *The program must emphasize key national priorities.* Federal assistance for community development must be based on a locality's commitment to use these funds to solve basic "national priority" problem areas: eradicating and preventing slums and blight; increasing the supply of housing especially for low and moderate income families; and providing related community and public facilities. It is for this reason that NAHRO supports an application requirement wherein the community would outline how it intended to shape its local community development program so that its primary thrust would be in these national priority areas. Without such a requirement, this federal money could be used merely to fund local public works projects.

2. *The program must grant maximum flexibility to localities to meet these national objectives.* While NAHRO supports the necessity of national priority areas within the community development context, we also support granting maximum flexibility to localities to determine the shape and structure of local programs. The location of program activity, the timetable for improvements, the reuse of cleared land, the administrative structure of the local program are examples of activities which should not be dictated by the federal government but left for community decision.

3. *The program must be balanced, providing assistance to large cities and small towns, to old cities and new.* Too often we think of urban problems being located only in big and aging cities but this is not true. Older suburbs, smaller towns, young, growing cities, and rural communities can have problems as acute as those of the older center cities. Many small communities, for example, face the emergency need to revitalize their business centers which may be their prime economic resource. Our history with urban renewal verifies this point. Of the 1,048 communities now participating in the program 74 percent have a population below 50,000. Therefore, it is our position that smaller communities now participating in community development programs (e.g., urban renewal) should have equal access to funds authorized under the new program. Likewise, sufficient funds must be made available to meet requests from smaller cities not participating in these programs but who wish to in the future.

4. *The program must be funded at a sufficient level to permit communities to make progress under it.* One reason for the inability of many communities to respond to their urgent developmental needs has been the lack of federal assistance. Last fiscal year, for example, urban renewal demand exceeded available funds by approximately 2.3 billion dollars. Moving from one program to another without a significant increase in funding will provide only marginal assistance. It is for this reason that we recommend as a *minimum*, a federal commitment of 5.5 billion dollars of new money for the first two years of this new block grant special revenue-sharing program.

CONCLUSION

In summary, Mr. Chairman, NAHRO believes that the nation needs a broad national growth policy, a unified housing policy, and a concrete national community development policy, if we are to house our citizens and restore our cities, as we have so often undertaken to do.

The implementation of these policies is another subject, on which a great deal could be said. Briefly, we believe that it depends upon two elements: a clear understanding of the policies, and a clear definition of the roles of the different levels of government in implementing them.

The federal government must continue to establish national priority objectives, and require local communities to meet them.

The States must be encouraged by federal incentives and sanctions to pass the enabling legislation that will permit and encourage localities, with closely-related problems, to approach them together.

Finally, the actual delivery systems—the local programs that will achieve the national objectives, including the best mechanisms to encourage private participation—should be left to the locality. Only on the local level can the best determination be made on immediate needs, available facilities, and timetable.

With a single, coherent housing program and a community development program, both applying across the country and using all levels of government in the most efficient way, the next Administration could well be the one that history will credit with saving our great cities, and—at last—housing all American families who cannot house themselves.

NIXON'S TREASURE CHEST: IMPOUNDED FUNDS

Mr. METCALF. Mr. President, at the end of the fiscal year 1972, the Nixon administration was still "impounding" over $10 billion in funds which Congress had appropriated and intended to be spent primarily for domestic development purposes. At a time when 5 to 6 percent of the work force is out of work, when many State and local governments are in financial trouble, when community development—urban and rural—is foundering, the President continues to hold back on essential financial assistance that could go a substantial way in creating employment and in improving public services and facilities.

At my request, the Office of Management and Budget has submitted the latest list of impounded funds—as of June 30, 1972—which I shall place in the RECORD following these remarks. Previous lists were inserted in the RECORD by me on May 22, 1972—at page 18292—and by the senior Senator from North Carolina (Mr. ERVIN) on March 13, 1972, at page 8031.

The latest OMB list discloses, among other things, that $6 billion is being held back on Federal aid to highways; $1.3 billion in shipbuilding and conversion; $402 million for forest roads and trails; $300 million unspent for urban mass transit; $122 million withheld on airport and airway facilities and equipment; $105 million impounded for model cities programs; and $40 million for Appalachian regional development programs.

These and other funds, totalling $9.1 billion on June 30, 1972, are said by OMB to have been withheld for so-called "routine financial administration" such as development of approved plans, completion of studies, establishment of management organization, and arrival of contingencies. Even if this be true—and I frankly believe it deserves investigation—this sum of appropriated funds—nearly $10 billion—is too large a "treasure chest" to be left to Presidential discretion. One suspects that the "routine financial administration" label may well contain some special elements of program priority, or budgetary knifecutting, or at best, a disposition on the part of the President not to spend unless he is forced to.

It is anticipated that more funds will be released for expenditure in the coming months. It will be interesting to see how routine financial administration will give way to political expediency. Perhaps we should ask the OMB for a road map of impoundment releases to see how the destination of the released funds coincide with those areas of political sensitivity.

But this is not all.

The OMB letter attached another list of impounded funds, this one totalling $1.5 billion, and entitled "reserves for reasons other than routine financial administration." These are funds withheld by the President for, among other reasons, "broad economic and program policy objectives," apparently without regard to the decisions made by the Congress when it appropriated them in the first place.

The amounts impounded here for various programs are significant: $550 million for water and sewer grants; $107 million for rural electrification loans; $670 million in highway funds; $58 million in HUD rehabilitation loans and community assistance grants; and $30 million for the National Science Foundation. Reserves of $62 million were established as a result of the President's directive to curtail Federal employment. This figure was $280 million on January 24, 1972.

On March 13, 1972—CONGRESSIONAL RECORD, page 8031—the senior Senator from North Carolina (Mr. ERVIN) said with respect to this category of funds:

> It appears to me, as it has appeared to other observers of the incumbent administration, that the "broad economic and program policy objectives" of OMB may well include the release of large sums of these impounded funds during the next few months. The influx of several billion dollars would provide a long-overdue stimulus to our stagnant economy, and I suppose that the occurrence of the resulting boomlet just before the presidential election this fall would be purely coincidental.

The remarks of the Senator from North Carolina were prophetic, indeed.

The newest information from the OMB indicates that over $440 million of these specifically impounded funds were released by the President on July 1, 1972, for expenditure. These are funds in the President's grabbag with no apparent administrative hangups. One can only conjecture how the released rural electrification loans, water and sewer grants, HUD loans, and community assistance grants will be applied. Again in this case, economic objectives may be forced to give way to political reality.

Mr. President, there is another point to be made with respect to the President's policy of financial administration. That relates to his requests for appropriations as compared to the available program authorizations. While Nixon withholds his $10 billion "treasure chest" of appropriated funds from public use, he comes to Congress with critically reduced money requests on essential programs, and the public get business both ways. Dramatic comparisons as to amounts authorized, and amounts requested by OMB are listed in a very interesting table in the hearings before the Committee on Ways and Means of the House of Representatives, 92d Congress, second session, June 5 and 6, 1972, at pages 190 through 195.

I shall ask that this table be placed in the RECORD following my remarks. What appears is that out of $12.5 billion authorized for HEW programs, only $4.9 billion was requested by the President. For $4.1 billion in Interior authoriations, OMB asked for $900 million. For $14.1 billion for Agriculture, $1.4 billion was asked. For $2.6 billion involving Commerce, particularly public works and development, $800 million was asked.

Authorizations by Congress for fiscal 1973 totaled $41 billion, according to the table. Nixon asked for only $13.4 billion. The difference: $27.6 billion—a very sizable cut from what Congress anticipated. Ten billion dollars withheld; and $28 billion cut in requests—not a very good record for an administration which talks so glowingly of the "new federalism" toward progress and development of State and local governments and the stimulating jobs.

Mr. President, I ask unanimous consent that the following materials be placed in the RECORD at this point in my remarks.

Letter from Caspar Weinberger, Director of OMB to me, dated July 27, 1972, with enclosures relating to budgetary reserves, tables A and B.

Comparison of amounts specifically authorized and related appropriation requests in 1973.

Comparison of authorizations and related appropriations for 1972 and 1973.

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

BUDGETARY RESERVES, JUNE 1972

Under authority delegated by the President, the Office of Management and Budget operates a system of apportioning the funds provided by the Congress. The apportionments generally are for the current fiscal year and limit the amounts the agencies may obligate during specified periods.

There are occasions when the amounts of available funds are not fully apportioned. That is, some amounts are either withheld from apportionment, or their use is temporarily deferred. In these cases, the funds not apportioned are said to be held or placed "in reserve." This practice is one of long standing and has been exercised by both Republican and Democratic Administrations as a customary part of financial management.

The reasons for withholding or deferring the apportionment of available funds usually are concerned with routine financial administration. They have to do with the effective and prudent use of the financial resources made available by the Congress. The provisions of the Antideficiency Act (31 U.S.C. 665) require the President to establish reserves of appropriated funds for such reasons as a change in conditions since they were appropriated or to take advantage of previously unforeseen opportunities for savings. Thus, specific apportionments sometimes await (1) development by the affected agencies of approved plans and specifications, (2) completion of studies for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved, (3) establishment of a necessary organization and designation of accountable officers to manage the programs, (4) the arrival of certain contingencies under which the funds must by statute be made available (e.g., certain direct Federal credit aids when private sector loans are not available).

Table A, attached, lists the items and amounts being reserved on June 30, 1972, for such routine financial administration. They total $9.1 billion, which is a reduction of nearly $1.5 billion since January of this year. This reduction is indicative of the fact that amounts are frequently released from reserve—and put to use—during each fiscal year as plans, designs, specifications, studies, project approvals, and so on are completed.

The reserves established for reasons of routine financial administration are recognized by all concerned to be temporary deferrals, and their need or wisdom is usually not questioned. In addition, however, there has been a long-standing and consistent practice in both Republican and Democratic Administrations to establish some—a much smaller amount of—reserves for reasons other than routine financial administration. It is these latter reserves which have sometimes been criticized as "impoundments" of funds.

Amounts being held in reserve for reasons other than routine financial administration generally could be used (i.e., obligated) during the apportionment time period. They have not been apportioned from time to time for such reasons as the Executive's responsibility to (1) help keep total Government spending within a congressionally-imposed ceiling, (2) help meet a statutory limitation on the outstanding public debt, (3) develop a governmentwide financial plan for the current year that synchronizes program-by-program with the budget being recommended by the President for the following year, or (4) otherwise carry out broad economic and program policy objectives.

Table B, attached, lists the items and amounts held in reserve on June 30, 1972, for reasons other than routine financial administration. They total $1.5 billion, a reduction of more than $200 million from the amount so reserved in January of this year. Of the $1.5 billion total, almost $450 million was released and apportioned on July 1, 1972, as indicated in the various footnotes on Table A.

The total of all current reserves (i.e., Tables A and B) is 4.6% of the total unified budget outlays for fiscal 1972. The comparable percentage at the end of fiscal years 1959 through 1961 ranged from 7.5% to 8.7%. At the end of fiscal 1967, it stood at 6.7%, and a range in the neighborhood of 6% has been normal in recent years.

TABLE A.—*Budgetary reserves for routine financial administration, June 30, 1972*

(In thousands of dollars)

Agency and account:	*Amount*
Executive Office of the President:	
National Security Council	33
This amount was in excess of 1972 needs.	
Special Action Office for Drug Abuse Prevention	682
Represents the balance of appropriation which cannot be utilized by the Office in 1972 due to late enactment of legislation. Release will occur as needed in 1973 operations.	
Funds appropriated to the President:	
Appalachian Regional Development Programs	40,000
Apportionment awaits development of approved plans and specifications.	
International Security Assistance:	
Foreign military credit sales	15,350
Because of increased private financing, the legislated program ceiling was achieved without the use of the full budget authority appropriated.	
International development assistance:	
Prototype desalting plan	20,000
Apportionment awaits development of approved plans and specifications.	
Inter-American Foundation	41,624
Amount represents balance of initial funding from AID transfer to cover first four years of the Foundation's operations. Apportionments will continue to be made annually as plans and specifications are developed.	
Department of Agriculture:	
Agricultural Research Service:	
Construction	70
Represents residual amount of appropriation for planning that is not required for that purpose. Apportionment awaited additional appropriation for construction.	
Scientific Activities Overseas (special foreign currency program)	352
Amount shown here was in excess of 1972 needs.	
Animal and Plant Health Service	2,049
This amount was in excess of 1972 needs.	
Farmers Home Administration:	
Mutual and self-help housing grants	729
Amount shown here was in excess of 1972 needs.	
Direct loan account (farm operating loans limitations)	12,453
Amount reflects release of $37 million for last quarter of fiscal 1972. The balance of loan authority is being held pending demonstration of further needs.	
Consumer and Marketing Service:	
Consumer protective, marketing, and regulatory programs	760
Amount shown here was in excess of 1972 needs.	
Perishable Commodities Act Fund	1
Amount shown here was in excess of 1972 needs.	

Forest Service:
Forest protection and utilization:
Cooperative range improvement ---------- 624
Amount shown here was in excess of 1972 needs, and was released and apportioned on July 1, 1972, to fund the 1973 program.
Youth Conservation Corps---- 1,730
These funds were released from reserve and apportioned in July 1972 for the CY 1972 program.
Forest roads and trails-------- 402,040
Reserve reflects amount of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.
Expenses, brush disposal------ 13,303
Amount shown here was in excess of 1972 needs.
Forest Fire Prevention------- 115
Amount shown here was in excess of 1972 needs.
Department of Commerce:
Social and Economic Statistics Administration:
19th Decennial Census----- 11,028
These funds had been held in anticipation of the need to pay printing costs. They were released and appropriated for this purpose in July 1, 1972.
Regional Action Planning Commissions:
Regional Action Planning Commissions ---------- 300
Funds will be released when Mississippi Valley Regional Commission is formed.
Promotion of industry and commerce:
Trade adjustment assistance (financial assistance)----- 50,000
Amount shown here was in excess of 1972 needs.
Inter-American Cultural and Trade Center---------- 5,446
Funds will be released when plans for participation in U.S. Bicentennial are completed and approved.
National Oceanic and Atmospheric Administration:
Research, development, and facilities ---------- 214
These funds are for disaster relief to fisheries. Apportionments are made as applications from the States are processed following contingencies under which the funds must, by statute, be made available.
Research, development, and facilities (special foreign currency program) ------- 286
These funds were released and apportioned on July 1, 1972, to fund the 1973 program.
Promote and develop fishery products and research pertaining to American fisheries ---------- 257
Amount shown here was in excess of 1972 needs, and was released and apportioned on July 1, 1972, to fund the 1973 program.
National Bureau of Standards:
Plant and facilities--------- 1,495
Funds are for a new laboratory now in the planning stage. Apportionment awaits development of approved plans and specifications.

Department of Defense—Military:
Shipbuilding and conversion-- 1,388,946
For use in subsequent years; these projects are fully funded when appropriated.
Other procurement programs-- 21,020
For use in subsequent years; these projects are fully funded when appropriated.
Military construction and family housing ---------- 171,304
Apportionment awaits development by the agency of approved plans and specifications.
Civil defense programs-------- 1,277
Amount was in excess of 1972 needs, and was released and apportioned on July 1, 1972, to fund the 1973 program.
Special foreign currency program ---------- 4,903
Apportionment awaits development by the agency of approved plans and specifications.
Department of Defense—Civil
Corps of Engineers:
Construction, General:
Lafayette Lake, Ind------- 183
Funds are being held in reserve because of local opposition to initiation of construction of the project.
Lukfata Lake, Okla------- 450
Construction funds are being held in reserve pending the completion of a new general design memorandum leading to an environmental impact statement.
New York Harbor Collection and removal of drift ---------- 80
Funds are being held in reserve because, although the project has been authorized by the Congress for initiation and partial accomplishment, initiation of construction must await approval of the Secretary of the Army and the President. The Secretary of the Army forwarded the proposal to the President on June 21, 1972, and his recommendations are currently under review.
Panama Canal Government:
Capital outlays---------- 850
These FY 72 funds, reserved at the request of the Panama Canal Government, will be combined with the 1973 appropriation for the purchase of major items of capital equipment.
Wildlife conservation------- 474
Includes estimated receipts not needed for current year program. Will be used in subsequent years.
Department of Health, Education, and Welfare:
National Institutes of Health:
Buildings and facilities----- 2,565
Apportionment awaits development by the agency of approved plans and specifications.
Office of Education:
School assistance in federally affected areas-------- 4,996
Apportionment awaits development by the agency of approved plans and specifications. Construction obligations will be incurred subsequently.
Higher education---------- 1,462
Apportionment awaits development by the agency of approved plans and specifications.
Educational activities overseas (special foreign currency program)---------- 16
Apportionment of this amount awaits development of approved plans and specifications by the agency.
Social Security Administration:
Construction ---------- 12,095
Apportionment awaits development of approved plans and specifications by the agency.
Special Institutions:
Gallaudet College---------- 516
This amount was in excess of funds which could be effectively used in 1972.
Howard University --------- 3,714
Apportionment of this amount awaits development of approved plans and specifications. Construction obligations will be incurred subsequently.
Department of Housing and Urban Development:
Model cities program------- 105,000
This amount was released on July 1, 1972. Its earlier reserve enabled several cities to count on proceeding with their FY 1973 programs.
Department of the Interior, Bureau of Land Management:
Public lands development, roads and trails---------- 16,694
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.
Bureau of Indian Affairs:
Road construction ------ 53,699
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.
Bureau of Outdoor Recreation:
Land and water conservation fund---------- 30,000
Consists of 1972 annual contract authority which was made available by P.L. 91-308, approved July 7, 1970. It has not been used because the Federal agencies purchasing park lands have found annual contract authority cumbersome to administer. Instead, they prefer ordinary appropriations to finance such land purchases. The 1973 budget proposes appropriation of the full $300 million annual authorization for the fund, of which about $98 million is for Federal land purchases in 1973.
Bureau of Mines:
Drainage of anthracite mines ---------- 3,623
Funds are spent on at matching basis with Pennsylvania as that State and the Department of the Interior develop projects for this purpose. Apportionment awaits development of approved plans and specifications in FY 1973.
Bureau of Sport Fisheries and Wildlife:
Construction ---------- 9,075
Appropriated funds for D.C. Aquarium withheld because authorized facility cannot be constructed within the funding limits established by the authorization. The Appropriations Committees of the House and Senate have directed that the funds be used in fiscal year 1973 for the construction of other facilities. Release is scheduled shortly.

TABLE A.—*Budgetary reserves for routine financial administration, June 30, 1972*—Continued

[In thousands of dollars]

Agency and account:	Amount
National Park Service:	
Parkway and road construction	72,621
Reserve reflects amounts of available contract authority above the obligation program that was approved and financed by the appropriation Congress enacted to liquidate the obligations.	
Bureau of Reclamation:	
Construction and rehabilition	1,055
Funds are being held in reserve pending completion and review in FY 1973 of the economic restudy to determine the most effective use of funds for the Second Bacon Siphon and Tunnel Unit, Wash.	
Operation and maintenance and replacement of project works, North Platte project	84
This amount fulfilled the legal requirements for this account of an annually established contingency reserve.	
Department of Justice:	
Federal Prison System:	
Buildings and facilities	4,299
The apportionment awaits development of approved plans and specifications.	
Department of Labor:	
Grants to States for unemployment insurance and employment services	20,192
Late enactment of supplemental appropriations and lower unemployment insurance workloads permitted savings to be made.	
Department of State:	
Education exchange fund (earmarked proceeds of payment by Finland on World War I debt)	22
This amount was released and apportioned on July 1, 1972, to fund the 1973 program.	
Bureau of Educational and Cultural Affairs:	
International Educational Exchange Activities (special foreign currency program)	5
Funds represent recent recovery of prior year obligations in excess of current year needs. These funds were released and apportioned on July 1, 1972, to fund the 1973 program.	
Department of Transportation:	
Coast Guard:	
Acquisition, construction and improvements	7,607
Funds are for equipment or improvements and will not be needed until construction on seven projects is in an advanced stage. They will be released when needed.	
Alteration of bridges	1,000
Apportionment awaits development of approved plans and specifications.	
Federal Aviation Administration:	
Facilities and equipment (Airport and Airway trust fund)	115,897
Grants-in-aid for airports (Airport and Airway trust fund)	6,368
Construction, National Capital Airports	900
Civil Supersonic aircraft development termination	4,506
Other	2,200
Apportionment of the above FAA accounts awaits development of approved plans and specifications.	
Federal Highway Administration:	
Territorial Highways	5,000
New program established by the 1970 Highway Act, effective December 30, 1970. No appropriation was provided until August 1971, although 4.5M of contract authority was authorized for each of 1971 and 1972. Territories were not prepared to handle program and have only recently begun to organize agencies and prepare studies for use of the funds. Total obligations through December 31, 1971, were about $93.-000.	
Federal-aid highways:	
(1) 1973 contract authority	5,700,000
(2) Remaining balance from reductions made in prior years	246,798
Urban Mass Transportation Administration:	
Urban mass transportation	299,970
The Congress provided a total of $3.1B of contract authority for the five-year period 1971–1975. Executive Branch apportionments resulted in $1.0B of this amount being used by June 30, 1972, another $1.0B (including this $300M) will be apportioned for fiscal 1973, leaving $1.1B, or $550M per year for the fiscal years 1974 and 1975. By appropriation action in fiscal years 1971 and 1972, the Congress effectively limited the amount of the contract authority that could be used each fiscal year. Thus, the $300M shown is the difference between the $600M apportioned for 1972 and the $900M *upper limit* for which administrative expenses may be incurred under the 1972 Appropriation Act for the Department of Transportation: "Sec. 308. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for grants for Urban Mass Transportation aggregating *more than* $900,000,000 in fiscal year 1972." (*Underlining* supplied.)	
Treasury Department:	
Office of the Secretary:	
Construction, Federal Law Enforcement Training Center	22,239
Apportionment awaits development by the agency of approved plans and specifications.	
Expenses of administration of settlement of World War Claims Act of 1928	1
Amount shown here was in excess of 1972 administrative costs.	
Bureau of the Mint:	
Construction	79
Apportionment awaits the completion of studies for the effective use of funds.	
Atomic Energy Commission:	
Operating expenses:	
Reactor development:	
Funds held in reserve for the Liquid Metal Fast Breeder Reactor (LMFBR) demonstration plant awaiting the completion of detailed negotiations now underway involving AEC and the Commonwealth Edison Company and TVA	43,350
Biomedical Research:	
Funds held in reserve pending development of a plan for effective utilization	370
Plant and capital equipment:	
Funds held in reserve awaiting AEC's development of firm plants or specifications for two projects in the nuclear materials and weapons programs	175
Funds held in reserve awaiting AEC's completion of feasibility studies or the results of research and development efforts for the national radioactive waste repository and two other projects	2,533
Funds held in reserve for possible cost overruns and other contingencies	2,200
Environmental Protection Agency:	
Operations, research and facilities	7,294
Reflects release of $28M for Cincinnati laboratory. Remainder awaits completion of EPA study of requirements for other laboratory facilities.	
General Services Administration:	
Construction, public buildings projects	17,971
$10,803 thousand is being held for future obligation. The projects are not ready for construction and financing is under review. Apportionment awaits completion of this action.	
$7,160 thousand is reserved to meet possible contingencies that might arise in the course of construction.	
Sites and expenses, public buildings projects	11,567
Reserved to meet possible contingencies or for use in subsequent years.	
Operating expenses, Property Management and Disposal Service	769
Amount shown here was not needed in 1972 for stockpile disposals.	
Veterans' Administration:	
Grants to States for extended care facilities	8,420
State plans and requests for funds were not presented to the extent originally expected. Amount shown will be available for program in future years.	
Other Independent Agencies:	
Cabinet Committee on Opportunities for Spanish-Speaking Peoples	5
This amount was in excess of 1972 needs.	
Federal Communications Commission:	
Salaries and expenses, (construction)	460
These funds are intended for replacement of a monitoring station. Funds remain in reserve until results of study requested by Congress are available regarding the need for continuation of fixed monitoring stations.	
Federal Home Loan Bank Board:	
Interest adjustment payments	46,888
Funds which could be effectively utilized by the Board in fiscal year 1972 were apportioned. This amount was not needed.	
Foreign Claims Settlement Commission:	
Salaries and expenses	19

This amount was in excess of 1972 needs.

Payment of Vietnam and Pueblo prisoner of war claims ---------- 150

Apportionment awaits arrival of contingencies under which the funds must, by statute, be made available.

Smithsonian Institution:

Salaries and expenses, Woodrow Wilson International Center for Scholars ---------- 11

Reserved for contingencies. Will be apportioned if and when needed.

Temporary Study Commissions:

Commission on Highway Beautification ---------- 25

Amount being held for completion of Commission's work in 1973.

Commission on Population Growth and the American Future ---------- 30

A small contingency amount was set aside to cover any increases in contracted costs after the Commission completed its work in May, 1972. No increases occurred and the funds are not needed to complete the work of the Commission.

National Commission on Consumer Finance ---------- 50

For terminating the Commission in 1973 after the report is completed.

Aviation Advisory Commission ---------- 587

These funds were released and apportioned on July 1, 1972 to carry Commission through its expiration date of March, 1973.

Commission on Government Procurement ---------- 1,300

$1.4 million to remain available until expended was appropriated in the Second Supplemental Act of 1972. $100 thousand was apportioned for 1972; the remainder will fund the Commission's operations through April 1973.

United States Information Agency:

Salaries and expenses (special foreign currency program) ---------- 407

Special international exhibitions ---------- 746

These amounts were released and apportioned July 1, 1972.

Water Resources Council:

Salaries and expenses ---------- 25

Funds were held in reserve pending establishment of sions.

Total ---------- [a] 9,110,078

[a] Of this total, $467 million was released at the start of fiscal 1973.

TABLE B.—*Reserves for reasons other than routine financial administration, June 30, 1972*

[In thousands of dollars]

	Amount
Department of Agriculture:	
Rural Electrification Administration: Loans	[1] 107,000
Farmer Home Administration: Sewer and water grants	[2] 58,000
Department of Housing and Urban Development:	
Rehabilitation loans	[1] 53,042
Grants for new community assistance	[1] 5,000
Basic water and sewer grants	500,000
Department of Transportation:	
Federal-aid highways	623,000
Rights-of-way for highways	50,000
Urban mass transportation	[4] [299,970]
Atomic Energy Commission	[5] 17,655
NERVA-nuclear rocket	(16,990)
Plowshare	(665)
National Aeronautics and Space Administration: NERVA-nuclear rocket	21,914
National Science Foundation:	
Educational and institutional support	[1] 21,000
Graduate traineeships	[6] 9,500
Reserves established pursuant to President's August 15, 1971, directive to curtail previously planned Federal employment levels	[7] 61,750
Total	[8] 1,527,861

[1] This amount was released and apportioned on July 1, 1972.

[2] Of this amount, $42 million was released and apportioned on July 1, 1972.

[3] Of this amount, $200 million was released and apportioned on July 1, 1972. The remainder is being held for subsequent apportionment.

[4] This amount was released and apportioned on July 1, 1972. It is listed here because of public and congressional interest. It is not counted in the total of Table B because its use is consistent with congressional intent. The Congress provided a total of $3.1 billion of contract authority for the five-year period 1971–1975. Executive Branch apportionments result in $1.0 billion of $3.1 billion total being used by June 30, 1972, another $1.0 billion (including this $300 million) is being apportioned for fiscal 1973, leaving $1.1 billion, or $550 million shown per year for the fiscal years 1974 and 1975. The $300 million shown is the difference between the $600 million apportioned for 1972 and the $900 million *upper limit* for which administrative expenses may be incurred under the 1972 Appropriation Act for the Department of Transportation:

"Sec. 308. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for grants for Urban Mass Transportation aggregating *more than* $900,000,000 in fiscal year 1972." (Italics supplied.)

[5] Pending enactment of 1973 appropriations, it is planned that these funds be applied to AEC's total program needs for 1973.

[6] Apportionment awaiting NSF review of how these funds can be used effectively to help meet the Nation's scientific and engineering manpower needs without stimulating an oversupply of manpower with specialized capabilities.

[7] These funds are the remainder of $280 million in reserves established initially under the President's directive of August 15, 1971. The originally reserved amounts were largely released to meet costs of pay raises and other essential purposes.

[8] Of this $1.5 billion total, $447 million were released and apportioned on July 1, 1972 (as itemized in the preceding footnotes).

COMPARISON OF AMOUNTS SPECIFICALLY AUTHORIZED AND RELATED APPROPRIATION REQUESTS IN 1973 (SUBMITTED BY OMB TO HOUSE WAYS AND MEANS COMMITTEE)

[In billions of dollars]

Agency and major item	Authorizations available in 1973	1973 budget request	Difference
Foreign assistance:			
Development loans	0.7	0.6	0.1
Inter-American Development Bank	.4	.4	
Other	.8	.6	.2
Subtotal, foreign assistance	1.9	1.6	.3
Agriculture:			
Rural environmental assistance program	.5	.1	.4
Public Law 480–Sale of agricultural products abroad	12.8	.9	11.9
Forest Service—Forest roads and trails	.6	.2	.4
Other	.2	.2	
Subtotal, Agriculture	14.1	1.4	12.7
Commerce:			
Grants for public works and development	1.5	.1	1.4
Other	1.1	.7	.4
Subtotal, Commerce	2.6	.8	1.8
Health, Education, and Welfare:			
Maternal and Child Health and Crippled Children Services	.3	.2	.1
National Cancer Institute	.5	.4	.1
Other health	2.8	1.2	1.6
Elementary and secondary education	5.5	1.8	3.8
School assistance in federally affected areas	.8	.4	.4
Vocational and adult education	1.1	.5	.6
Other education	1.2	.3	.8
Other HEW	.3	.1	.2
Subtotal, Health, Education, and Welfare	12.5	4.9	7.6
Housing and Urban Development:			
Urban renewal	1.2	1.0	0.2
Other HUD	.6	.1	.6
Subtotal, Housing and Urban Development	1.8	1.1	.8
Interior:			
Park Service construction and land acquisition	.3	.1	.3
Reclamation construction	3.1	.3	2.8
Land and water conservation	.3	.3	(1)
Other Interior	.4	.2	.2
Subtotal, Interior	4.1	.9	3.3
Justice:			
Law enforcement assistance	1.8	.9	.9
Other Justice	.1	.1	(1)
Subtotal, Justice	1.9	1.0	.9
Labor-emergency employment	1.3	1.3	
Transportation:			
Highway programs	.3	.1	.2
RAILPAX	.1		.1
Subtotal, Transportation	.4	.1	.3
Atomic Energy Commission	.5	.4	.1
All other programs and agencies	.1	.1	
Total	41.0	13.4	27.6

[1] Less than $50,000,000.

Note: Totals will not add due to rounding.

COMPARISON OF AUTHORIZATIONS AND RELATED APPROPRIATIONS FOR 1972 AND 1973

(Submitted by OMB to House Ways and Means Committee)

[In thousands of dollars]

Program	1972 Authorizations available	1972 Appropriations enacted	1972 Difference	1973 Authorizations available	1973 Appropriations requested	1973 Difference
Agency for International Development:						
Development loans	[1] 686,500	350,000	336,500	[2] 736,500	634,500	102,000
International organizations programs	153,000	137,000	16,000	153,000	149,835	3,165
Grants and other programs:						
Technical assistance	263,500	240,000	23,500	263,500	247,808	15,692
Population programs	125,000	125,000	----------	125,000	117,500	7,500
American schools and hospitals	30,000	20,000	10,000	30,000	15,575	14,425
Administrative expenses—AID	50,000	50,000	----------	50,000	50,000	----------
Inter-American Development Bank	211,760	211,760	----------	386,760	386,760	----------
International Bank for Reconstruction and Development	246,100	123,050	123,050	123,050	----------	123,050
Department of Agriculture:						
Food and nutrition service:						
Special milk program	120,000	104,000	16,000	120,000	92,090	27,910
Nonschool feeding program	37,775	[3] 37,775	----------	32,000	20,775	11,225
School breakfast program	25,000	25,000	----------	25,000	18,500	6,500
Nonfood assistance program	33,000	16,110	16,890	15,000	15,000	----------
Agriculture Stabilization and Conservation Service: Rural environmental assistance program	500,000	195,500	304,500	500,000	140,000	360,000
Export Marketing Service:						
Public Law 480, title I	9,446,000	866,565	8,579,435	10,446,000	371,375	10,074,625
Public Law 480, title II	2,116,000	453,835	1,662,165	2,316,000	523,625	51,792,37
Forest Service:						
Forest roads and trails	634,836	148,740	486,096	586,096	158,840	427,256
Clark McNary Act:						
Cooperative fire control	20,000	19,994	6	20,000	19,943	57
Department of Commerce:						
Economic development:						
Grants for public works and development facilities	800,000	136,500	663,500	1,463,500	106,500	1,357,000
Other financial assistance	170,000	53,500	116,500	170,000	43,500	12,500
Technical assistance, research, and information	50,000	33,355	16,645	50,000	34,868	15,132
Area and district eligibility	50,000	50,000	----------	50,000	50,000	----------
Regional action planning commission	305,000	39,054	365,946	265,946	39,000	226,946
Sea grant	25,000	17,690	7,310	30,000	21,177	8,823
Maritime program:						
Ship construction	229,687	229,687	----------	250,000	250,000	----------
Operating differential subsidies	239,145	239,145	----------	232,000	232,000	----------
Research and development	25,000	23,750	1,250	30,000	30,000	----------
Department of Health, Education, and Welfare:						
Health Services and Mental Health Administration:						
Construction of community mental health centers	90,000	15,000	75,000	100,000	100,000	----------
Staffing of community mental health centers, initial grants	50,000	44,200	5,800	60,000	9,131	50,869
Grants for contracts for the prevention and treatment of alcohol abuse and alcoholism	40,000	15,970	24,030	50,000	26,490	23,510
Special projects for narcotic addicts and drug-dependent persons	30,000	30,000	----------	35,000	35,000	----------
Construction and staffing of alcoholism, narcotic addicts, and drug abusers rehabilitation facilities, training and evaluation, and direct grants for special projects grants	60,000	49,351	10,649	80,000	47,546	32,454
Construction and staffing of child mental health treatment facilities initial grants	20,000	10,000	10,000	30,000	1,515	28,485
Prevention and treatment of alcohol abuse and alcoholism formula grants	60,000	30,000	30,000	80,000	30,000	50,000
Research and demonstrations relating to health facilities and services	[4] 82,000	49,004	32,996	[4] 94,000	41,617	52,838
Comprehensive health planning:						
Partnership for health: Areawide planning	30,000	13,200	16,800	40,000	25,100	14,900
Regional medical programs: Education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, kidney disease, and other related diseases	150,000	90,500	59,500	250,000	120,800	129,200
Medical facilities construction and medical facilities guarantee and loan fund:						
Medical facilities construction and modernization grants:						
Long-term care facilities	85,000	20,800	64,200	85,000	----------	85,000
Outpatient facilities	70,000	70,000	----------	70,000	70,000	----------
Hospitals and public health centers	152,000	41,400	111,100	157,500	----------	157,500
Modernization	80,000	50,000	30,000	90,000	----------	90,000
District of Columbia medical facilities construction:						
Construction grants	[5] 24,052	24,052	----------	----------	----------	----------
Loans for the construction or modernization of hospitals and other health facilities	[6] 18,075	18,075	----------	----------	----------	----------
Comprehensive health services:						
Partnership for health grant:						
Comprehensive health services	145,000	90,000	55,000	165,000	90,000	75,000
Health services development	103,913	103,913	----------	116,200	116,200	----------
Migrant health grants	25,000	17,950	7,050	30,000	23,750	6,250
Maternal and child health: Maternal and child health and crippled children's services	298,000	234,636	63,364	331,000	248,400	82,600
Family planning services:						
Health and public health services and crippled children's services	27,000	27,000	----------	19,000	19,000	----------
Project grants and contracts	60,000	55,500	4,500	90,000	9,0000	----------
Research grants and contracts	50,000	2,615	47,385	65,000	2,615	62,385
National Health Service Corps	20,000	12,500	7,500	30,000	8,418	21,582
Preventive health services:						
Health services development	31,087	31,087	----------	62,800	62,800	----------
Communicable disease	90,000	23,213	66,787	----------	----------	----------
National health surveys and statistics	20,000	11,630	8,370	25,000	14,063	10,937
National Cancer Institute	420,000	337,531	82,469	530,000	430,000	100,000
National Institute of Child Health and Human Development	50,000	[7] 39,320	10,680	65,000	[7] 44,000	20,960
Construction of teaching fa ilities for medical, dental and other health personnel	225,000	142,385	82,615	250,000	----------	250,000
Health professions student loans	50,000	30,000	20,000	55,000	36,000	19,000
Health manpower:						
Grants for training, traineeships and fellowships in family medicine	25,000	5,100	19,900	35,000	5,000	30,000
Special project grants and contracts	118,000	53,000	65,000	138,000	53,000	85,000
Health manpower education initiative awards	45,000	20,000	25,000	90,000	20,000	70,000
Grants for construction of teaching facilities for allied health professions personnel	30,000	----------	30,000	40,000	----------	40,000
Grants to improve the quality of training for allied health professions	55,000	24,745	30,255	75,000	28,745	46,255
Construction of nurse training facilities	35,000	19,500	15,500	40,000	----------	40,000
Nurse capitation grants	78,000	31,500	46,500	82,000	33,500	48,500
Special project grants and contracts and financial distress grants to schools of nursing	35,000	30,000	5,000	38,000	22,000	16,000
Nursing student loans	25,000	21,000	4,000	30,000	21,000	9,000
Elementary and secondary education:						
Aid to school districts:						
Educationally deprived children:						
Local educational agencies	3,543,390	1,406,690	2,136,700	4,019,890	1,406,690	2,613,200
Handicapped children	56,381	56,381	----------	63,904	56,381	7,523
Migratory children	64,823	64,823	----------	73,479	64,823	8,656
State administration	37,743	17,308	20,435	42,580	17,308	25,272
Incentive grants	120,668	7,281	113,387	120,668	7,281	113,387
Grants for high concentrations of poor	411,099	24,804	386,295	496,534	24,804	471,730
Supplementary services:						
State plan program	509,335	126,292	383,043	534,910	126,292	409,618
Special projects	82,915	20,101	62,814	87,240	20,101	67,139
Strengthening State departments of education: Grants to States	80,750	31,350	49,400	85,500	31,350	54,150

Program	1972 Authorizations available	1972 Appropriations enacted	1972 Difference	1973 Authorizations available	1973 Appropriations requested	1973 Difference
School assistance in federally affected areas:						
Maintenance and operations:						
Payments to local educational agencies	668,115	554,880	113,235	703,500	373,900	329,600
Payments to other Federal agencies	37,700	37,700		41,500	41,100	400
Construction: Assistance to local educational agencies	64,526	11,000	53,526	63,000	15,910	47,090
Education for the handicapped:						
State grant program	216,300	37,500	178,800	226,600	37,500	189,100
Special target programs:						
Deaf-blind centers	51,500	15,000	36,500	66,500	22,000	44,500
Early childhood projects						
Special learning disabilities	31,000	2,250	28,750	31,000	3,250	27,750
Innovation and development: Research and demonstrations	[8] 35,000	5,955	29,045	[8] 45,000	9,566	35,434
Special education and manpower development: Teacher education	[9] 51,500	33,945	17,555	[9] 103,500	36,960	66,540
Vocational and adult education:						
Grants to States for vocational education:						
Basic vocational education programs:						
Annual appropriation	603,000	376,682	226,318	504,000	376,682	127,318
Programs for students with special needs	60,000	20,000	40,000	[10] 60,000	30,000	40,000
Consumer and homemaking education	50,000	25,625	24,375	[10] 50,000	25,625	24,375
Work-study	55,000	6,000	49,000	[10] 55,000	6,000	49,000
Cooperative education	75,000	19,500	55,500	[10] 75,000	19,500	55,500
Vocational research:						
Innovation	75,000	16,000	59,000	[10] 75,000	16,000	59,000
Research—Grants to States	67,000	18,000	49,000	56,000	18,000	38,000
Adult education—Grants to States	[11] 236,250	51,300	184,950	[11] 236,250	51,300	184,950
Higher education:						
Student assistance:						
Educational opportunity grants and work-study: Comparable academic year estimates	500,750	412,000	88,750	([12])	(701,800)	
Direct loans: Federal capital contributions	375,000	286,000	89,000	([12])	(286,000)	
Special programs for the disadvantaged	96,000	51,000	45,000	([12])	(70,331)	
Categorical institutional assistance	2,272,470	167,260	2,105,210	([12])	(165,795)	
Language training and area studies	38,500	15,300	23,200	([12])	(15,300)	
University community services	60,000	9,500	50,500	([12])	(5,700)	
College personnel development	36,000	36,000		([12])	(33,000)	
Library resources:						
Public libraries: Services	207,000	58,509	148,491	217,350	32,730	184,620
School library resources	206,300	90,000	126,300	220,000	90,000	130,000
College library resources	90,000	11,000	79,000	([12])	(11,000)	
Equipment and minor remodeling: Loans to nonprofit private schools	140,500	50,000	90,500	([12])		
Undergraduate instructional equipment	70,000	12,500	57,500			
Educational Renewal:						
Educational systems improvement	410,000	84,565	325,435	([12])	(76,800)	
Bilingual education	100,000	35,000	65,000	135,000	41,130	93,870
Dropout prevention	31,500	10,000	21,500	33,000	10,000	23,000
Personnel development:						
Teacher Corps	100,000	37,435	62,565	([12])	(37,435)	
Career education personnel	45,000	6,900	38,100	([12])	(10,000)	
Educational technology demonstrations	20,000	20,000		30,000	30,000	
Educational renewal:						
National priority programs:						
Drug abuse education	20,000	12,400	7,600	28,000	12,400	15,600
Environmental education	15,000	3,180	11,820	25,000	3,180	21,820
Library demonstrations	38,000	2,000	36,000	([12])	(2,000)	
Planning and evaluation	25,000	11,225	13,775	25,000	10,205	14,795
Grants to States for Public Assistance	110,000	46,000	64,000	110,000	46,000	64,000
Social and Rehabilitation Services	1,301,000	789,524	511,476	[13] 174,000	[13] 29,965	144,035
Department of Housing and Urban Development:						
Rent supplements	153,000	[14] 55,000	98,000	98,000	[14] 48,000	50,000
New community assistance programs (supplementary grants)	190,000	[15] 10,000	180,500	180,500	[15] 5,000	175,500
Grants for basic water and sewer facilities	1,150,000	500,000	650,000			
Urban renewal:						
General	2,400,000	[16] 1,250,000	1,150,000	1,150,000	[15] 1,000,000	150,000
Restricted to Model Cities areas	187,500	([16])	187,500	187,500	([15])	187,500
Rehabilitation loans	150,000	90,000	60,000	150,000		150,000
Department of Interior:						
Territorial affairs: Trust Territory of the Pacific Islands	60,000	59,980	20	60,000	60,000	
Bureau of Indian Affairs:						
Navajo Indian irrigation project	168,154	9,000	159,154	159,154	10,425	148,729
Adult vocational training	25,000	24,716	284	25,000	24,784	216
Alaska Native Claims Act				50,000	50,000	
Office of Water Resources: Research				28,125	12,400	15,725
Bureau of Mines: Coal mine health and safety research	30,000	29,892	108	30,000	27,890	2,110
Bureau of Outdoor Recreation: Land and water conservation	400,000	361,500	38,500	338,500	300,000	38,500
National Park Service:						
Construction:						
Development	227,884	7,632	220,252	291,127	4,140	286,987
Acquisition of lands	156,366	57,330	99,036	95,895	54,462	41,433
Bureau of Reclamation: Construction	[17] 3,325,215	212,863	3,112,352	3,112,352	304,400	2,807,952
Bureau of Sport Fisheries and Wildlife: Migratory bird conservation account	30,700	7,500	23,200			
Department of Justice:						
Law Enforcement Assistance Administration	1,150,000	698,919	451,081	1,750,000	850,000	900,000
Bureau of Narcotics and Dangerous Drugs (limitations in sec. 103(a) and sec. 709 of Public Law 91-513)	66,000	65,089	911	76,000	71,771	4,229
Department of Labor: Emergency employment	1,000,000	1,000,000		1,250,000	1,250,000	
Department of Transportation:						
Federal Highway Administration:						
Darien Gap	95,000	15,000	80,000	80,000	30,000	50,000
Baltimore-Washington Parkway	65,000	2,500	62,500	62,500		62,000
Rail grade crossing-demonstration	31,000	10,000	21,000	21,000	10,000	11,000
Highway Safety R. & D	10,000	2,100	7,900	10,000	10,000	
National Highway Traffic Safety Administration:						
Motor vehicle and traffic safety	[18] 49,600	[18] 40,302	9,298			
Highway safety R. & D	70,000	38,625	31,375	115,000	47,900	67,100
Federal Railroad Administration: National Railroad Passenger CORP (RAILPAX)	[19] 100,000	([19])	100,000	100,000		100,000
Atomic Energy Commission:						
Operation, liquid metal fast-breeder reactor demonstration plant project	50,000	36,000	14,000	50,000	50,000	
Construction	190,954	190,954		489,340	363,830	125,510

Footnotes on following page.

COMPARISON OF AUTHORIZATIONS AND RELATED APPROPRIATIONS FOR 1972 AND 1973—Continued

(Submitted by OMB to House Ways and Means Committee)

[in thousands of dollars]

Program	1972			1973		
	Authorizations available	Appropriations enacted	Difference	Authorizations available	Appropriations requested	Difference
National Foundation on the Arts and the Humanities:						
Arts Endowment	26,500	26,500	250	35,500	35,500	
Humanities Endowment	26,500	24,250	2,000	35,500	35,500	
Total	44,871,818	15,949,904	28,921,914	41,028,750	13,424,838	27,603,914

[1] Includes $230,000,000 in authorized but unappropriated funds from prior years.
[2] Includes $280,000,000 in authorized but unappropriated funds from prior years.
[3] Includes $17,000,000 provided by Public Law 92-35 in the form of joint resolution for immediate funding of summer feeding program.
[4] Authorization also used by medical facilities construction.
[5] Aggregate amount of $40,052 authorized for fiscal years 1969 through 1972—$16,000 appropriated in 1969, 1970, and 1971.
[6] Aggregate amount of $40,575 authorized for fiscal years 1969 through 1972—$24,000 appropriated in 1969, 1970, and 1971.
[7] The appropriations includes $39,320,000 in 1972 and $44,040,000 in 1973 for family planning research activities. These activities are authorized under title IV, pt. E as well as title X, sec. 1004.
[8] Authorization includes research and demonstration, and physical education and recreation research.
[9] Authorization includes teacher education, physical education and recreation training, and recruitment and information.
[10] Legislation is pending before Congress to extend funding authorization through June 30, 1975. In the event the pending legislation is not enacted, funding for fiscal year 1973 is authorized by sec. 404(c) of the General Education Provisions Act.
[11] Not less than 10 per centum nor more than 20 per centum shall be reserved for special demonstration projects and teacher training programs carried under the appropriation "Educational renewal."
[12] The 1972 authorization based on straight extension of existing legislation in accordance with sec. 404(c) of the General Education Provisions Act.
[13] Excludes authorizations under the Vocational Rehabilitation Act of 1965; Older Americans Act of 1965; Juvenile Delinquency Prevention and Control Act of 1968; and sec. 707 of the Social Security Act because these legislative programs expire June 30, 1972.
[14] Authority to enter into annual subsidy contracts is subject to approval in appropriation acts, but does not constitute budget authority. Nonadd item. Authorizations are cumulative and remain available if unused.
[15] Authorizations remain available if unused.
[16] Appropriations control the use of contract authority which, if not released in appropriation acts, remains available for subsequent use.
[17] Total estimated cost of authorized projects included in the budget and partially funded on the basis of anticipated contractors earnings.
[18] Includes $9,600,000 for construction of compliance facilities.
[19] Loan guarantees.

THE DAY OF SHAME

Mr. WILLIAMS. Mr. President, on August 20, 1968, troops and support elements of the Soviet Union, Polish People's Republic, German Democratic Republic, Hungarian People's Republic, and Bulgarian People's Republic crossed the frontiers of the Czechoslovak Socialist Republic.

The Soviet-led invasion and garrisoning of Warsaw Pact troops on Czechoslovak soil without authorization from the Czechoslovakian Government and in violation of international law has come to represent a horrifying totalitarian response to crush national sovereignty and the right of national self-determination.

Free men everywhere, and those under the bonds of despotism who yearn for freedom were shocked and outraged by the Soviet invasion and its momentary triumph over reason and human dignity.

The Czechoslovakian people have a long history as a resourceful, energetic, and peace-loving people. Their cultures are among the most glorious, enlightening, and colorful of Western civilization. Czechoslovakians have made outstanding contributions to the arts and sciences and the advancement of Western compassion for their fellow man. Although their land has been a battleground of European wars for centuries, these hardy people and their traditions have survived and prospered. The Soviet invasion and attempt to destroy the national integrity and self-determination of these peoples is repugnant and unconscionable to men and women of every free and truly democratic nation.

Force of arms and ideological intransigence have never successfully destroyed man's thirst for freedom. The Soviet invasion and occupation of Czechoslovakia has violated the fundamental human rights of the Czechoslovakian people, but it can never suppress their aspirations for liberty.

Negotiation, détente, and power realinement in recent international diplomacy have all served to alleviate tension and discord among nations. The United States and the Soviet Union have initiated a long overdue dialog regarding each others' interests and goals. We are seeking agreements on reductions in the deployment of strategic arms, cooperation in outer space and on the ocean beds, and trade. During these negotiations, it is essential that the United States not ignore the enslavement of Czechoslovakia, for there can never be a compromise of the basic interests of the Czechoslovakian people. Their freedom, sovereignty, and the right of self-determination are nonnegotiable. These are fundamental human rights which transcend ideology and selfish national interests of the major powers. As a champion of democracy and freedom, the United States must continue to emphasize in East-West relations the moral imperative for Soviet noninterference in the internal and foreign affairs of the Czechoslovakian people. Our Government must accept this principle as a basic premise in the conduct of our foreign policy. Our democratic heritage deserves our total commitment to this principle.

I urge the continued pressure of world opinion to condemn the Soviet denial of liberty to the Czechoslovakians. The expressed indignation of the American people and free men everywhere at this atrocity will make the Soviet policy of oppression.

On August 21 of this year, we shall unite in calling attention to the "Day of Shame" when the Czechoslovakian people were branded with tyranny for the crime of wishing to be free.

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. KENNEDY. Mr. President, 2 weeks ago a Senate Judiciary Subcommittee held 2 days of oversight hearings on the American Revolution Bicentennial Commission, and last week the Senate had a lively debate on the Commission's authorization bill. In the hearings and debate there was general agreement that the bicentennial should be nonpartisan, noncommercial, and meaningful, and we were repeatedly assured it would be all three. Now the Washington Post has revealed in a three-part series an enormous gap between the Commission's public promises and its behind-the-scenes performance.

Last week we argued for a bipartisanship requirement among the Commission's public members, admitting there had been too much politicizing of the bicentennial under both parties. Others argued there was no evidence of the Commission's having become embroiled in politics. Now the Post's revelations convincingly show that the Commission has been subjected to many intense political pressures on patronage, campaign matters, and even the Vietnam war.

As for commercialism, the Commission heatedly denied at the hearings that charges of commercial taint had any validity. Now the bicentennial papers show massive commercial input into the bicentennial. And the response of the Commission to both political and commercial propositions has been like that of Fielding's maiden:

> He . . . would have ravished her, if she had not, by a timely compliance, prevented him.

The time has come for everyone to stop trying to exploit the Bicentennial Commission for partisan, political, and commercial purposes, and for the Commission to stop giving in.

Finally, behind the facade of assurances that the bicentennial would be serious and meaningful, the stories reveal a fixation on press agentry and pageantry. Historians, among others, are understandably dismayed.

I am glad that these recent discoveries have caused the House to consider an even more thorough investigation of the Bicentennial Commission than we held in the Senate. The additional time

gained during the investigation may also permit the General Accounting Office to complete its examination of the Commission before we act again on the bicentennial. It is now clear that these thorough investigations are essential before any decision is made on whether the Commission should continue and expand, and that the leadership and even the continued existence of the Commission are open to serious question.

Mr. President, I ask unanimous consent that the Washington Post's series of articles on the bicentennial be printed in the RECORD.

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

BICENTENNIAL COMMISSION: DEEPLY INVOLVED IN POLITICS

(By Eugene L. Meyer)

Last Jan. 6, White House communications director Herbert G. Klein wrote a letter to David J. Mahoney, chairman of the American Revolution Bicentennial Commission.

Klein's message was that Dr. J. Max Bond, a black Republican, could play a useful, partisan role in the bicentennial:

"Dr. Bond, an educator who formerly worked at the State Department, has outlined a bicentennial plan he believes would help blacks better understand and relate to the Republican Party. Dr. Bond, who is as pro-Republican as his nephew, Georgia state legislator Julian Bond, is pro-Democrat, might possibly serve as an asset."

Bond, Klein noted, "has been highly recommended by various administration officials." Soon afterward, Bond was appointed to a special advisory panel to Mahoney.

Klein could not be reached for comment yesterday.

A few months later, Mahoney had this to say to the Democratic Party platform committee: "Now, if it were possible for anything in our national life in a political year to be beyond politics, that thing would be the observance of our 200th anniversary. I am convinced that every American would like to see that observance publicly recognized as beyond politics."

Despite such a pronouncement, an examination of private Bicentennial Commission records made available to The Washington Post reveals repeated attempts to exploit the bicentennial both politically and commercially.

The records, numbering hundreds of pages, were obtained by Jeremy Rifkin, national coordinator of a counter group, the People's Bicentennial Commission, and Erwin Knoll, Washington editor of The Progressive magazine, which is running an article based on the documents in its next issue.

The election sometimes plays a key role in how the Bicentennial Commission operates. When women's groups complained that the bicentennial was ignoring them, they found a champion in Perdita Huston Champey, the commission's co-ordinator of women's participation. But instead of making her case through the chain of command, she took her memo to Rita Hauser, an official of the Committee for the Re-Election of the President.

On April 28, Mrs. Hauser, former U.S. representative on the U.N. Commission on Human Rights, shot off a memorandum to Mahoney:

"It is essential to have a program for women that is meaningful coming out of your commission.

"This is important for the election, and will also spare you attacks from the women's groups if you fail to recognize them in a serious way.

"I think you and your staff should give serious consideration to a meeting of the women's groups . . . in order to show them you really are concerned about them."

The meeting was held June 28 and 29 at bicentennial headquarters, three adjoining federal style town houses on Jackson Place near the White House.

Mrs. Hauser could not be reached for comment yesterday.

The American Revolution Bicentennial Commission was created by Congress in 1966 "to plan, encourage, develop and coordinate" the commemoration of the American Revolution bicentennial with special emphasis on the humanitarian and revolutionary ideals of the founding fathers.

It got off to a slow start under President Johnson, who waited several months to appoint the first commissioners, and it was two years before Congress gave it any money.

After Mr. Nixon became President, the original panel was replaced, largely with white, middle-aged conservative Republicans and staunch supporters of the President.

Mr. Nixon also shortened the official observance, originally intending to last until 1987, to a five year period culminating July 4, 1976.

The commission has a 49-member board of directors, 34 of whom are presidential appointees. Of the 34, nine are Cabinet members.

The full commission meets quarterly but as a group, the documents indicate, it has little direct impact on policies. By and large, the decision-making appears to be carried out by a handful of commissioners, White House aides and top level bicentennial staff members.

The Nixon commissioners include Hobart D. Lewis, president of Reader's Digest; James S. Copley, of the Copley Newspapers, with which White House aide Klein was formerly associated; industrialist George Irwin; J. Erik Jonsson, former president of Texas Instruments and former mayor of Dallas; and Clarke T. Reed, chairman of the Mississippi Republican Party.

In mid-1970, Nixon chose Mahoney, 48-year-old president of the Norton Simon conglomerate, as chairman. A self-made businessman, Mahoney had taken three months off in 1960 to work for the Nixon campaign, and contributed $3,000 to Mr. Nixon in 1968.

Mahoney selected as bicentennial director a former business associate from Colgate-Palmolive and a close personal friend, Jack I. LeVant. LeVant, 64, resigned the $38,000 director's post July 31. In a letter among the bicentennial documents LeVant says he was promised "a consulate" assignment if he stayed in his position through the November election.

The documents show that the bicentennial leadership has become deeply involved in political deals with congressmen of both parties who are seeking special treatment and sometimes jobs for relatives or associates.

The bicentennial budget is approved by the Senate and House Interior Subcommittee, whose chairwoman is Rep. Julia Butler Hansen (D-Wash.). Commission strategists wanted her on the commission. The opportunity came with the decision of Rep. John O. Marsh, Jr. (D-Va.) not to run for reelection, creating a congressional vacancy on the commission. (Marsh was later reappointed to another commission seat.)

On Oct. 7, 1970, Arthur E. Burgess, assistant to Mahoney at ARBC, lunched with Mrs. Hansen. "I was Rep. Hansen's guest and the luncheon was just for 'old times sake and home folk,'" Burgess wrote Melbourne L. Spector, who was then bicentennial director.

"At the last minute, however, when she was about to sign the check," Burgess reported, "an officer of the Boeing Aircraft Company, sitting at another table across the room, spotted us and insisted on picking up the check." Boeing is a major employer in Mrs. Hansen's home state.

In a separate memorandum the same day to Spector, Burgess aggressively promoted Mrs. Hansen for the upcoming seat.

"Mahoney and Hansen. What a combination," he wrote. "You'd have the world licked in five minutes. There would be new carpets in one minute; new furniture and decorations in two minutes; a staff car in three minutes, etc. . . .

"I do not think we ever would have any more money worries. Of course we would have to go first class in everything. Nothing second-rate about her."

Mrs. Hansen got the appointment, in February 1971, but the optimism about Bicentennial commission budgets has not entirely been borne out. While the commission's budget was favorably reported from Mrs. Hansen's subcommittee, it has been stalled in the House. The bicentennial is presently operating under a continuing resolution at last year's level. It expires Friday, when the Congress recesses for the Republican convention.

On Nov. 4, 1970, while under consideration for commission membership, Mrs. Hansen told Mahoney in a letter how excited she was about the bicentennial. She added:

"Sometime, I would also like my son to meet you. He is a graduate of Principia in American history and is completing his master's work at the University of Washington in history. Currently, he is working in Washington and completing his master's, I know what a pleasure it would be for him, as a young person and a dedicated history bug, to meet you even for a few minutes."

Mahoney was away, and Burgess responded on Nov. 16: "On Mr. Mahoney's first day here, upon his return, I am sure he will want to meet and talk with your good son. In the meantime, I have talked with Roy (Carlson, Mrs. Hansen's administrative aide) about that and will keep him posted."

In mid-December, 1970, David Hansen, a history researcher at the Interior Department, went to work for the bicentennial commission. He is now special assistant to the commission's heritage committee at an annual salary of $9,053. His employment came to light this month when American Indians complained that the bicentennial commission had sent an unresponsive low-level staff member to meet with them. That official was Hansen.

The disclosure prompted Hugh A. Hall, commission executive director, to write a letter to Sen Roman Hruska (R-Neb.), chairman of the Senate Judiciary Subcommittee that held hearings this month on the bicentennial. He attached a chronology of Hansen's hiring, "lest anyone try to make an issue out of that fact." The chronology, however, omitted mention of Mrs. Hansen's efforts on her son's behalf.

Sen. Edward R. Brooke (R. Mass.), another congressional commissioner, secured the Boston-based job of Northeast regional coordinator of the bicentennial for Georgia Ireland, who for three years was his special assistant.

The appointment was made by Mahoney, over some staff opposition. "I told the chairman of the political consequences as I saw them," then bicentennial director Spector wrote to Dr. R. Lynn Carroll, deputy director for programming. "He (Mahoney) said 'the hell with the politics, I'll handle them'—I advised Jack LeVant (then a bicentennial consultant). Jack didn't sound too happy but said well if Dave says OK—well . . ."

Mrs. Ireland, according to the documents, has worked hard in her Boston office but sometimes on matters seemingly unrelated to the bicentennial.

On May 19, for example, she sent Hugh A. Hall, Jr., deputy director for communications and field services, a list of persons "substantially in agreement with President Nixon's policy in Vietnam . . . in response to your telephonic request." The list consisted of nine names. "These names were hard to come by," she noted.

During debate over the Bicentennial budget in the Senate last Thursday, Brooke said, "This is not a political commission, and I do not think we ought to discuss it in political terms . . . We have been trying to

avoid an aura of politics in the Bicentennial Commission."

Nancy Porter, another former Brooke aide who worked for him for seven years, was appointed to the Commission early this year after a stint on the Bicentennial staff. Miss Porter is national representative of the Girl Scouts.

About the same time that Mrs. Hansen's name was being pushed for a congressional seat on the commission, another vacancy opened up with the resignation of historian Catherine Drinker Bowen, a Lyndon Johnson appointee. In a memorandum to White House aide Brandley H. Patterson Jr. (whose wife, Shirley, is on the bicentennial staff), commission director Spector suggested her replacement by Dr. Richard P. McCormick, a Rutgers University history professor.

The reason, Spector wrote on Dec. 30, 1970, was that Rep. Peter W. Rodino (D–N.J.) "is very interested in the placement of Dr. Richard P. McCormick on the commission. He has also made very clear that any new legislation for ARBC will have very tough sledding in the House Judiciary Committee if this appointment is not made."

McCormick was appointed soon afterward. His membership has been a mixed blessing for bicentennial leaders. In a letter to Mahoney last February, and later widely reported, he complained bitterly that "our decision-making process has not operated well," that it had not been democratic enough.

The predominantly white, middle-aged and corporate membership of the Nixon Bicentennial Commission evoked strong criticism from youth, minority groups and even some congressional Republicans, including Sen. Charles McC. Mathias (R–Md.), who sponsored the original legislation calling for the bicentennial celebration. Last year, Mathias inserted an amendment in the bill expanding the board to ensure that the new commissioners would be more representative.

The amendment, which passed, created some problems for the commission leadership. Because of it, Rep. Bob Wilson (R–Calif.) was unable to secure a full commissioner post for Mrs. Donald Spicer, president-general of the Daughters of the American Revolution. Instead, she had to settle for a seat on the "special advisory panel" with Dr. Max Bond, and others.

"We had submitted Mrs. Spicer's name to the White House for appointment," Bicentennial deputy director Hugh Hall wrote Wilson. "The Mathias amendment to our bill, calling for youth, minorities and ethnic considerations, made it impossible with only eight appointments to satisfy everyone."

Congressmen ask different things of the Bicentennial Commission. Rep. Henry P. Smith III (R–N.Y.), of North Tonawanda, N.Y., wanted official Bicentennial Commission recognition of Rainbow Center, a 12-year old downtown urban renewal project in Niagara Falls.

The $200 million project includes a 400-room convention hotel and 450,000-square-foot retail shopping plaza.

On June 30, 1971, Spector wrote a memorandum of his conversation with Rep. Smith two days earlier. Smith, he said, had called him and wanted a "quid pro quo." "He pointed out to me that he was the ranking Republican on the House Subcommittee No. 2 which handles our authorization legislation. He also pointed out to me that he has been very helpful to us both within the Subcommittee and on the floor. I checked this with (bicentennial legislative liaison officer) Joe Bruno who says this is true. The quid pro quo is our special consideration of Niagara Falls."

On Sept. 13, the Bicentennial staff gave the project a "100 per cent favorable" recommendation, with the added comment: "Recognition of this Rainbow Center project will not cause any embarrassment to the ARBC."

In December, Niagara Falls was officially designated a Bicentennial City by the commission and accorded the use of the official bicentennial symbol, three abstract red, white and blue concentric stars.

The recognition was accorded despite a negative reaction from commissioner George E. Lang. "I looked at 't with a huge magnifying glass," he had told the commission's executive committee. "I couldn't find a speck of bicentennial in here. It is purely commercial."

HERBERT G. KLEIN'S MEMORANDUM TO THE CHAIRMAN OF THE BICENTENNIAL COMMISSION

THE WHITE HOUSE,
Washington, January 6, 1972.

Mr. DAVID J. MAHONEY,
Chairman, Bicentennial Commission, Washington, D.C.

DEAR DAVE: Dr. J. Max Bond, a staunch Republican who happens to be black, has been in communication with Stan Scott, an assistant in my office, on the possibility of playing some role in the nation's Bicentennial Celebration.

Dr. Bond, an educator who formerly worked at the State Department, has outlined a Bicentennial plan he believes would help blacks better understand and relate to the Republican Party. Dr. Bond, who is as pro-Republican as his nephew, Georgia State Legislator Julian Bond, is pro-Democrat, might possibly serve as an asset.

Dave, I would appreciate your consideration in taking a few minutes to review Dr. Bond's proposal since he has been highly recommended by various Administration officials.

With best wishes,
Sincerely,

HERBERT G. KLEIN,
Director of Communications for the Executive Branch.

RITA HAUSER'S MEMORANDUM TO THE CHAIRMAN OF THE BICENTENNIAL COMMISSION

APRIL 28, 1972.

Memorandum for: Mr. David J. Mahoney.
From: Rita Hauser.

Perdita Huston was in to see me about the enclosed.

It is essential to have a program for women that is meaningful coming out of your Commission. This is important for the election and will also spare you attacks from the women's groups if you fail to recognize them in a serious way.

I think you and your staff should give serious consideration to a meeting of the women's groups listed in order to show them you really are concerned about them.

Best to you.

RED, WHITE, BLUE—AND GREEN

(By Eugene L. Meyer)

The task of our Bicentennial Commission is not to arrange a big birthday celebration or to set up an exposition displaying our wares . . . The American Bicentennial must make us conscious of our purpose, aware of our mission, thoughtful about our ideals.—David J. Mahoney, April 27, 1972.

David J. Mahoney is chairman of President Nixon's American Revolution Bicentennial Commission. He is also president of Norton Simon, Inc., a firm that owns Canada Dry, Hunt-Wesson Foods and Somerset Importers, Ltd., among others.

Last winter, Leon Glick, then sales representative for ARA Services' division selling food to arenas, stadiums and race tracks, became interested in the Bicentennial, shortly after Mahoney unveiled a proposal to build 50 Bicentennial parks, each of which would include food concessions.

On March 6, Glick wrote not to the Bicentennial Commission but to James Healy, Canada Dry division manager in Kansas City, with a request that he bring another enclosed letter to the "personal attention" of Irene Mack, Mahoney's private secretary at Norton Simon in New York.

Healy sent the letter, addressed to Mahoney, on to Mrs. Mack. On a separate slip of paper he wrote: "ARA is a fine company and could be a big user of Hunt, Somerset & Canada Dry products . . ."

The letter from Glick to Mahoney said, "I feel certain that our organization can be of great assistance in making the Bicentennial Celebration an event of great historical importance . . . An efficient and professionally handled food operation will be vitally essential to assure success of the Celebration."

This incident and others like it—apparent attempts to commercially exploit the 200th anniversary of the American Revolution—were culled from hundreds of documents from Commission files made available to The Washington Post.

They were obtained by Erwin Knoll, Washington editor of The Progressive, and Jeremy Rifkin, national coordinator of the People's Bicentennial Commission, a group formed last year to offer alternative programs during the commemoration period.

Two months after the ARA correspondence another Bicentennial proposal was received by a Norton Simon official, Robert Glickman. Joyce Leanse, a consultant on senior centers to the National Council on the Aging, proposed that the elderly be put to work manufacturing Bicentennial souvenirs.

Glickman, on May 23, replied that the idea "sounds intriguing and I've sent it directly to Dave Mahoney's office where I know the matter will receive prompt attention." A note was added at the bottom of a copy sent to Mrs. Mack:

"Irene: As I mentioned to you, Joyce Leanse is the wife of Jay Leanse who is head of the Price Commission's office of Price Exceptions and someone with whom Don Surdoval (Norton Simon comptroller and director) has been in contact."

Mrs. Mack sent the proposal along to Harry C. Allendorfer Jr., a retired Navy Captain and director of the Bicentennial Commission executive secretariat.

"Capt.," she wrote on a separate sheet, "Please treat this with TLC. Norton Simon Inc. needs the Price Commission's good-will. Thanks. Irene."

In testimony Aug. 1 before a Senate Judiciary Subcommittee hearing, Mahoney denied as "totally untrue (the) charge that somehow ARBC is tainted with 'commercialism.' The only ARBC program that could be considered commercial is the Bicentennial commemorative medals program that was authorized by the Congress."

Sen. Charles McC. Mathias (R-Md.), who sponsored the legislation creating the commission but since has turned critic, was surprisingly sympathetic. He told Mahoney that the Bicentennial chairman was "oversensitive" to the commercialism charge. "I don't think ARBC is subject to criticism on that score."

Mathias was more critical of a Commission request that Congress grant it power to make contracts without going through normal government procedures of open and competitive bidding. Mathias said he foresaw "considerable danger of conflict of interest in a project as wide as this."

Mahoney and Eugene J. Skora, Bicentennial general counsel, assured Mathias that similar powers had been granted other commemorative panels in the past, and they promised that the authority would not be abused.

Commission spokesmen frequently point out that only a handful of projects have so far received official Commission endorsement, carrying with it permission to use the Bicentennial emblem. These include the Denver Olympics, Mt. Rushmore, a Niagara Falls renewal program and a campaign to eradicate sickle cell anemia.

But the Commission's possible role as "the great endorser" of commercial ventures remains unsettled. "I recognize it's a knotty problem," Mahoney told a press conference

July 20. "Philosophies differ. It's not settled yet by a long shot."

It is not surprising that manufacturers want to link their products to a major commemoration such as the Bicentennial. Ford, for example, is selling red-white-and-blue color-coded cars with American flag emblems. Uncle Sam with a John Wayne voice has hawked them over television, and Ford suggests that 1972 car buyers drive to Philadelphia in 1976.

Yet, Mahoney himself, has decried "cheap commercialism" and "commercial rip-offs" in connection with the observance as demeaning and undignified.

Power to allow or prohibit the use of the official Bicentennial emblem is supposed to be the Commission's assurance of controlling quality. But it is a fragile check.

While official policy in commercializing the Bicentennial remains uncertain, unofficially, Commission members and staff have been working closely with big corporations—both initiating and receiving proposals that would capitalize on what Mathias and others say should be a period of sober reflection and national reassessment.

Dr. H. Lynn Carroll, the Commission's deputy director for program development, wrote a representative of Aero-Mayflower, the trucking firms:

"Let me state quite candidly that involvement on the part of . . . a firm should, from our point of view, be self-serving as well as a manifestation of civic responsibility. It appears to me that we cannot expect continuing commitment through the Bicentennial Era unless the firm itself sees some particular value, not only to the Bicentennial, but to that firm as a business undertaking."

That theme—the Bicentennial as good for business—appears over and over again.

Honor America Day, Inc., chaired by J. Willard Marriott, proposed last March a prime time television show for this past July 4, entitled, "Who Stole the Spirit of '76?"—a light detective story, with name stars, ending in a ghostlike appearance of Uncle Sam as the mock villain. A script of the show, which was not aired, was sent March 23 to the Bicentennial Commission.

Five days later, Daniel S. Buser, Bicentennial communications director and the major contact on a wide variety of proposals, wrote a memorandum calling the show "probably the best TV script submitted since I have been with ARBC." Buser had some suggestions for sponsors.

Marriott could advertise "the fact that all Americans are welcome in Hot Shoppes and (show) all kinds of people of different race, color and creed involved in their commercial," Buser said.

Canada Dry, the Norton Simon-owned company, might also show "their present commercial showing all the faces of America," he suggested.

"What I am saying is that I don't think you can sell cars, dog food, cat food, as such," Buser wrote. "It certainly can sell all kinds of American people who would buy dog food, cat food, cars and even a Marriott chain."

(Assisting Marriott as a consultant is George Lang, former vice-president of Marriott's Restaurant Associates and chairman of the Bicentennial's Festival USA, the celebration aspect of the anniversary. "I shy away from any kind of entrepreneurs," Lang wrote a fellow commissioner. But in a letter to Bicentennial chairman Mahoney last Dec. 13, Lang, the author of a newly published book, *The Cuisine of Hungary*, wrote:

"Final reminder: Redbook, McCall's and Hobe Lewis in connection with *The Cuisine of Hungary*."

McCall's and Redbook are owned by Mahoney's firm, Norton Simon. Hobart Lewis is president of Reader's Digest and vice-chairman of the Bicentennial.

The letter was filed with a note penciled in the margin: "Review—not pressing."

On April 6, Buser wrote Zenon C. R. Hansen, president of Mack Trucks, "I would enjoy having the opportunity to . . . discuss how Mack Truck might take an active role in the Bicentennial celebration. I know how much you love this country and how much you have done for it. It is with that thought in mind that I make the suggestion that . . . we get together and go over some of the great opportunities that are surfacing through the ARBC."

Buser added: "My hat is off to you because every time we turn around, we see one of those powerful American Mack Trucks with their red, white and blue sparkling in the sunshine."

On June 26, Bicentennial program aide Lynn Carroll and Bicentennial design director Jack Masey met with officials of Hallmark Cards in Kansas City, Mo.

"Your prepaid tickets will be at National TWA counter," Hallmark official Isaac Jonathan wrote Carroll on June 20.

The attached agenda said the purpose of the visit was "to expose top Bicentennial creative people to Hallmark and its products" and "to determine between now and 1976 what products we . . . would like to produce and promote which would have some tie-in theme with the overall American Revolutionary Bicentennial."

Baskin-Robbins Ice Cream has also been in touch with Bicentennial officials. On Jan. 11, Buser sent Karen Trudnich, the firm's manager of publicity and public relations, a list of suggestions: start a Great Americans Ice Cream series, name a special ice cream for each (the Betsy Ross Twirl—red, white, blue; The George Washington Cherry Tree, etc.).

After the Bicentennial parks plan was unveiled, Buser wrote Miss Trudnich, "People will be eating ice cream in every State and I am sure there will be some need for ice cream in every Bicentennial Park."

By last month, Baskin-Robbins had moved into the Bicentennial market, advertising "America's Bicentennial Ice Cream." "Start Celebrating America's 200th Anniversary With Us," an advertisement beckoned, with Yankee Doodle Double Fudge Marble, Mount Vernon Cherry Pecan, Valley Forge Rum Ration and other flavors harking to America's revolutionary heritage.

L. G. Balfour Co. has started manufacturing "Official Bicentennial Seal Jewelry," utilizing the Commission's red-white-and-blue star-shaped emblem on charms, bracelets, tie tacks, cuff links and tie bars. Balfour began soliciting orders late last year.

The use of the emblem by Balfour has not been approved by the ARBC. "This appears to be a clear violation of the law," Bicentennial state coordinator Charles F. Goodspeed wrote in a memorandum last Feb. 1. However, no action was taken.

Bicentennial officials have had extensive correspondence with Owens-Corning Fiberglas, which has produced a set of 20 place mats with an 18th century motif. It is known as the "Revolutionary Collection" and is said to reflect the "fascinating colonial textile folk craft and needlework heritage." The product received a full-page spread in the Bicentennial Commission's July newsletter.

Inscribed on the placemats are Bicentennial emblems again without permission, according to a June 16 memo by deputy director Hugh A. Hull, Jr.

Naturally interested in linking their products to the Bicentennial theme—with or without official endorsement—entrepreneurs have informed the Commission of various schemes.

Harvey Famous Name Comics, Inc., wants to produce a series of special American Revolution Bicentennial booklets, possibly starring Casper the Friendly Ghost in "Red, White and BOO."

Meyer Jacoby & Son, Inc., of New York, wants to form a "1976 American Bicentennial Wig & Hairgoods Corporation."

Communications Resources, Inc., of Costa Mesa, Calif., has a plan for a major company to sponsor a three-year "Spirit of America" program at 100 major regional shopping centers. The program includes Braverman Production's history of the United States in three minutes and the collecting of over seven million signatures on "the Pledge of Allegiance honor scroll—a giant roll of paper."

Leo Morrison, a New York promoter, suggests a $100-a-ticket ball early in 1976 at Washington's Mayflower Hotel—and in "every key city at various times to create interest and raise funds for their local functions."

The guests would dress in 18th century costumes. "I can arrange to secure old coaches . . . owned by friends of mine," Morrison promises, "to bring the guests to the ballroom. This would be very colorful for the press and TV. It would give a little punch to our anniversary in 1976."

Or, instead of punch, Bicentennial celebrants might like some tea—furnished by Thomas J. Lipton, Inc.

Alfred Stern is a consultant to Lipton tea and also to the Bicentennial Commission. According to a memorandum on a June 2 Commission field coordination meeting, "This man is a controversial figure in some circles and should be cautioned against conflicts of interests."

Last January, Stern prepared a proposal for Lipton to commemorate the Bicentennial of the Boston Tea Party on Dec. 16, 1973.

Stern rejected the obvious, a re-enactment of the event, as "corny" and "contributing to harbor pollution." Instead, he proposed that Lipton sponsor, within a tight $32,687 budget, a "gala high tea party and reception" for 200 "bluebook" guests at Boston's historic Faneuil Hall.

Such a "posh establishment affair," Stern noted, would exclude "the average man which thematically was not the essence of the Revolution and its Bicentennial."

To soften criticism, Stern suggested that Lipton contribute an unspecified amount to restore a waterfront park ("any such contribution should result in a permanent identifying plaque") and give $1,973 each to the Massachusetts Revolutionary War Bicentennial Commission and the Massachusetts Historical Society.

"While TJL's underwriting sponsorship . . . must eschew direct commercial and/or merchandising exploitation," Stern wrote, "there's little doubt that effective identification will enheance TJL's institutional, community and marketing (English Blend Tea) programs . . ."

Stern has a few things to say about the Bicentennial Commission, too. He says it hasn't accomplished very much on its own and probably won't. "The likely role of the ARBC will be that of 'the great endorser' of projects originated and implemented by others and this may well apply to the Tea Party Project."

As paid Bicentennial Commission consultant, Stern is in a position to work for endorsements.

"One of the sectors of American life that presents a major challenge for me, as well as the Commission," David J. Mahoney wrote last March, in a letter soliciting more corporate involvement in Bicentennial plans, "is arousing interest in, and developing the potential of the Bicentennial for the business community of America."

From the record of business involvement to date in the nation's Bicentennial, that would seem to be the least of Mahoney's worries. As Richard F. Pourade of the Copley newspapers and the Bicentennial Communications Committee noted last month in a letter to commission deputy director Hugh A. Hall, Jr., "Commercially, anyway, the Bicentennial seems to (be) moving along."

BICENTENNIAL BUDGET BILL WITHDRAWN

(By Eugene L. Meyer and Stephen Green)

A bill that would authorize a new $6.7 million budget for the American Revolution Bicentennial Commission was suddenly withdrawn from consideration on the House floor yesterday following disclosures of the apparent use of the Bicentennial for political purposes.

Rep. Emanuel Celler (D-N.Y.), chairman of the House Judiciary Committee, who requested that the bill be withdrawn, immediately ordered a full-scale investigation of the activities of the Commission.

"The Commission has spent a lot of money with no concrete results, except for certain favors to certain individuals, including members of the House and Senate," he said.

Celler, whose committee is responsible for the bill, said he decided to withdraw the measure after an article in yesterday's Washington Post about political activities involving the Commission.

Celler said the investigation will be undertaken by a House Judiciary Subcommittee headed by Rep. Harold D. Donohue (D-Mass).

"I'm not sure what we're going to investigate yet," said Donohue. "I haven't read the article yet, and I'll have to talk about it with Chairman Celler."

Rep. Fred Schwengel (R-Iowa), a persistent critic of the Bicentennial Commission, charged that the House leadership withdrew the bill because it feared the disclosures would lead to its resounding defeat on the floor.

However, a spokesman for Speaker of the House Carl Albert (D-Okla.) said the measure, passed by the Senate last week, was withdrawn only because of Celler's request, minutes before debate was to have begun.

The Post article was the first of three written after an examination of private Commission documents. Those documents indicated that Nixon officials had sought to use the Bicentennial to aid Republican election effort. It also reported that the Commission had hired a relative of one House member, provided two jobs for aides of Sen. Edward R. Brooke (R-Mass.), and done special favors for other congressmen.

Celler said he expected the investigation to be completed in September. "Then, my committee will decide what to do with the bill."

The Bicentennial Commission has been operating at last year's budget level under a continuing resolution which expires Friday. Congress is expected to act before it recesses Friday on a continuing appropriations resolution that would permit the Commission and other federal agencies to continue spending at present levels.

Before the bill was withdrawn, Schwengel had been prepared to offer an amendment that would have the Commission select its own chairman and vice-chairman, who are now appointed by the President. "The Commission has been stymied by ineffective leadership which it had no voice in choosing," Schwengel said.

Schwengel called for the resignation of Bicentennial Chairman David J. Mahoney. "In my book, Mahoney's got to go," he said in a telephone call to The Post.

In a related development yesterday, Dr. J. Max Bond, who was termed a "staunch Republican" and recommended by White House Communications director Herbert G. Klein for a partisan role in the Bicentennial, said he is a registered Democrat who plans to work for the election of Democratic presidential candidate George S. McGovern.

Bond further charged that the Bicentennial Commission is not involving blacks in the commemoration. He cited his appointment to a special advisory panel to Bicentennial Chairman David J. Mahoney which has never met.

Klein, in a Jan. 6 letter to Mahoney, described Bond as an educator and "as pro-Republican as his nephew, Georgia legislator Julian Bond, is pro-Democrat. . . (He) has outlined a Bicentennial plan he believes would help blacks better understand and relate to the Republican Party."

Bond acknowledged that he had submitted such a plan, but not because he was pro-Republican. "I believe blacks have to be involved" in both parties, he said. "I was trying to get blacks involved in the Bicentennial."

Bond, 69, said his father was a Republican and he himself once voted for President Eisenhower. "But I'm a registered Democrat who worked to elect Hubert Humphrey, and am about to give up everything to elect McGovern," he said.

On Klein's letter to Mahoney, Bond said, "I don't think they did their homework on me.

"I've never been to a (bicentennial) meeting," he continued. "They said you're a member of some panel. But I never got any notice of a meeting. I expected that because I felt it would be a political thing." Dr. Bond was appointed to the panel on May 19.

Also yesterday, Rep. Julia B. Hansen (D-Wash.) denied that she had acted on behalf of her son, David, to get him his present $9,053 job as special assistant to the Bicentennial heritage committee.

"I have warned him over and over again," she said, "never to take a job in Washington, D.C. because you're crucified. You can never have any freedom here. He was asked to come over from the Interior Department. I have never asked for a job for him."

The Post article reported a letter Mrs. Hansen wrote to Bicentennial Chairman Mahoney about the Bicentennial and saying she would like her son to meet him.

DILUTING THE SPIRIT OF '76

(By Eugene L. Meyer)

"Our burgeoning Bicentennial efforts would have pleased John Adams," the lead article in the July Reader's Digest declared as it described plans for what it said "may be the biggest, best and most festive party the world has ever seen."

John Adams might have approved of the "festive party" being staged by the American Revolution Bicentennial Commission, but many historians don't.

One of them, Robert K. Webb of the American Historical Association, said yesterday there are a few signs that the commission may change but that "almost everything that has happened so far has not been intellectually respectable."

Webb, as acting executive secretary of the Association, testified two weeks ago before a Senate subcommittee that "many historians I know wish that the years 1975 and 1976 could be made somehow to go away, to spare us the meaningless rituals and rhetoric and one after another display of irrelevancy.

"As a nation we are old enough that fun and games alone should not suffice to make a birthday," he said, and he asked that some regard be given to "intellectual content beyond the most simple minded myth."

Examination of confidential bicentennial commission papers shows a repeated concern for promoting fun and games, and an apparent attempt to avoid what most historians would consider "intellectual content."

The papers were given to The Post by Jeremy Rifkin, national coordinator of the People's Bicentennial Commission, a counter group sponsoring alternative commemorative programs, and Erwin Knoll, Washington editor of the Progressive magazine.

Among the documents are two that describe plans to promote the Reader's Digest July article, which apparently was part of an unpublicized "Bicentennial awareness" program to sell the American people on a commemoration invoking old-fashioned patriotism.

The article, entitled, "Ring Out, Liberty Bell," was written by Robert O'Brien, a senior editor of Reader's Digest. Although not identified as such in the piece, O'Brien also is a member of the Bicentennial Communications Committee. Hobart D. Lewis, president of Reader's Digest, is vice chairman of the Bicentennial.

On June 7, before publication of O'Brien's Reader's Digest article, Bicentennial deputy director Hugh A. Hall Jr. lunched at New York's Press Box Restaurant with O'Brien and Charles Pintchman, the magazine's public relations man, to discuss promoting the piece. According to Pintchman's memo of the meeting:

"Small town papers will receive proposed editorial prepared by Industrial news review, editorial service used by RD."

O'Brien "will ask Hobart Lewis about sending personalized letters (with complete advance copies of July issues, if available) to selected White House staff members, and also to Frank Shakespeare," director of the United States Information Agency.

"RD will send advance copies of articles to all members of Congress, with covering note that will include suggestion that Congressman may want to quote from article if he is making a July 4th speech.

"HH (Hugh Hall) will see that article is read into Congressional Record by friendly Congressman, hopefully accompanied by some poignant praise for RD and RO'B."

A few months before, in confidential memorandum to Jack LeVant, who was then Bicentennial director, Hall spelled out the "communications effort underway (soft-sell) . . . to substantially increase Bicentennial awareness."

According to the memo, the communications staff had been in touch with Ringling Brothers, Barnum and Bailey, the Miss America Contest, the American Junior Miss Program, the Orange Bowl Parade, the Tournament of Roses in Pasadena, Florists' Transworld Delivery, McDonalds and others. Missing were any events of a noncommercial nature of specific importance to blacks, youth, women, American Indians and other groups who have complained of being left out of the Bicentennial.

In an added note to Daniel S. Buser, Bicentennial communications chief, Hall said without providing an explanation, "I suggest we keep this information carefully guarded, or, as you know, we will blow the whole ball game."

As David J. Mahoney, president of Norton Simon and chairman of the Bicentennial, defined the commission's role to a Senate Judiciary Subcommittee earlier this month:

"The Commission is not an action agency to carry out projects of ecological improvements. The Commission is not an agency to find a cure for cancer or heart ailments. The Commission is not an agency for social action, civil rights or public welfare.

"The Commission's primary function as determined by the Congress, is to encourage and coordinate the individual efforts of states, communities, patriotic and service organizations, historians and others . . ."

James S. Copley, head of Copley Newspapers and chairman of the Bicentennial communications committee, cautioned Mahoney last fall, "I don't think that the Commission will be able to listen to all groups who want to appear before it. We could become a sounding board for a debate which could range far beyond our commitment."

The 1966 Act of Congress creating the Commission said its mission was to plan, encourage, develop and coordinate the commemorative programs, with special emphasis on the ideals of the American Revolution.

Not everyone agrees with the Mahoney-Copley interpretation of the Commission's mandate.

The Commission's youth task force, convened last year by John D. Rockefeller III at Mahoney's request, quit last February in protest of what it called the panel's "sterile, commercial exploitation" of the Bicentennial.

"Your Commission represents no one in

this country," the task force charged. "It is composed like the exclusive social club that it is of the white and the middle-aged from the worlds of business, government and the professions."

Then, turning to what it saw as the Commission's dominant Bicentennial theme, the group said, "Awe and honor do not feed the hungry, erase racial prejudice, save our cities, clean our earth or keep our armies out of war. . . . We feel that the only meaningful way to celebrate the two hundredth year of our nation is finally to achieve, not commercially exploit, the original goals of the American Revolution."

The historians, like Dr. Webb of the American Historical Association, also view the present Bicentennial Commission's direction with alarm. But they see a glimmer of hope in the appointment early this year of Dr. Richard P. McCormick, Rutgers University history professor.

McCormick was largely responsible, the historians say, for the endorsement by the Bicentennial Commission this May of a historic records preservation program. A bill to create and fund a National Historic Records Commission is expected to be introduced in Congress soon.

Publicly, the Commission has avoided taking positions—liberal or conservative—on almost everything. It also has avoided visible involvement with corporations who want to link their products to the Bicentennial. Mahoney has decried such "cheap commercialism." And, under pressure from Congress, the Commission's membership has been increased and broadened to encompass more minority groups.

But the documents indicate that the full 49-member Commission, which meets quarterly, has little impact on the setting of policy or the tone of the emerging Bicentennial. They illustrate instead that such matters are largely decided by a handful of staff, White House aides and the Commission's executive committee.

On July 17, for example, White House aide Leonard Garment wrote Chairman Mahoney of a proposal for a Freedoms Study Center, to be located in Indiana. One of the chief sponsors is Indianapolis Republican Mayor Richard G. Lugar.

Lugar is scheduled to be one of the keynote speakers at next weeks' Republican National Convention in Miami Beach.

"We have a very friendly relationship with Mayor Lugar," Garment informed Mahoney, but requesting more information. "Please have someone make a friendly and prompt call and evaluate this on its merits . . . Then let me know your conclusion," Garment wrote.

The Freedoms Study Center, according to the proposal, would "provide a form for the true meaning of the American Revolution," the foundation for which is a so-called "Declaration of Nationalism" that says in part:

"We mean to defend the citadel; we mean to make America the center of the ultimate resistance to the evil which is devastating the world; more than that, more than the center of resistance, we mean to make Her the center of resurrection, the source of the energies by which men who believe as we do may be liberated, and the lands that are subjugated be redeemed, and the world we live in be purified and pacified and made free once more."

Another proposal went to Mahoney on July 24 from Natalie Wales Hamilton, president of a group called The Committee to Unite America, Inc.—"For America."

Mrs. Hamilton introduced herself as "a friend" of DeWitt Wallace, founder and co-chairman of Reader's Digest. "Herb Klein at the White House will also be glad to tell you, I am sure, of their interest in the work of this organization." Klein, White House communications chief, is also on the Bicentenial communications committee.

The purpose of "For America," according to its literature, is to create a "nationwide network of patriotic units . . . to serve as the rallying point and clearinghouse in each community for responsible and dedicated patriotism."

Among its programs: "Publicize the fact that the United States, now the target of vicious smear campaigns, is the world's greatest moral power and bastion of freedom," and "recognize the relentless danger of international communism."

Mrs. Hamilton described "For America" as a program "in connection with the Bicentennial" and ask to meet with Mahoney here on Aug. 3. Mahoney could not see her that day; instead, she met with Harry A. Allendorfer, director of the Bicentennial executive secretariat. Allendorfer, a retired Navy captain, was said by a Commission source to be enthusiastic about the program. No action on it has been taken yet.

Bicentennial staff members also screen films and television shows with the Bicentennial in mind.

On June 23, 1971, F. Duke Zeller, Bicentennial news bureau chief, wrote a memorandum on "Continental Congress of '76," a television show aired by KNBC in Los Angeles. Zeller, former press secretary to former Sen. George Murphy (R-Calif.), had not seen the show but had talked to someone who had.

"The politics of the show were definitely left of center," he wrote in a memo. "Discussions between Franklin and Jefferson were used to back up the idea that the Constitution was a very temporary, expedient document and meant to be changed (an obvious lot of propaganda)."

According to the memo, the show included "such non-germane subjects" as the war, the abolition of the electoral college and the Berkeley City Council.

Last November, Bicentennial staffer Cathy Farrell dashed off a memorandum on a proposed joint Heritage-Communications panel. She opposed it, arguing instead that all historical films should go through the communications committee headed by publisher James S. Copley.

Miss Farrell also rejected for inclusion on the proposed panel Michael Wadleigh, producer of "Woodstock" and another unreleased film on the life of George Washington, which he had been trying to sell to the Commission.

"I feel we might as well be realistic" she wrote, "and see that his 'all hung up on the subject of making social-and-political commentary films, to try and change people's values' would be controversial for Commission endorsement."

Such proposals to the Bicentennial Commission and the Commission's response are often closely guarded secrets, the documents indicate.

Many of the Bicentennial papers made available to The Post bear such labels as "confidential," "extremely confidential" and "eyes only."

Until May, even the Bicentennial Commission meetings were held in secret, with no press coverage allowed. Even many of the Commissioners were left in the dark.

After a proposal to build 50 Bicentennial state parks was put to the full Commission and the public last February, with the Bicentennial's implied endorsement, several Commissioners complained that they were neither briefed nor consulted beforehand.

"To have a proposal of such magnitude sprung on us in such a manner was demeaning," Rutgers University historian Richard P. McCormick wrote Mahoney. "How could we be expected to exercise responsible judgment under such circumstances? . . . We must be aware that our decision-making process is not operating well. In our full meetings, we listen to many 'presentations,' engage in inconclusive discussions, rarely adopt resolutions on major policy issues. We do not receive detailed financial reports . . .

"We are aware that there is an Executive Committee, but we never receive minutes of the meetings of that Committee, and the reports of its actions at the full Commission meetings are desultory . . ."

Complained Rep. Lawrence G. Williams (R-Pa.), another commissioner, at Senate hearings this month:

"With the Executive Committee making the decisions, the role of the Commission is a most minor one . . . The American people, comprised of minority groups, ethnic groups, immigrants, women, the people who make up and have helped form these United States have very little to do with the decisions made by the Executive Committee . . .

"When you attempt to obtain information about a particular item from the appropriate people at the ARBC, it takes days for them to get the information to you, and you are always referred to the Director to verify the information. This totalitarian effort has to stop."

And back in March, Tuskegee Institute president Luther H. Foster, then the only black public member of the Commission, wrote Mahoney that he was troubled by the "elitism" of the Bicentennial.

"Occasionally, I am encouraged by sporadic efforts to reach young people or listen to minority groups 'sound off' on their views of ARBC possibilities," he wrote. "These seem to end up more as gestures than as genuine . . .

"Recently, I suggested names of five able black professionals in the communications field . . . I now find that these persons were invited to serve on a Minority Advisory Committee to the main Communications Panel. I had no idea these persons would be relegated to this . . . status . . .

"From what I see and hear at ARBC meetings, I do not feel that this situation is likely to change—even when the Commission is enlarged . . . I don't want to seem a 'prophet of doom,' but unless there are major changes in emphasis, more financial support, and a wider sense of involvement by citizens, I believe the 1976 activities will be deleterious rather than beneficial."

The People's Bicentennial Commission is a shoestring operation self-described as part of the "Red-White-and-Blue Left" and described, in a letter by publisher Copley to Chairman Mahoney, as "our enemy." Last spring, it tried to pry open the Bicentennial. The lever it was attempting to use was the Freedom of Information Act.

The People's Bicentennial request to see transcripts of Commission, Executive Committee and Communications Committee meetings precipitated an internal crisis at the Bicentennial offices.

On March 31, Eugene J. Skora, Bicentennial general counsel, recommended in a memorandum that "the seven transcripts be reviewed to isolate questionable material—i.e., that which could be embarrassing or that which comes within any exemptions of the Act."

White House aide Garment was consulted. On April 3, he wrote the Bicentennial director, "Hold back as little as possible, consistent only with advice from the responsible officials in the Department of Justice.

"In the future," Garment said, "if you and Dave (Mahoney) are concerned about the privilege of Commission meetings, you may want to operate without transcripts; they may be convenient to the staff but they are an invitation to the invasion of that privilege."

Eventually, certain portions of the requested transcripts were made available to the People's Commission, while others were not.

The problem of the democratic process inside the Commission has been a difficult one for Bicentennial leadership.

Jack I. LeVant, an old friend and business associate of Chairman Mahoney, resigned his post as a Bicentennial director on July 31. He explained the problem in an "eyes only—confidential" letter to Mahoney last Jan. 25.

Describing himself as "disturbed all evening," LeVant sat down to write at 3 a.m. His immediate concern was a proposed White House Bicentennial task force, which he saw as a threat to the Commission's authority. He also had some general thoughts:

"For the ARBC to be the success it can requires that it must be a one-man show—the Director must have full and complete authority with the full sanction of the President. Then and only then will his staff, aides and those below click heels and see that his (the President's) wishes are carried out.

"The present Commission structure must be defanged. It should be only an advising or consulting group. They contribute nothing constructive except use up time, chairs, food, booze and expenses for traveling."

The Bicentennial LeVant wrote, offers "the greatest opportunity Nixon, the Party and the government has as a beacon of light for reunification and light within the nation and with the world."

When LeVant resigned, Mahoney described the man he had personally selected to run the Commission as a "scapegoat" who had the right ideas but wouldn't be pushed around.

O'BRIEN DEPLORES BICENTENNIAL ABUSES

Lawrence O'Brien, national campaign chairman of the McGovern for President Committee, issued a statement yesterday "deploring" political and commercial uses of the American Revolution Bicentennial.

"The continuing revelations about the commercial and political uses of the American Bicentennial by the Nixon administration are a source of deep distress to American citizens of all persuasions," O'Brien said.

"Speaking as an American citizen, I can only deplore these developments and I strongly urge President Nixon, personally, to set the matter right without further delay."

Also yesterday, Sen. Charles McC. Mathias (R-Md.) objected to being described in yesterday's editions of the Washington Post as "surprisingly sympathetic" to the commission chairman on charges that the Bicentennial is tainted with commercialism.

Mathias was quoted as saying that Bicentennial chairman David J. Mahoney was "oversensitive" to a charge of commercialism. The senator, who has been critical of the commission, pointed out that his remarks referred only to one aspect of the Bicentennial program. He said he was reserving comment on the commission at large pending an investigation being made at his request by the General Accounting Office.

THE AMERICAN REVOLUTION BICENTENNIAL CELEBRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Oklahoma (Mr. HARRIS) and several insertions dealing with the bicentennial celebration.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR HARRIS

BICENTENNIAL DESIGNED TO BE CELEBRATION OF, BY, AND FOR THE RICH AND WEALTHY

Mr. President, the people of America and this Congress have finally been exposed to some of the plans of the American Revolution Bicentennial Commission—a ballyhoo to congratulate the status quo, promote corporate rip-off of the consumer, and further tighten the corporate and wealthy hold in America.

The *Washington Post* has lifted the cloak of secrecy which has been surrounding the plans of the ARBC. Published concurrently with the *Post's* series of articles is another account, by the *Progressive* Magazine, of the ARBC's exploitation of the 200th anniversary celebration. Both of these publications are to be commended for bringing the outrageous conduct of the ARBC to the attention of the public.

What I have read in these past three days is appalling!

As we approached the bicentennial era, it was justifiably expected that the American government would begin planning to celebrate this country's anniversary. With the best intentions, Congress considered and passed legislation creating the ARBC. I wish to give recognition to our colleague, the distinguished senior Senator from Maryland, Mr. Mathias, whose long standing interest and untiring work on this project deserves much credit. However, I don't believe that he or the rest of Congress ever dreamed of the misuses and boondoggles which now seem to be apparent in the administration of the Commission.

We have now learned of involvement of corporate interests in elaborate plans of commercialism surrounding the celebration. Reports and correspondence at the ARBC outline plans to exploit the idea commercially with everything from birthday cakes and ice cream, comic books and tee shirts, to a "tea party" planned at Faneuil Hall in Boston for "200 distinguished guests . . . the bluebook of Boston and Massachusetts leadership." The planner of this gala shows only a twinge of self-consciousness when he adds post scriptly, that "The Faneuil Hall event will unquestionably be a posh establishment social affair, excluding the average man, which thematically is not the essence of the revolution and its bicentennial."

ARBC's chairman, David J. Mahoney, unabashedly estimated that the celebration will gobble-up some $5 billion—that's billion, not million—in federal monies alone, when he testified before a Senate committee last week. This $5 billion price tag does not include what will surely be additional billions of tax monies from state and local governments.

If asking the American taxpayers to foot the bill with billions of dollars of tax money to have themselves wooed into a euphoric celebration of the status quo isn't enough, the corporate interests will ripoff the American citizen again with their trinkets and "goodies," all in the name of the American free enterprise system. You can bet that not one dime of the public and private money poured into this planned theatrical sham, will be used to tell the ordinary taxpayer that they are indeed footing the bill for a bonanza of huge profits to the very corporations who have tax loopholes to get an easy ride in this country by paying very little, if any, taxes themselves.

But the administration and its fat cat friends aren't waiting until the celebration starts to reap their benefits. The ARBC is using the bicentennial now for the re-election of Richard Nixon. It is doing its work in secrecy, using security stamps marked "Confidential—Eyes Only," and instructions saying, "Mr. LeVant (ex-director of the ARBC) asked that I reduce this to writing to report our activities to the Chairman. I suggest we keep this information carefully guarded, or, as you know, we will blow the whole ball game." We should have known something was up when President Nixon set the date for the four year celebration forward to a time when there was no particular significance in the American Revolution period, but coincides with what he expects will be his final four years as President. ARBC's ex-director, Jack LeVant, states it for us openly in a memo to Chairman Mahoney, "The bicentennial could be the greatest opportunity Nixon, the Party, and the Government has as a beacon of light for reunification and light within the nation and the world."

ARBC Chairman, David J. Mahoney, chief executive officer of Norton Simon, Inc., and identified by *The Progressive* as a man who "is a friend of Mr. Nixon and served as a key fund raiser in his 1960 and 1968 Presidential campaigns," himself makes the style and direction of the bicentennial observance "perfectly clear." The documents from the ARBC indicate that not only is Norton Simon, Inc., and their conglomerate interests throughout the country planning to scoop up huge profits from the celebration, but there is hay to be made while the sun shines now. Careful note was taken of a rather routine proposal, made by a consultant serving the National Council on the Aging, to enlist old folks to "manufacture" souvenirs for the bicentennial. Joyce Leanse, the consultant who made the suggestion, sent it not to the ARBC, but to Chairman Mahoney's corporation, Norton Simon, Inc. The significance of the move wasn't lost on a Norton Simon executive who forwarded the recommendations to the ARBC staff pointing out that Ms. Leanse is the wife of Jay Leanse, head of the Price Commission's Office of Price Exceptions, and asking that the recommendation be treated with "tender loving care, Norton Simon, Inc., needs the Price Commission's good will."

Mr. President, the accounts of flagrant political and corporate misuse of our nation's 200th anniversary celebration goes on and on. We should not fall into line with the ARBC's staff proposal, which stated in a memo to Chairman Mahoney, declares, the ARBC must have "one Czar or Administrator . . . with direct access to the President . . . Then and only then will his staff, aides, and those below click heels and see that his (the president's) wishes are carried out."

The Congress has a responsibility to the people of this country to see that this festival of self-congratulation for the Administration and its supporters from the corporate and wealthy interests in this country is turned around. We need an event more in line with the principles on which this country was founded; we need a frank and candid look at our American system today; and we need to make careful plans for the directions America will take in its third century of our national life.

Mr. President, I have today, sent a letter to the Chairman of the Interior Appropriations Subcommittee, which I understand will soon consider the appropriations for the bicentennial celebration. I have asked Senator Bible and his Committee to withhold any future funds for the ARBC until that Committee and other congressional committees can carefully study the direction of the ARBC and what it has in store for the American people to celebrate *their* 200th anniversary celebration. I object strongly to the farce that the ARBC seems to be concocting for the American people, and feel certain that we can hold a celebration with a price tag much more in line with the other priority needs of the American people.

Mr. President, I submit for the record, a copy of my letter to Senator Bible and the Interior Appropriations Subcommittee, several documents which are copies of ARBC reports and correspondence from which I have quoted, and the article from *The Progressive* concerning the plans, and mis-plans of the ARBC.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., August 16, 1972.

Hon. ALAN BIBLE,
Chairman, Senate Interior Appropriations Committee, Washington, D.C.

DEAR ALAN: I am appalled by the disclosures concerning the activities and plans of the American Revolution Bicentennial Commission as reported this week in the Washington *Post*. As the first of the *Post* articles was published on Monday, *The Progressive* magazine also published a rather long article on the same subject, and I am enclosing a copy of the *Progressive* article for your review.

I believe the ordinary American expects the celebration of this nation's 200th birthday to focus on the principles which founded

and built this country—hard work, individual freedom, self initiative, etc.—not the glorification of corporations and not the praise of the rich and wealthy and powerful.

I urge the Interior Appropriations Subcommittee to withhold any future funds from the ARBC until the Committee has the opportunity carefully to review the serious improprieties reported by publications this week, as well as the direction given to the bicentennial celebration by the present ARBC administration.

I am enclosing a copy of the statement I placed in the Record today, along with documents from ARBC reports and supporting correspondence.

I will be happy to work with you to see that the bicentennial celebration becomes more relevant to the American Revolution period, is more in line with the founding principles of America, and has a price tag which is more relevant to the priorities which will be facing Congress and the American people over the next four years.

Sincerely,

FRED R. HARRIS.

AMERICAN REVOLUTIONARY
BICENTENNIAL COMMISSION,
Washington, D.C., January 25, 1972.

Hon. DAVID G. MAHONEY,
Chairman, American Revolution Bicentennial Commission, New York, N.Y.

DEAR DAVE: After an evening long work session with the executive staff in preparing material for you, it became apparent that no sleeping pills were going to close my eyes. So, out of bed I went and in the quiet of night and with a conscience completely clear, I started the message that follows. It is going to be short as far as points are concerned, but it is going to be brief, it is going to be blunt, it is going to be honest, and without fear of contradictions or consequences. Our friendship has stood us in good stead over the years and we have never pulled any punches. I don't intend to pull any now, so let me start.

1. I have lost no faith as far as the ARBC becoming a reality but more importantly a gift to the peoples of the world as far as peace and unity are concerned.

2. From that point I come immediately to some of the areas that cause me concern in the remarks you made as to future operation. These are not necessarily in subsequent order but only as the quiet of the night pushes thoughts forward. I will let these pearls of wisdom drop.

A. I urge you to avoid the establishment of a task force comprised of Presidential aides regardless of how high the rank because (1) this is the year of election; you could not get the group together. If you can manage getting Cole, Ehrlichman, Garment, etc. to all agree to a given time on a given day, you would be performing a miracle that Christ couldn't perform. (2) If the high cats on the totem pole can't agree, imagine what in-house fighting there would be among this group to play the game of power for the President's favor. Whether you agree or not, I am firmly convinced by hunch, judgment, experience, or whatever that the President is not getting the full facts from his aides including the top-most. If he was, some of the inherent problems would have disappeared.

3. For the ARBC to be the success it can be requires that it be a one-man show—the Director must have full and complete authority with the full sanction of the President. Then and only then will his staff, aides, and those below click heels and see that his (the President's) wishes are carried out.

4. The present Commission structure must be defanged. It should be only an advising or consulting group. They contribute nothing constructive except use up time, chairs, food, booze, and expenses for travelling.

5. The moon shot that has been heard around the world would still be a joke and on the ground if NASA had been formed as a commission. The same thing can be said for other commissions that I will probably break out with in a moment.

6. Perfect example of one-man control is that of Osaka and our friend Howard Chernoff. He placed before the President on a "take it or leave it" basis what all would be involved in the way of money, help, authority, and endorsement. Osaka was an outstanding success.

7. I have never ran from a fight and you have never ran from a fight, and at this hour of the morning—in the silence of the night—it still doesn't occur to me that I am ready to run from this fight. I think this requires a fight that only you and I can put up and have the guts to stay with even if we come out bloodied and bent.

8. The charge or charges being made of a "no action staff" is a lot of fertilizer. Since the material prepared for you for the meeting at the White House (prior to my joining), you can be damned proud at what has been accomplished in the 15-16 months of your tenure and my directorship—no financial support to speak of—less than a million dollars in cold cash since 1966, etc. I can, from a marketing, advertising, and promotional appraisal, estimate that at least $10,000,000 would have been spent just to get as far as we have gotten. All this has been accrued as a result of begging, borrowing, and knowing how to do what with whom and where.

9. Look at the dollars Kunzig got for dressing up Washington, D.C. He got it because it was a one-man dynasty—one-man rule—and because the President wanted it and told everybody in his Administration that one man was responsible and only to him. When I mentioned to you a year ago that Kunzig's announcement as head of the Bicentennial Coordination Center was minimizing your authority and the authority of the ARBC, you and your generous judgment and complete faith in people told me I was wrong. I wonder who is wrong now even with an appropriation of over $3,000,000 and we can't even get out of the rain.

10. Other than you, there is only me who has the guts, the know-how, and the proven record with people and projects that can put this over.

11. I have prepared a list of needs that no one can challenge. I have prepared a comparison chart of what has been spent by our country on a per capita basis compared to Osaka, Montreal, San Diego, and Alaska.

12. The fair-haired boys who are afraid to lose face and power have spread enough fertilizer to choke off a crop rather than foster a crop.

13. These facts must be put on the line—and I'll bet you every dollar I own that given 15 minutes with the President alone I would sell the President up to his eyebrows. I would challenge anyone he puts up to prove our case. We can prove more constructive results than any commission to date. I don't profess to be smarter than anyone else, but living under the gun I have tried repeatedly to point out tht the name of the game here is "knowledge plus total power with Presidential support".

Again I beg of you to avoid the acceptance of an executive White House task force. They will destroy what could be the greatest opportunity Nixon, the Party, and the Government has as a beacon of light for reunification and light within the nation and with the world.

14. Look at some of the political falderal—$1,250,000 annually to find out where the blackbirds go to defecate in the winter. There are hundreds of such political jokes.

15. Then look at the things accomplished under your administration and mine this past year in spite of budget reduction, and in my opinion the results are outstanding.

16. If you are being sold a one-man chairman because you can't devote the full time, then "you are being gently and gracefully retired". If they think LeVANT is Director with power comparable to Kunzig—or NASA or USIA—can't and wouldn't do as good a job as the aforementioned, then I say very immodestly they are off their rockers and only prove the fight for authority. A one sentence lipservice in behalf of the commission is not doing us any good.

17. If you run, you are a coward—I know you are not. Despite all of my physical and emotional hangups I would take the whole thing over making sure that my terms are sure and precise. You can campaign on a leave of absence if you wish and still get credit for a successful guidance because your talents would be in use everywhere you travel plugging the ARBC as well as other assignments during this election year.

18. Just to get my licks in about some of the support we are getting, it is interesting to note that even the level of my appointment to office has not been reconciled—assigned to boys who have Grade-15 status that you and I would not hire as office boys. They are the kind of boys we used to eat for breakfast. This is a cadre of talent that has never carried a gun but has fought under fake ammunition and then told the President their version of your memo.

19. I just found out that I don't even rate as being a consultant as of January 1 or have expenses for travel—again, one of the peculiarities of this bureaucracy. Someone took the trouble to correct this situation just within the last 24 hours.

20. Dave, I don't want you under any conditions to think in terms of walking away because of fear that this bird won't fly. If business requires that you give more time to HSI, then for the first time I am going to ask you to turn the total authority or commission over to me if you want to avoid a Donnybrook. Let me tell it to the President in your presence. He knows the game, but you stay in the game. You are destined for bigger things and the ultimate success of the ARBC is outlined in the procedural data supplied to you must accrue to you no matter what job you take on. Again, other than you I don't think there is a man alive who can do the job other than me, but it must be on terms we outlined and definitely out of the hands of the advisors.

21. The joke of it all is the expectation of these geniuses that we can recast 200 years of history plus 100 years of crystal gazing with the $4.3 million budget and go begging every year for funds. The NASA approach, Kunzig approach, the Osaka approach, and USIA approach is needed. If this country can't underwrite a worthwhile program of investing $6-$8 a head for its 200th birthday, they should start placing orders for fire crackers, sparklers, and cupcakes to be ready by '76.

22. Recap of important points:

A. Repeat, success of the ARBC demands a one-man rule without running for approval around the curves of the White House through aides.

B. Defanging the Commission.

C. Avoid like the plague a task force that will play for power with little or no opportunity for decisionmaking time-wise or egowise. It would be more inclined to cause friction and a fight for their own voices to be heard.

D. And again, let me be the sacrificial lamb. I will take over and not make it necessary for you to eat crow. You lit the fire. There is no question on anyone's part who is living under the gun, and you and I know what to do with the flame.

E. Such a move is not only logical but sensible. The ultimate success can and would be placed at your doorstep while you are on a Sabbatical.

The consulate assignment promised me if I stayed through the election is intriguing. I have made major changes—and costly ones—moving into this picture. They don't concern me at the moment. That's nothing compared to being involved with the opportunity to participate in a worldwide event

that will leave a heritage for Barbara, Dave Jr., and my grandchildren. There is a time to give kids pop guns and a time for live ammunition. This is it; this is the time. I can do it regardless of the choice you make for the next year and turn back the ownership and directorship, and we can still be keeping our eyes on the big payoff.

Before I say goodnight, from the foregoing you can tell that I was disturbed all evening. Not disturbed because the job can't be done, but because of roadblocks that are being put in your way and mine which could cause you to make a snap decision that would destroy all of our plans and because I know you are not a coward.

Now, having said all these things I feel better. Good Night, and I will talk to you in the morning.

JACK.

To sum up the above seven points, I must again stress the fact that under the present Commission form a successful Bicentennial celebration is impossible. In looking back into history at the 1876 Centennial Commission, we should take a lesson from its failure to rise to the occasion due to the inability to agree on a single meaningful project for the Nation's 100th Anniversary. We have a chance to start again on the right foot if we agree to take positive action in 1972.

MAY 23, 1972.

Mrs. JOYCE LEANSE,
Consultant on Senior Centers,
The National Council on the Aging, Inc.
Washington, D.C.

DEAR JOYCE: I was pleased to receive your letter this morning.

The idea sounds intriguing and I've sent it directly to Dave Mahoney's office where I know the matter will receive prompt attention.

We had a nice visit with the Eshman's and presume you did too. Let's not give up on trying to get together. Best to Jay.

Cordially,

ROBERT GLICKMAN.

Capt. HARRY C. ALLENDORFER, Jr.,
American Revolution Bicentennial Commission,
Washington, D.C.

CAPTAIN: Please treat this with TLC. Norton Service Inc. needs the Price Commission's good-will.

Thanks,

IRENE.

THE NATIONAL COUNCIL ON THE AGING, INC.,
Washington, D.C., May 17, 1972.

Mr. ROBERT GLICKMAN,
Norton Simon Inc.,
New York, N.Y.

DEAR BOB: Noting an article in today's paper which identified David J. Mahoney as chairman of the American Revolution Bicentennial Commission, I am taking the liberty of sending you a first draft of a prospectus the Subcommittee on Aging of the Interagency Craft Commission (representatives from government and private agencies interested in crafts, recognized by President Nixon) presented to the larger group just yesterday incorporating an idea related to the Bicentennial (see page 6).

Responding to a suggestion that the Bicentennial Commission is concerned about an adequate supply of souvenirs made in America, and also being aware of the focus of the Bicentennial on American handicrafts, but in addition recognizing that American Craftsmen tend to be reluctant to produce souvenir items, the National Council on Aging is recommending that Senior Center members and other older persons participating in craft programs throughout the United States could very well be the "manufacturers" of a sizable portion of the quantity of souvenirs necessary to meet the needs of the Bicentennial celebration.

The involvement of older persons in preparation for the Bicentennial seems an appropriate association—one that might have excellent P.R. potential. National Council on the Aging provides a logical vehicle for the implementation of this involvement because of our extensive constituency among Senior Centers and other agencies providing services for older people.

I would appreciate your comments and/or action with regard to presenting the document to Mr. Mahoney for his consideration.

My best to Sue. Hopefully, we will get together soon.

Sincerely

(Mrs.) JOYCE LEANSE,
Consultant on Senior Centers.

To: Members of the Interagency Craft Committee.

From: Joyce Leanse, Chairman, Subcommittee on Aging.

Date: May 16, 1972.

The Subcommittee on Aging of the Interagency Craft Committee met on two occasions to consider the merit of the direction for a proposal to incorporate the talents of older people in craft programs, as well as to extend and improve the quality of these programs and the products thereof.

There was general agreement regarding the value and importance of a coordinated effort which would focus on older persons and their contribution to handcrafts as well as upgrade present programs.

The Subcommittee agreed for the Chairman to develop a prospectus to be submitted to the Interagency Craft Committee. We respectfully solicit your further comments, ideas, and recommendations for action—especially with regard to the resources available from your respective agencies.

INTRODUCTION

One of the major issues facing the nation today is the problem and the potential of its older people. Currently there are 20 million aged individuals; that is to say, every tenth American is 65 or older. The recently held White House Conference on Aging identified income as one of the most pressing needs of older persons in America—one quarter of the elderly do live in poverty and their numbers are increasing. Poverty of the pocketbook, however, is not the only deprivation suffered by this group. Their loss of work role or child-rearing role leaves them with a purposelessness and meaninglessness that robs them of a sense of dignity and self-worth. Older people also suffer from loneliness as their circle of family and friends is diminished by the passing of time. Limited mobility and lessened physical stamina coupled with the lack of economic resources exacerbates the negative consequences of the aging process creating an almost self-fulfilling prophecy of society's attitude toward its older population—they are a problem. But older persons also represent a potential for America. They provide a vast reservoir of talent, skill, and knowledge that has yet to be fully appreciated, let alone tapped.

The National Council on the Aging believes that the development and extension of the American Handcrafts Industry can both uncover the potential of the elderly in our nation and assist in meeting some of their problems to the mutual advantage of the industry and older persons.

OLDER PEOPLE AND HANDCRAFTS—A NATURAL RELATIONSHIP

There is a natural association between older persons and handcrafts. Having been raised prior to the extensive use of production-line products and also during a time when the ability to produce handmade items was a component of everyone's education passed from parent to child, older people represent a valuable resource for a variety of crafts techniques and information. Those who were foreign born bring a rich heritage in handwork adding to our traditional skills. Many older people are exceptionally competent in such crafts as knitting, weaving, crocheting, metalwork, or woodwork, and there are few elderly men without background in some manual trade and for older women without manual skills developed through "housewifery" if not actual trade. Their interest in maintaining these handskills is demonstrated by the extensiveness of craft programs in Senior Centers and other programs for older persons. However, though ubiquitous, these craft programs need further development to better meet both the economic and psychologic needs of older people.

SENIOR CRAFT PROGRAMS TODAY

At the present time craft programs for older people tend to be recreational and diversionary and only incidentally related to economic development. Few groups recognize the paucity of their programs—even for recreational purposes. Too often the focus of the activity is on busywork with the same simple articles being made over and over again. There seems to be little consideration of the psychological gain to the participants when the program is rich and varied. The existence of this situation reflects the limitations of program directors, not older people. When high standards of workmanship and design are encouraged, not only are they met, but much greater satisfaction is achieved by the participants. Most of the instruction readily available to older people, however, is deficient in both inspiration and technique. Yet the country abounds with qualified craftsman, including older people themselves, capable of meeting these needs—A link must be established.

ECONOMIC DEVELOPMENT OF CRAFT PROGRAMS

The economic gain to be realized from senior craft production has been slow to materialize. To be sure most senior craft programs are in facilities with a counter available for display and sales purposes, some even have boutiques or special outlets for sales, and they all conduct or participate in seasonal bazaars or fairs to which the public is invited to purchase the handmade items. But the real business of selling has been sadly neglected.

Among the major problems of all craft programs, in Senior Centers and otherwise, is the lack of managerial and entrepreneurial skills. Yet, there are older people today, retired from business and professions, extremely knowledgeable and talented in these areas. To develop links between these able persons and the craft programs which need them not only helps to meet the deficiencies of the programs, but puts to use business experience gained over a lifetime.

THE CRAFT INDUSTRY AND THE ELDERLY

William R. Seymour, Farmers Cooperative Service, USDA, in summarizing the importance of the craft industry notes:

a) The availability of under-utilized physical and human resources in rural areas

b) Craft production is readily adaptable to differing local circumstances and economic settings

c) New and expanding markets for crafts

d) Added income is realized by the individual craftsmen and their communities, and

e) The desirability of preserving our heritage as expressed through crafts and rural arts

Each of these points underscores the need for further involvement of older persons in craft programs. In rural and urban areas as well, the elderly represent a vastly underutilized human resources. In addition, the Senior Centers where they gather have the potential to become craft production centers for the economic benefit of the individual producers and the communities in which they live. The adaptability of craft production permits the development of a cottage industry for the home-bound or more isolated individuals as well as assembly-type efforts for

the less creative persons. As older persons contribute to the growing market for crafts they swell the constituency rosters for the private and government agencies which serve the industry and add to the ranks of those who advocate for supportive legislation. And finally, it would seem appropriate for the elderly to be a part of the preservation of a heritage to which they have contributed so much and to which they have much yet to give.

A NATIONAL CRAFT PROGRAM FOR OLDER PEOPLE

There are mutual benefits to be realized from an association between older persons and the crafts. For the craft industry to realize the full potential of the vast reservoir of talent, skills, and knowledge of older persons relevant to craft production and entrepreneurial development and for the elderly to gain the full psychological, social, and economic benefits of viable, well-managed craft programs, a comprehensive coordinated national program must be effected.

The National Council on Aging, a private non-profit voluntary agency providing training, technical assistance and consultation to organizations concerned with the field of aging is interested in working with a consortium of government and private agencies which can contribute to such a national program.

NCOA, through its National Institute of Senior Centers and the professional staff of its field offices in each of the federal regions, is in contact with over 2,000 Senior Centers throughout the country as well as numerous OEO Senior Opportunity and Service Programs, Model City Agencies, and Tribal Councils. Utilizing this extensive network of agencies in the field of aging, NCOA is presently working with the Office of Economic Opportunity, the Department of Housing and Urban Development and the Department of Labor to focus their programs so they will have a greater impact on the needs and concerns of older people.

A similar approach with crafts would help to assure older people and the handcraft industry that mutually beneficial programs would be developed. At the present, training programs are conducted for craftsmen, but they are not as widely available as is needed. These could be further developed and made more generally available utilizing resources of the Department of Education and the Department of Agriculture's Farmers Cooperative Service and Extension Services.

A national coordinating effort could provide also the necessary linkages which would enable individual programs to avail themselves of the skilled craftsmen in their areas unknown to them, retired persons with relevant business knowledge and training (SCORE has indicated interest in further developing this component of the program), as well as potential marketing outlets, contacts, etc. A "talent bank" within each Senior Center and other older person programs could be developed, and if funds were available, could be coordinated at a regional or national level facilitating the use of such information.

Among the problems frequently mentioned when extensive marketing of crafts is considered are those of quality, quantity, and production time. Regional or national coordination could assist in meeting these problems in a variety of ways. Designs could be developed and then the products produced in multiple sites including the homes of individuals, Homes for the Aged, Community Mental Health Facilities, Senior Centers, etc. To facilitate quality control, kits could be distributed with the pre-designed, pre-cut materials. (The packaging of these kits could be a further economic development component of the craft program.) The availability of many programs producing a similar item would contribute to making and meeting quantity and production time obligations.

Such an approach would not appeal to all craft producers—certainly not the true craftsmen. But, as noted previously, not all older persons are talented craftsmen, though most have manual skills, and there are sufficient numbers of these older people presently making handmade items simply as busywork, whose efforts could be redirected to give them increased satisfaction as well as some monetary reward.

An example of how this program might be applied responds to the expressed need of the Bicentennial Committee for American-made souvenirs. It has been suggested that American craftsmen do not like to create souvenirs, yet, it would seem inappropriate for the souvenirs sold for the Bicentennial to be other than American made. Many Senior Citizens, however, would be thrilled to participate in the preparation for the Bicentennial. It even seems appropriate for them to have such a role. Not only do they themselves represent a part of our country's heritage, but this heritage is cherished by them. The project could be coordinated by National Council on the Aging with the Bicentennial Commission and other appropriate agencies including those which would have the necessary funding resources.

NCOA recommends that a pilot project be developed in one of the federal regions to test a coordinated effort to improve and extend craft programs for older persons and to make available and better utilize the talents of older people in these programs.

EYES ONLY

FEBRUARY 29, 1972.

Memorandum for: Mr. LeVant.

Subject: Communications Effort Under Way (Softsell).

The following report covers a number of areas of contact by the Communications staff in an effort to substantially increase Bicentennial awareness, using the existing ongoing major events in America as a vehicle:

AMERICAN AIRLINES/CHET HUNTLEY SERIES, FALL OF 1972

Met with NBC officials in New York on Thursday and Friday, February 24 and 25. Direct line of contact established between Communications department of ARBC and the producer-director of the series to coordinate identification of the nation's Bicentennial, as appropriate, in the upcoming series.

STARS AND STRIPES SHOW, JULY 4, 1972 OKLAHOMA CITY

See attached memorandum to Mr. Herb Klein of February 28, 1972, Subject: "Stars and Stripes" Program.

FESTIVAL OF THE STATES, DIRECTOR HERB MELANEY

Annual pageant in St. Petersburg, Florida, incorporating use of the flags of all the States and much historic pageantry. This group plays regionally throughout the year and has NBC TV coverage regionally, working with the Director of Special Programs to theme the 1973 through 1976 pageants with the Bicentennial.

RINGLING BROTHERS, BARNUM AND BAILEY CIRCUS

Ringling Brothers recently celebrated the 100th anniversary of the circus. Many of the props, uniforms, acts, scripts, posters, calliope are in inventory at Ringling Brothers. NBC is talking to Mr. Feld, their President, about doing some historical circus programs on their tour in 1976 to tie in with the 200th Anniversary of America. The programs will be regionally televised. A meeting is being set between Hugh A. Hall and/or Dan Buser with Mr. Feld sometime during April or May.

Ringling Brothers is announcing a gigantic, 600-acre, live entertainment complex that will open in 1975 near Disney World in Florida. Mr. Feld has indicated to the NBC people that he feels there are a number of opportunities to tell Bicentennial stories as a part of this new facility. Such discussions will take place in the meeting with Mr. Feld.

MISS AMERICA CONTEST

This program has the largest, single audience viewing on TV. Arch Robb has arranged that, during the April–May period, we will meet with the officials of Miss America to develop the themes of Heritage, Open House or Hospitality, and Horizons as an integral part of the contest. Approximately 20,000 young American females are involved in this program, and it offers the Bicentennial a great opportunity, not only for nationwide TV but for youth involvement.

AMERICAN JUNIOR MISS PROGRAM

Similar arrangements are being made here with Al Marks, the Director. This program involves 17,000 high-school age young women and has a significant national TV impact.

ORANGE BOWL PARADE

A meeting is being arranged for the Florida State Commission, the ARBC, NBC, and the Orange Parade officials to develop appropriate Bicentennial messages in 1973–74–75, as well as the coordination to theme with the national Bicentennial in 1976. Keeping in mind that the Rose Parade is already set except for some details, we will work very carefully not to over-expose the Bicentennial message on the first day of 1976.

TOURNAMENT OF ROSES (ROSE PARADE)

Max Colwell, Manager, has suggested we meet sometime in April or May in Pasadena, accompanied by the appropriate NBC officials, to further develop the details of the Bicentennial involvement in the Tournament of Roses; i.e., themes, ARBC judge for 1973, availability of commercial float sponsors to ARBC for identification of specific 1976 national events such as the Olympics, expositions, etc. Mr. Colwell is interested in developing the awards with the assistance of ARBC as to how well participants tell the Bicentennial message.

FLORISTS' TRANSWORLD DELIVERY (FTD)

This is extremely confidential.

FTD has expressed to top NBC officials that they are most anxious to assist the Bicentennial in special TV programming (as sponsors). They wish to discuss informally in the near future how they may participate. They are also presently sponsoring floats in the major parades in America. They are anxious to work with ARBC in developing floats that will assist in our carrying our message to the American public. Arch Robb will be setting up the meeting in the near future.

JULY 4 PARADE, MILWAUKEE, WIS.

This parade is underwritten by the Schlitz Brewing Company and is televised regionally with a good audience rating using a circus theme. The officials have expressed a desire to NBC to meet informally with a spokesman from ARBC to develop a program for the Fourth of July parade in 1976.

M'DONALD'S

McDonald's has presently sponsored at great expense the All American Band. The band is selected from the best musicians from America's high schools in a nationwide annual contest. The top 100 musicians make up the McDonald's All American Band. McDonald's then sends this band to participate in the major parades across America.

The following is extremely confidential:

McDonald's has indicated to top NBC officials that they are most anxious to fund and underwrite a major parade in Chicago, Illinois. Their conception of this parade is that it would be as big and well known as the Rose Parade, Orange Parade, Macy's Parade, etc. They want to talk to an ARBC spokesman about developing this parade, including national TV coverage. Their hopes are to stage the first parade as a part of America's 200th Anniversary.

There are a number of other efforts under

way such as the VIACOM special documentaries, ARBC films, slide presentations, speaking engagements, etc. However, per your request, I have reduced to writing some of the major undertakings, reminding you that none of those events, other than the Rose Parade, are asking for official ARBC approval, endorsement, or recognition. We will continue to work with these (illegible) to get the maximum mileage of exposure for the Bicentennial. We are also recognizing the responsibility to coordinate these kinds of activities so that there is not over-exposure.

HUGH A. HALL,
Deputy Executive Director
(Communications and Field Services.)

(Attachment.)

DAN: Mr. LeVant asked that I reduce this to writing to report our activities to the Chairman. I suggest we keep this information carefully guarded, or, as you know, we will blow the whole ball game.

HUGH.

TRANSMITTAL SLIP

MARCH 9, —.

To: Mrs. Mack.
From: Jim Healy.

Message: A.R.A. is a fine company and could be a big user of Hunt, Somerset and Canada Dry products. Lee Glick is a very sharp guy. Would you be kind enough to send his letter to the right party?

ARASERV, INC.,
Philadelphia, Pa., March 6, 1972.

Mr. JAMES HEALY,
Division General Manager, Canada Dry Corp., North Kansas City, Mo.

DEAR JIM: Knowing that you have worked closely with Dave Mahoney and his secretary in the past, I am asking that you forward the attached letter to his office.

I realize the vast amount of mail his secretary must handle, therefore, if you could bring this letter to her personal attention, it would be appreciated.

I hear from our Area Manager in Kansas City that in the short time you've been out there, you really have done a great job in promoting Canada Dry.

Best wishes in your continued success!

Cordially,

LEON "LEE" GLICK.

ARASERV, INC.,
Philadelphia, Pa., March 6, 1972.

Mr. DAVID J. MAHONEY,
Chairman of the Board and President, Norton Simon, Inc., New York, N.Y.

DEAR MR. MAHONEY: Realizing the pressing demands upon your time, I am addressing this letter to you only for the purpose of having it forwarded to the proper person.

As I am sure you are aware, ARA Services, Inc. is the largest food service organization in the United States. For this reason, I feel certain that our organization can be of great assistance in making the Bicentennial Celebration an event of great historical importance.

As you stated upon your challenging acceptance of the Bicentennial Chairmanship, "The strength of this whole Bicentennial Celebration has to come from the grass roots up". This is the exact philosophy upon which our services are based.

We take great pride in managing the food service operations for many of the nation's leading institutions. Some of our accounts which attract a great number of people, as will the Bicentennial Celebration, are: the Astrodome in Houston, Atlanta Stadium, Atlantic City Convention Hall, Las Vegas Convention Center, Indiana Convention Center, and the Spectrum Sports Arena in Philadelphia, just to name a few.

An efficient and professionally handled food operation will be vitally essential to assure success of the Celebration. Therefore, I request that you forward this letter to the proper individual on your staff so that he may get in touch with me.

Just as you have made Norton Simon one of the great corporations of America, I am sure that with you at the helm, the Bicentennial Celebration will become an event never to be forgotten by the American people.

Cordially,

LEON "LEE" GLICK.

FEBRUARY 28, 1972.

Dr. CARROLL.
Mr. BUSER.
Mr. GOODSPEED.
Mrs. IRELAND.

Attached is a confidential copy of the initial plan for the Bicentennial of the Boston Tea Party. This was prepared by Alfred Stern. The plan is not to be announced. It is noteworthy that Edward Gottlieb & Associates are the P.R. firm handling the Lipton account.

(S) HUGH A. HALL,
Deputy Executive Director,
(Communications & Field Services).

THE BICENTENNIAL OF THE BOSTON TEA PARTY, DECEMBER 16, 1973

Concepts, Organizational, Program, Promotional & Financial Recommendations prepared for Thomas J. Lipton, Inc.

ALFRED STERN,
Consultant.

THE PREMISO

Sunday, December 16th, 1973 will mark the 200th anniversary of the Boston Tea Party. While other Colonial incidents, notably the 1770 Boston Massacre and the 1772 burning of HMS Gaspee in Rhode Island waters presaged the Tea Party, in terms of popular history that event is generally considered the first overt act of Colonial rebellion against the tyranny of the British Crown. Indeed referring to the Tea Party and the attitudes which made it and our Revolution inevitable, John Adams, one of the Tea Party's prime instigators wrote "The Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people . . . This radical change in the principles, opinions, sentiments, and affections of the people was the real American Revolution." Thus historically, philosophically and thematically, there is no doubt that the sensitive commemoration of the Tea Party's 200th anniversary can effectively inaugurate the U.S. Bicentennial era, and such a special event has inherent potentials for extensive national and international recogniton and news media coverage.

The identification of Thomas J. Lipton, Inc. with this commemorative event is deemed appropriate for a variety of reasons.

1. Beyond TJL's obvious interest in tea, perhaps no historical individual better symbolizes the continuity of British-American friendship than the late, much beloved Sir Thomas. Indeed as we bear the British no acrimony, the essential character of any contemporary commemoration of the Tea Party must emphasize the affection between the U.S. & Great Britain. Sir Thomas's career in international commerce and sportsmanship did just that.

2. The President of Thomas J. Lipton, Inc., Mr. W. Gardner Barker, is a distinguished, civic-minded New Englander thus further confirming the appropriateness of TJL's identification with and support of a significant civic and historical commemoration in Boston heralding the U.S. Bicentennial. The fact that TJL is an affiliate of a British & Netherlands corporation, two nations which played stellar roles in America's Colonial history and heritage further extends thematic and corporate appropriateness.

3. While TJL's underwriting sponsorship of the recommended project must eschew direct commercial and/or merchandising exploitation, there's little doubt that effective identification will enhance TJL's institutional, community and marketing (English Blend Tea) programs, especially throughout the New England area.

4. Without question the U.S. Bicentennial will achieve a high order of national, community and international visibility. The thoughtful identification of TJL with the first important commemorative event of the Bicentennial, certainly the most significant national celebration of our lifetimes, is entirely compatible with TJL's continuing commitment to community and national responsibilities.

As to the Boston Tea Party itself, on an apt, light note Sir Thomas once said to the daughter of Boston's late Mayor Curley "Boston had the most intelligent citizens in the country, since they had thrown the tea overboard when they had discovered it was not Lipton's." (The Lipton Story, Alec Waugh, page 236).

HISTORICAL BACKGROUND

A bit of history is in order as it in large measure dictates the character, site, participating sponsorship and program for the Bicentennial of the Boston Tea Party.

In the growing animosity between the British Parliament and American colonists before the Revolution, Parliament, when repealing the Townshend Acts, retained the tea tax, partly as a symbol of its right to tax colonies, partly to aid the financially embarrassed East India Company. The colonists tried to prevent consignees from accepting taxed tea and were successful in New York and Philadelphia. At Charleston the tea was landed but held in government warehouses. At Boston three tea ships arrived and remained unloaded but Governor Thomas Hutchinson refused to let the ships leave without first paying the duties. In November, 1773 outraged Boston patriots held protest meetings in Faneuil Hall organized and led by such notables as John and Samuel Adams, John Hancock, Josiah Quincy, Paul Revere and Dr. Joseph Warren. Several resolves were passed including one to prevent the sale of tea and a committee unsuccessfully attempted to force the resignation of Boston tea agents. In the next six weeks similar town meetings were held in nearby towns in support of the Boston resolves thus setting the stage for the December 16th Tea Party. On that date a group of citizens disguised as Indians boarded ships at Griffin's Wharf and emptied 342 chests of tea valued at 18,000 British pounds, into Boston harbor. The disgused "Indians" included the Sons of Liberty many of whom were members of the Ancient and Honorable Artillery Company of Massachusetts, the oldest and still active chartered military organization in America. To punish the people of Massachusetts for the Tea Party, Parliament in 1774 passed a number of repressive edicts named the Intolerable Acts by the increasingly indignant colonists. These onerous laws in large measure motivated the outbreak of the Revolution the following year. The fact that the Tea Party plot was hatched in Faneuil Hall earned that historic structure its honored sobriquet. The Cradle of Liberty. Second only to Independence Hall, Faneuil Hall is certainly America's most revered Revolutionary shrine.

SPONSORSHIP AND SITE

All of the above logically predetermines the essential effective sponsorship, participation and location for the recommended December 16th, 1973 commemoration.

1. THE MASSACHUSETTS HISTORICAL SOCIETY

In regard to organization, implementation, guest invitations, Massachusetts and Boston participation and support, etc., the approval and active involvement of the MHS is imperative. Preliminary conversations with

its President, Thomas Boylston Adams (a direct descendant of John and Sam, and member of the Commonwealth of Massachusetts Revolutionary War Bicentennial Commission) confirms MHS interest and likely participation. It should be noted that this consultant has been associated with Mr. Adams in prior projects. Mr. Adams stated that formal approval will require endorsement by the Historical Society's Council, and when TJL has adopted tentative plans and programing format, he will be pleased to submit same to said Council. In order to expedite all of this it is recommended that at the appropriate time Mr. W. Gardner Barker communicate directly with Mr. Adams and that Lipton Company or Foundation make an appropriate token contribution perhaps $1,973 to the MHS.

Pertinent information follows:

Thomas Boylston Adams, President, Massachusetts Historical Society, 1154 Boylston Street, Boston, Massachusetts 02215; Telephone: 617 536-1608.

Thomas Boylston Adams (office,* 15 State Street, Boston, Massachusetts 02109; Telephone 617 LA-3-6965.

Thomas Boylston Adams (residence), Concord Road, Lincoln, Massachusetts 01773; Telephone: 617 CL-9-8350.

2. THE COMMONWEALTH OF MASSACHUSETTS REVOLUTIONARY WAR BICENTENNIAL COMMISSION

The Commission established by the Massachusetts Legislature in 1964, has to date formulated no definite plans for the observance of the 200th anniversary of the Tea Party. Massachusetts Governor, Francis W. Sargent is Ex Officio Chairman; Senator Joseph C. DiCarlo is Chairman; Mr. George A. Wells, Vice Chairman. The recently appointed Executive Director is Mr. Francis W. Sidlauskas, an acquaintance of this consultant. Commission membership includes the Massachusetts Secretary of State, Commissioner of Education, Adjutant General, several legislators and historically oriented civic leaders. To date administrative appropriations have been modest and no comprehensive program has been established. Mr. Sidlauskas stated that the Commission is genuinely interested in appropriate commemoration of the Tea Party pending the development of a comprehensive TJL proposal but certainly and with justification, Commission endorsement and participation would require that the character of the event and its promotion avoid any and all blatant commercialism. This is entirely compatible with Mr. Adams' views and TJL's modus operandi. (Illegible.)

The Boston Redevelopment Authority has proposed and is developing plans for a small urban park at that location. Final plans are incomplete and no actual municipal implementation appropriation has been authorized to date, but the Massachusetts Bicentennial Commission obviously hopes the project can be completed or at very least, dedicated by the Tea Party's 200th anniversary. Mr. Sidlauskas suggested that perhaps the Lipton Company or Foundation might wish to contribute to the realization of Tea Party Park as a permanent Bicentennial gift to Boston, the Commonwealth & nation, and its official dedication might occur on December 16th, 1973 or some other appropriate date that year. While all of this is somewhat nebulous, from Lipton's point of view any such contribution should result in a permanent identifying plaque or marker. And because of the nature of the Bicentennial and the proposed historic park, it is likely that any underwriting contribution would be tax deductible. At any rate Mr. Sidlauskas will keep us informed regarding development plans. As for TJL and the Faneuil Hall project, once it is determined to proceed, it is recommended that a formal preliminary proposal together with a cover letter from Mr. W. Gardner Barker, be sent to Governor Sargent; Chairman DiCarlo & Executive Director Sidlauskas, with a courtesy copy to Boston Mayor, Kevin H. White. It is obvious that the approval, support and participation of the Commission can prove of estimable value to the project and every effort should be made to achieve such cooperation.

Thus as suggested in regard to the Historical Society, it is recognized that upon determination to proceed, TJL make a token goodwill contribution of $1,973 to the Commission through its Chairman, as initial insurance for continued cooperation. However a candid evaluation of and extensive experience with many such state commissions suggests that the calibre, prestige and active continuity of the Massachusetts Historical Society will prove more vital to the successful realization of the project than the good offices and capabilities of the Commission. But for optimum results certainly the nominal censorship and active participation of both organizations warrants (illegible) early priority. The address of the Commission is:

The Commonwealth of Massachusetts, Revolutionary War Bicentennial Commission, (illegible) The State House, Boston, Massachusetts 02133; Telephone: 617-727-5046.

3. THE ANCIENT AND HONORABLE ARTILLERY COMPANY OF MASSACHUSETTS

As previously mentioned this historic unit is the oldest military organization in America, originally chartered in 1638. Thus 1973 will mark the A&H's 335th anniversary. The A&H is also the third oldest chartered military organization in the world, predated only by the Guardia Svizzera Pontifica (Vatican or Swiss Guard), established in 1506, and the Honourable Artillery Company of London, chartered in 1537. Not only did members of the A&H participate in the Tea Party, but subsequently the majority of its officers and men served the Continental Army with distinction throughout the Revolution. * * *

REVOLUTIONARY WAR
BICENTENNIAL COMMISSION,
Boston, Mass., January 17, 1972.

ALFRED STERN,
New York, N.Y.

DEAR ALFRED: It was a pleasure seeing and speaking with you again. I was most impressed with what I saw of your Maryland presentation. I certainly want a copy of it.

Concerning our conversation regarding the Lipton Tea Company and the Bicentennial Commission and its activities in the Commonwealth:

1. Certainly we want commemorative events on December 16, 1973. I agree with you completely that this occasion might well be considered the first step of active revolt looking toward the Revolution.

2. I have been directed by our Chairman, Senator DiCarlo, that the Bicentennial commemoration is not to be "exploited commercially" and also that, in its planning "it is not to be an elitist effort by a precious few".

I'm sure that you can understand my position in that the Lipton Tea Company is a commercial entity as opposed to our efforts and our organization. You mentioned a Tea Party to which certain people would be invited. I would like to suggest that our whole social spectrum somehow be represented in this effort.

3. I indicated to you that the Boston Redevelopment Authority, the planning resource of the City of Boston for the Bicentennial, has as one of its objectives the establishment of a Tea Party Park. I am trying to arrange to send to you as soon as possible a copy of their existing plans for this facility.

As I understand it, it would be on the site of the original Tea Party and certainly will be a worthwhile residual contribution to the City and the Commonwealth.

4. I am quite optimistic that, with proper planning, the mechanics and technical aspects of the Lipton participation can be worked out to our mutual benefit.

I would be most happy to meet with you again to discuss further the mechanics of this event. At our next meeting I think it would be wise to include representation from the Massachusetts Historical Society, which you mentioned, and the City of Boston. I am sure that you will understand that I can now make no commitment. We must, of course, refer the Commonwealth's participation to the Bicentennial Commission.

Warmest personal regards.

Sincerely,

FRANCIS W. SIDLAUSKAS,
Executive Director.

The spacious Armory, rich in historic tradition, can accomodate a maximum of 240 for a sit-down high tea and reception as envisioned on the occasion of the Tea Party's Bicentennial. For ample room, programing and service convenience, etc., it is recommended that total attendance including guests and news media be limited to an appropriate Bicentennial 200 persons.

The character of the event determines that the well-heeled A&H make no charge for the use of the Armory, though there are minimal custodian and utility expenses (see section headed Project Budget). In addition to these charges if the project proceeds it is recommended that TJL or the Lipton Foundation donate a modest sum, say $200 Bicentennial dollars, to the A&H museum maintenance fund. They don't need it but such a contribution would surely constitute a gracious gesture toward the insurance of A&H cooperation and participation. The services of the A&H would include their providing a smartly dress uniformed guard of honor rendering proscribed military honors and courtesies to distinguished official guests in addition to the Armory facilities. This consultant has tentatively reserved the Armory for Saturday, Decem-15th, 1973, providing for technical setup and rehearsals and Sunday, December 16th, the commemoration itself, as a result of a recent meeting with Colonel Lewis W. Whittemore, A&H Executive Secretary. By 1973 it is expected that Lt. Colonel Joseph S. Zareiko will be A&H C.O. and on Colonel Whittemore's suggestion he too has been informed of tentative plans. As planning develops it is essential that both officers are fully posted, not only because of Armory facility arrangements, A&H military ceremonial participation, but also because * * * it through A&H that the participation of other Massachusetts historic military commands including musical units, will be enlisted (see section headed Program). Pertinent addresses follow:

Colonel Lewis W. Whittemore, Executive Secretary, Ancient & Honorable Artillery Company of Massachusets, Armory, Faneuil Hall, Boston, Massachusetts 02109, Telehone: 617-227-1638.

Colonel Lewis W. Whittemore (residence), 159 Orange Street, Roslindale, Massachusetts 02131, Telephone: 617-323-5393.

Lt. Colonel Joseph S. Zareiko (same address as Colonel Whittemore).

Lt. Colonel Joseph S. Zareiko (residence), Sterling Drive, Dover, Massachusetts 02030, Telephone: 617-785-0371.

4. CITY OF BOSTON

While the Armory is under the direct control of the Ancient & Honorable Artillery Company, all other Faneuil Hall facilities, the surrounding streets, etc., are the property of the City of Boston. The scope of the recommended project will require at least partial use of floors below the Armory as cloak roofs, a temporary press room, for the storage of catering and technical equipment, admission and security control, etc. The adjacent streets, especially the main entrance facade

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* Preferred address.

thoroughfare, will also be required for traffic and security control and any outdoor ceremonial or military pageantry. There is no doubt that all such facilities including the full cooperation of the Boston Police Department will be readily available due to the character of the event, its recommended high level cosponsorship, distinguished guests, etc. Only minimal custodial and utility costs estimated at approximately $350 are involved but formal permission must be secured from the Office of the Commissioner, Real Property, City of Boston. At the appropriate time that office together with the Faneuil Hall Building Superintendent must be fully informed regarding all planning details, and of course the same applies to the Boston Police Department. Pertinent addresses follow:

Mr. John Mulhern, Commissioner, Real Property, City of Boston, City Hall, Boston, Massachusetts, Telephone: 617-722-4100.

Mr. Anthony Forgiene, (as the Commissioner is largely honorary it is advised to deal with the Assistant Commissioner) Assistant Commissioner, Real Property, City of Boston, City Hall, Boston, Massachusetts, Telephone: 617-722-4100.

Mr. Donald MacDonald, Building Superintendent Faneuil Hall, Boston, Massachusetts 02109, Telephone: 617-523-8794.

Office of the Chief of Police, City of Boston Police Department, 154 Berkeley, Boston, Massachusetts, Telephone: 617-536-6700.

Office of the Commissioner, City of Boston, Traffic & Parking Department, City Hall, Boston, Massachusetts, Telephone: 617-722-4100.

5. AMERICAN REVOLUTIONARY BICENTENNIAL COMMISSION

The approval and participation of the Federal Bicentennial Commission would prove highly desirable, especially if the recommended program is to include an appearance by the President or Vice President of the United States. Certainly such endorsement should be sought and at an appropriate high level TJL should keep the ARBC fully informed regarding plans and sponsorship for the Tea Party commemoration. A preliminary meeting with Mr. Hugh A. (copy illegible) the Commission's Deputy Executive Director confirms the ARBC's interest in the potentials of the Boston project, however the Commission's mandate from Congress specifies Commission responsibilities limited to the national commemoration of the American Revolution and our Declaration of Independence, extending from 1975 the 200th anniversary of the beginning of the Revolution through which first accorded international recognition to U.S. independent sovereignty.

Climatic emphasis is of course accorded to 1976. Thus while the Tea Party presaged the Revolution & Independence, and its 1973 commemoration can effectively dramatize the inauguration of the Bicentennial era, the ARBC has no jurisdiction or mandated responsibilities regarding the recommended program. Beyond all this, and even more pertinent, a realistic appraisal of ARBC performance to date (and therefore its likely potentials) is in order. The ARBC was established by Congress, July 4th, 1966. It has accomplished little to date, is top heavy in politically appointed bureaucrats, deficient in creative expertise, and except for relatively minor administrative funding, lacks adequate appropriations. Structurally Commission membership includes four Senators (of which one is Massachusetts Senior Senator Edward W. Brooke); four members of the House of Representatives; the Secretaries of State, Interior, Defense, Health, Education & Welfare; the Attorney General; the Librarian of Congress; the Secretary of the Smithsonian Institution; the Archivist of the U.S. & the Chairman of the Federal Council on the Arts & Humanities, all with ex officio status. In addition 17 private citizens, one of whom shall be designated Chairman, constitute the official, voting Commission. The present (and third) Chairman is Mr. David J. Mahoney, Chief Executive Officer, Norton Simon, Inc. The Vice Chairman is Mr. Hobart Lewis, Editor, Readers Digest. The ARBC's staff is headed by Executive Director Jack I. LeVant (the third to serve in this capacity and a former Norton Simon executive). Hugh A. Hall is Deputy Executive Director; Charles F. Goodspeed is States Coordination Advisor & Harry Carlson, President, P. R. Associates, N.Y., is Public Relations Consultant. * * *

They are:

a. Heritage 76 (historic aspects, commemorations, etc.)

b. Open House USA (national participation, tourism, travel, recreational & cultural activities, fine & performing arts, etc.)

c. Horizons 76 (permanent & residual projects addressed to national goals as inspired by the Bicentennial)

President Nixon has stated that the thematic essence of the Bicentennial must be a rededication to our nation's founding principles—prime concern with "the quality of life." Perhaps the most significant statement on Bicentennial philosophy and objectives was made by the late President Kennedy, the first Chief Executive to emphasize Bicentennial opportunities and responsibilities. In a July 4th, 1963 Independence Hall address JFK said in part: "A great new effort—for independence—is transforming the world about us. And the spirit of that new effort is the same spirit which gave birth to the American Constitution. I will say here and now, on this Day of Independence, that the United States will be ready for a Declaration of Interdependence . . ." Thus the philosophical and active progression from Independence to Interdependence among our own citizens and all mankind best and perhaps exclusively ensures the future of the United States and the world. As such, it is the essence of our evolving democratic society, the continuity of the American credo, and the most important legacy to which the Bicentennial can aspire, for our nation and all humanity. All of this is cited not only because it should establish the quality and tone of TJL's participation in the Boston project and any other Bicentennial activities, but also because it suggests a philosophical level unfortunately beyond the indicated abilities and scope of the Federal Commission. For example, for several years the ARBC has discussed aid grants to states and major community Bicentennial Commissions to assist planning studies for valid Bicentennial projects, the establishment of 10 Federal Bicentennial Regions (New England Regional Headquarters to be located in Boston), each with a Regional Director and staff, to aid in expediting Federal Bicentennial assistance programs. None of this has transpired, the ARBC is in its seventh year of existence, the 200th anniversary of the beginning of the Revolution is a bit more than three years in the future, and regretably there's little evidence that this Commission will achieve any better than the similarily constituted 1961-1965 Civil War Centennial Commission. In contrast however, there is every indication that a wide variety of constructive and memorable Bicentennial activities will materialize through the sensitive participation of some individual states, cities, national associations, major industries, foundations, educational and cultural institutions, and several foreign governments. Thus the likely role of the ARBC will be that of "the great endorser" of projects originated and implemented by others and this may well apply to the Tea Party project which furnishes the Commission with an effective inaugural program without any direct organizational and financial demand. Thus while TJL should of course keep the ARBC fully apprised regarding Tea Party developments, seek official approval, nominal cosponsorship (together with previously mentioned Massachusetts organizations), promotional cooperation, and extend invitations to the Commission's Chairman, Vice Chairman, Executive Director, Deputy Executive Director, etc., TJL is urged to be self sufficient in the enterprise together with the specified Boston & Massachusetts organizations, and not depend on ARBC initiative. As far as the White House is concerned, Bicentennial liaison is the responsibility of Mr. Leonard Garment, Special Consultant to the President. He too should be kept fully informed. In summation, while all phases of possible assistance must be sought, independence is the appropriate watchword for the day. Pertinent addresses follow:

HEADQUARTERS,
ARMORY, FANEUIL HALL,
Boston, Mass., January 10, 1972.

Mr. ALFRED STERN,
New York, N.Y.

DEAR MR. STERN: Confirming our conversation of 7 January 1972 the Armory of this Company will be available for the Bi-Centennial of the Boston Tea Party on 15-16 January 1973. Please re-confirm 1 July 1973.

There is no charge for the use of the Armory but arrangements for the custodial support must be made with Mr. Donald MacDonald, the building Superintendent.

My telephone is 617-227-1638 and Mr. MacDonald is 617-523-8794.

For the Captain Commanding.

LEWIS W. WHITTEMORE,
Executive Secretary.

All officers and staff of the Federal Bicentennial Commission may be reached at:

American Revolution Bicentennial Commission, 736 Jackson Place, NW., Washington, D.C. 20276, Telephone: 202-382-1776.

Mr. David J. Mahoney (Commission Chairman), Norton Simon, Inc., 277 Park Avenue, New York, N.Y. 10017, Telephone: 212-832-1000.

Mr. Hobart Lewis (Commission Vice Chairman), the Reader's Digest, 200 Park Avenue, New York, N.Y. 10017, Telephone: 212-972-4000.

Senator Edward W. Brooke, United States Senate, Washington, D.C. 20510.

Senator Edward W. Brooke, 2003-H, Kennedy Federal Building, Boston, Massachusetts 02203.

Mr. Leonard Garment, Special Consultant to the President, The White House, Washington, D.C.

Mr. Harry Carlson (Commission P.R. Consultant), P.R. Associates, 575 Madison Avenue, New York, N.Y. 10022, Telephone: 212-688-6900.

PROGRAM

All agree that the commemoration of the Boston Tea Party should not include a group of Bostonian bit players disguised as Mohawks contributing to harbor pollution through an anachronous re-enactment of the original event. Instead of any such corny performance it is recommended that the inaugural event of the Bicentennial era be a gala high tea party and reception at Faneuil Hall. While inspired by history, the event must be dedicated to contemporary community, national and international friendship and goodwill. The time is 4:30 or 5:00 PM, Sunday, December 16th 1973, a fortuitous day for maximum attendance by distinguished and busy guests. As they alight from cars at Faneuil Hall's main entrance a bit of historical pomp and circumstance is recommended. This might include a crack Colonial fife & drum unit, the Massachusetts Minute Men Music and the picturesque British 10th Regiment of Foot, a recently formed Massachusetts 18th Century historical military company established in anticipation of the U.S. Bicentennial. This latter

detachment will serve to symbolize British-American friendship and might serve as Honor Guard for the British Ambassador who should certainly be invited to attend. (See section headed Invitations). In addition the Ancient & Honorable Artillery Company will serve as Honor Guard for Federal & State VIP officials. They together with the fife and drum corps will render appropriate salutes, ruffles & flourishes, etc., as prescribed by protocol. In the event the President or Vice President of the United States attends, every effort should also be made to enlist the participation of the U.S. Third Infantry Old Guard Fife & Drum Corps, the nation's most handsome Revolutionary period ceremonial unit. These formalities can be staged most effectively outdoors but if the weather is inclement they would be held in Faneuil Hall's main auditorium, directly below the Armory Tea Party site. In all events these preliminaries should be brief, not longer than 10 minutes at the most. Immediately following this sequence the official and cosponsoring hosts and their ladies proceed to the Armory to form the reception line. Ideally they will include the Governor of Massachusetts, the Mayor of Boston, the Chairman of the Massachusetts Bicentennial Commission, the President of the Massachusetts Historical Society, the Commanding Officer Ancient & Honorable Artillery Company, the President of TJL, etc., perhaps also the British Ambassador. Obviously precedence and protocol would be altered somewhat should the Chief Executive or Vice President attend. After the guests have passed the reception line they are seated at tables and the official party also proceeds to the head table.

Following this high tea is served. All details as to menu and service, table decorations, hors d'oeuvres, bakery, confectionery, etc., must be ne plus ultra, and perhaps inspired by 18th Century recipes. The highest quality of catering is essential and based on preliminary conversation plus past performance, it is recommended that this responsibility be given to Seiler's Caterers, Inc., the finest in the Boston area. Tom Cubertson, President of Seiler's, estimates costs at $6.00 per guest including gratuities. Tables and chairs must be rented from another source. Approximately 10 minutes after all guests are served and while they continue to enjoy their repast, the brief formal program begins. This should not be more than a half hour in total duration. Tentative recommendations include:

1. Following a fanfare, brief opening remarks and welcome by the ranking host, the Governor of the Commonwealth of Massachusetts. (Approximately three minutes.) He then introduces Thomas Boylston Adams, President, Massachusetts Historical Society.

2. Mr. Adams' brief remarks (approximately three minutes) should recall the historical events and significance of the original Tea Party and its association with Faneuil Hall. It is recommended that his short dissertation be accompanied by a brief projected and recorded multi-media audio-visual presentation using 18th Century engravings, music, etc., depicting the men and events, the atmosphere of Boston on the eve of the Revolution and of course the Tea Party we are commemorating. Based on prior experience this consultant recommends Envision Corporation of Boston, an extremely talented group of young film makers, for the production of such an audio-visual presentation. Following this, Mr. Adams presents the next speaker.

3. This might well be a brief and gracious speech by the British Ambassador (again not more than three minutes) and/or equally brief remarks by either the Chairman (illegible) Chairman of the Federal American Revolution Bicentennial (illegible) David J. Mahoney or Hobart Lewis or Commission member, Massachusetts Senator Edward W. Brooke, or at very least Massachusetts State Senator Joseph C. DiCarlo, Chairman, Massachusetts Revolutionary War Bicentennial Commission. Whomever the speaker may be, he (illegible) emphasize the importance of the occasion as the inaugural of the (illegible) era. And he will in turn introduce the next speaker (illegible).

4. Mr. W. Gardner Barker, President, TJL (three minutes) will refer to the honor and pleasure of his organization in cosponsoring the occasion and it is recommended that he formally present two extremely handsome sterling silver tea services (based on Paul Revere designs) to the Governor of Massachusetts (illegible) of Boston, engraved with the Commonwealth and City of Boston (illegible). Preliminary conversations with Boston's finest silversmith, Shreve, Crump & Low (Mr. Richard Shreve) indicates that such services for six, including pot, cups, teaspoons, creamer, sugar bowl, tongs, tray, etc., suitably chased with coats of arms, all of superior quality and workmanship, would run to $3,750–$4,000 each and approximately three to four months lead time is required for design and fabrication. Without doubt both the Governor of Massachusetts and Mayor of Boston will be entertaining many distinguished visitors throughout the Bicentennial era, and the gift of such tea services (to become the property of the Commonwealth and City) is deemed a desirable and rewarding gesture. Mr. Barker's remarks might also include information regarding subsequent Bicentennial participation adopted by TJL, British American friendship and cooperation as symbolized by Sir Thomas and expressions of appreciation to participants, distinguished guests, etc. He then introduces the concluding speaker, the Mayor of Boston.

5. The Mayor of Boston thanks all cosponsors, participants and extends the continued Bicentennial hospitality of his historic City to attending dignitaries and guests (approximately three minutes). The formal program is now concluded. Guests remain to enjoy their high tea until approximately 7:00 PM.

This preliminary program schedule runs approximately 15 minutes but experience verifies that inevitably some participants will take a bit longer. Photography, press, radio & tv technicalities will also extend time. But through advance scripting of all remarks, skillful production and stage management of all phases, etc., under no circumstances should the formal program extend beyond 30 minutes. In the event that the President or Vice President of the United States attends, unquestionable either will also deliver a brief address, hopefully not longer than 10 minutes. Protocol dictates that either the Governor or Senator Brooke introduce the President or Vice President and the presence of either will obviously alter scheduling and timing. In all events the character of the affair must be nonpartisan and emphasize the inception of the U.S. Bicentennial era. Pertinent addresses follow:

Dr. John F. McCauley, Minute Men Music, 269 West Street, Reading, Massachusetts 01867, Telephone 617–944–3160.

Colonel Vincent J.R. Kehoe, 10th Regiment of Foot, 235 Old Westford Road, Chelmsford, Massachusetts 01824, Telephone (Not Available).

Mr. Bernt Pettersen, President, Envision Corporation, 323 Newbury Street, Boston, Massachusetts 02115, Telephone 617–267–4450.

Mr. Tom Cubertson, President, Seiler's Caterers, Inc., 400 Washington Street, Braintree, Massachusetts 02184, Telephone 617–848–1730.

Mr. Richard Shreve, Shreve Crump & Low Company, 330 Boylston Street, Boston, Massachusetts 02215, Telephone 617–267–9100.

INVITATIONS

The maximum capacity of Faneuil Hall's Armory for a sitdown high tea is 240 persons. As approximately 40 places should be allocated for news media, national networks & wire services, photographers, Boston and area press, radio and tv, it is recommended that the official distinguished guest list not exceed 200, and of course many of these will be couples. The designation of guests must be the result of coordinated lists from all sponsors (the Massachusetts Historical Society; Massachusetts Revolutionary War Bicentennial Commission; the Governor's Office; the Mayor's Office; TJL & perhaps the Federal American Revolution Bicentennial Commission). A partial list of recommended guests follows:

The Governor of Massachusetts.

The Mayor of Boston.

President, Massachusetts Historical Society.

Chairman, Vice Chairman & Executive Director, Massachusetts Revolutionary War Bicentennial Commission.

Chairman, Vice Chairman, Executive Director & Deputy Executive Director, American Revolution Bicentennial Commission.

Massachusetts Congressional Delegation, Senators & Congressmen.

The British Ambassador & Boston's British Consul.

President, Greater Boston Chamber of Commerce.

Presidents, leading educational institutions, Boston University, Harvard, MIT, Northeastern, Radcliffe, Tufts, Wellesley, etc.

Publishers and/or Editors, Boston Globe, Boston Traveler, Christian Science Monitor.

Presidents and/or Chief Executives, Boston Area TV & Radio Station.

Directors, Boston Symphony, Boston Pops, Museum of Fine Arts, Science Museum.

Ranking Military Officer, Boston Area, U.S. Army, U.S. Navy, U.S. Air Force, U.S. Coast Guard.

Commanding Officers, Ancient & Honorable Artillery Company, 10th Regiment of Foot, Minute Men Music.

Clergy, including the Cardinal & leading representation from other major faiths.

President, New England Council.

Medical Community, President, Massachusetts Medical Society, General Director, Massachusetts General Hospital.

President, Massachusetts Bar Association.

Financial Community, President, Boston Stock Exchange, Presidents or Chairmen, First National Bank of Boston, New England Merchants National Bank, National Shawmut Bank, etc.

Insurance Community, Presidents or Chairmen, Continental, Prudential, John Hancock, New England Mutual, etc.

Business & Industrial Community, Presidents or Chairmen, Polaroid, Raytheon, Arthur D. Little, H. P. Hood, Filene's, Jordan Marsh, Gillette, etc.

President, New England Telephone.

President, Boston Edison.

Top Stars of any shows playing Boston at time of event.

President, Board of Directors, selected Executives & Boston Area Management, Thomas J. Lipton, Inc.

Though certainly subject to some change, this preliminary list is a verifiable bluebook of Massachusetts & Boston leadership, together with TJL's top echelon. As most guests will be accompanied by their ladies, and some by aides, it approximates 200, providing for the contingency of attendance by the Presidential or Vice Presidential party. That eventuality involving many complexities especially in the area of security, and protracted high level negotiations with the White House requiring the cooperation of the Offices of the Governor of Massachusetts, the Mayor of Boston and from six to eight months lead time. The engraved invitations themselves must be extremely handsome, embossed with the seals of the Commonwealth & the City of Boston. R.S.V.P. cards and return envelopes must be enclosed and all details such as quality of stock, design and typography must reflect the highest standards. Invitations should be mailed to recipients from six weeks to not less than one month in advance

of the event. It is also recommended that as a permanent souvenir an equally elegant two-fold program and menu be prepared for all guests. Graphic quality and historic association with the inaugural of the U.S. Bicentennial must be such that guests will treasure the invitations and program-menus as prized mementos.

PUBLICITY AND RESIDUAL PROMOTION

The historic occasion and setting, character of sponsorship, participants and guests, all combine to insure maximum news, feature and society coverage by all categories of Boston & New England media. However for optimum results including national networks, magazines, wire services, etc., it is recommended that the project retain a qualified Boston publicist to coordinate all such activities. The responsibilities of the Boston press agent (under the direction of TJL's public relations department and the project producer) include the preparation and New England distribution of background historical and informational releases, feature articles, society page coverage, etc., arranging appearances by key sponsors and participants on Boston area tv & radio news and talk shows, stimulating coverage by columnists, Boston bureaus of national networks, magazines, wire services, local institutional, educational and industrial house organs, special window displays and tie-in salutory advertising and promotion and the distribution and control of media passes, technical facilities, etc., for the event itself. It is obvious that only someone with a continuing working relationship with the Boston & New England news media can accomplish the best results in such an assignment, and in view of aggregate project costs the modest expense for such specialized service is eminently justified, particularly because the results will insure maximum cooperation of all cosponsors and participants. The Boston press agent should be retained for five weeks prior to the event. Based on the consultant's experience the two best qualified Boston publicists, both experienced in major community special events, are:

Jack Agnew, Agnew & Associates, 30 Glouster Street, Boston, Massachusetts 02115, Telephone 617-262-4025.

Ann-Elizabeth (illegible), 63 Selkirk Road, Brookline, Massachusetts 02146, Telephone 617-566-7174.

Either would be perfectly satisfactory and preliminary conversations with both indicate that cost would be identical. The quoted five week fee would be $1,500 plus billing at cost for out-of-pocket expenses (duplication of releases, telephone, . . . entertainment, etc.) at a not to exceed $750. The press agent's responsibilities are limited to publicizing all phases of the event itself, and is concerned with any and all prior or subsequent TJL's institutional promotion, publicity, advertising or merchandising, etc., motivated by TJL's cosponsorship and underwriting of the project. In that connection it is urged that an additional $600 be allocated for extensive high quality color and black & white photographic coverage of the Faneuil Hall affair. Envision Corporation (see page 18) is recommended for this assignment. Pending the success of the event and TJL corporate decisions, there's no doubt that numerous residual promotional opportunities exist identifying TJL with the commemoration of the Tea Party's 200th anniversary and the inauguration of the nation's Bicentennial era. These may include feature stories in tea and food trade journals, consumer magazine advertising, tv and radio commercials, in-store point-of-sales displays, coverage in TJL's annual progress report, house organ, etc. As the application and extent of all such activities can not presently be determined, no such costs are included in budget estimates which exclusively concern the Faneuil Hall event itself.

JACK AGNEW AND ASSOCIATES,
Boston, Mass., January 20, 1972.

Mr. ALFRED STERN,
Robinson-Stern Associates,
New York, N.Y.

DEAR AL: 'Twas good to see you again, and to learn that you plan to stage a memorable and more appropriate commemoration of the Tea Party of 1772 in Faneuil Hall rather than letting our city hire a group of young men to run around in loin cloths dumping tea in Boston's already polluted harbor.

I would welcome the opportunity to be your Boston contact in arranging for any local publicity or making any contacts needed to contribute to the success of the Lipton Tea Party.

As you probably know, my background includes handling a number of social and governmental agencies; public information efforts in addition to the spending of a year as the communications consultant for Expo Boston '76. My various assignments have resulted in personal contacts in all greater Boston media, as well as community and political leaders.

The fee for handling this project would be $1500, plus any out of pocket expenses.

I look forward to working with you again.

Best personal regards,

JACK AGNEW.

CURRICULUM VITAE

Miss Ann-Elizabeth Herzog, 63 Selkirk Road, Brookline, Massachusetts 02146, Telephone: (617) 566-7174, (617) 536-4335.

JOB OBJECTIVE

Public Affairs/Communications.

PERSONAL

Sex: Female.
Birth: Lawrence, Mass., May 21, 1940.
Health: Excellent.
Social Security: # [redacted].

EDUCATION

Boston University, Sargent College of Physical Education, Boston, Mass. 1957-59.

Boston University, School of Public Relations & Communications, B.S. Degree, Broadcasting, 1959-61.

Boston University, Graduate School of Public Communication, Film & Audio Visual Communication, 1961-62. Credits applied to M.S. Degree in Public Relations.

HONORS AND AWARDS

Bertha E. Merrill Memorial Prize, Lawrence, Mass. High School.

Scholarship to Boston University.

Order of Paul Revere Patriots, State of Massachusetts.

LANGUAGES

English—fluent, German—working knowledge.

CAREER HISTORY (FULL TIME EMPLOYMENT)

February (illegible) to present

Public Relations Consultant working for own firm, A. E. Herzog & Company, Brookline, Mass. Clients: Edward Finch & Company; American Optical Company; (illegible) Snacks, Inc.; International Institute of Boston; "Man and (illegible)", Montreal, Canada; Marvin & Leonard Advertising; Culver (illegible); ——low, Gold & Rothschild Advertising; Federal Liquors, (illegible); Fried Chicken, Inc.; Plymouth Rock Gelatin; Water (illegible); Brookfield Sporting Goods, Inc.; Bobby (illegible) Oil Corp.; Kantwet Baby Products; British/American Bicentennial (illegible); Taste O'Sea; J. Homestock Co.; Animal Rescue League of Boston; Gillette Company; Boston Harbor Islands Project; (illegible) National Bank of Danvers, Mass. Income: $20,000/Year.

May, 1969 to February, 1970

Public Relations Manager, Dunkin' Donuts, Inc., Quincy, Mass. Responsible for creating and administering a Public Relations program for a $65 million food franchise company owning a variety of food businesses in the (illegible) Canada. Income: $14,000/Year.

December (illegible) to May (illegible)

Public Relations Consultant working for own firm, A. E. Herzog & Company, Brookline, Mass. Clients: Sheraton Corporation; Wolcott, Carlson & Company, New York; City of Montreal, Canada; Promotions, Inc.; New England Hospital Assembly. Income: $12,000/Year.

April, 1967 to November, 1967

Public Relations Consultant to Polaroid Corporation at Expo '67, Montreal, Canada. On loan to U.S. Government to publicize Polaroid-sponsored film in U.S. Pavilion. Hosted more than 3,000 members of international press and broadcast media, heads of state, foreign and U.S. dignitaries and celebrities. Income: $10,000 plus all living expenses.

November, 1966 to February, 1967

Manager, Boston Office, Bill Doll & Company, New York Promotional firm. Responsible for servicing the Boston Herald-Traveler newspaper account. Income: $10,000/Year.

April, 1966 to November, 1966

Public Relations account executive, Jon-Carter & Company, Boston, Mass. Responsible for formulation and servicing of public relations programs —— accounts maintained by the agency, principally in the consumer field. Income: $10,000/Year.

February, 1964 to March, 1966

Director of Public Relations, Boston (illegible) Hospital, Boston, Mass. Responsible (illegible) public relations activities carried (illegible) hospital as well as coordination of fund raising (illegible) production of all literature. Income: $10,000/Year.

[Reprinted from the Progressive, Madison, Wis., September 1972]

THE GREATEST SHOW ON EARTH

(By Jeremy Rifkin and Erwin Knoll)

"A GIANT ROLL OF PAPER" AND OTHER WONDERFUL IDEAS

On July 14, 1972, an enterprise called Communication Resources, Incorporated, with headquarters in Costa Mesa, California, advised President Nixon's American Revolution Bicentennial Commission (ARBC) of its ambitious plans for a program to be entitled "Spirit of America."

"This promotion," wrote Mark A. Matthews of Communication Resources, "will be sponsored by a major U.S. company and will run for approximately thirty-six months. Beginning in the spring of 1973, Spirit of America will travel to 100 major regional shopping centers throughout the U.S. This is truly a 'grass roots' promotion in that it reaches directly into the family element of America.

"Spirit of America has been under development for over nine months by CRI and is now ready for presentation to potential sponsors. This program will offer every citizen the opportunity to 'stand up and be counted' by signing his name to the Pledge of Allegiance honor scroll—a giant roll of paper on which over seven million signatures will be collected. In addition, viewers will be invited to see American Time Capsule, Braverman Production's history of the United States in three minutes. There will also be other memorabilia, including an exact replica of the Liberty Bell, and historical documents. . . ."

On June 14, 1972, thirteen prominent citizens of Indiana, headed by Mayor Richard G. Lugar of Indianapolis, announced the formation of American Communications Network, Incorporated, "a statewide corporation purposed on rekindling the Spirit of 1776 into America's third century, beginning in 1976." The original incorporators, "each representing one of the original thirteen colo-

nies," said they would ultimately expand their number to fifty-six, "a like number to the signers of the Declaration of Independence."

They plan to build a Freedoms Study Center "which will provide a forum for the true meaning of the American Revolution." Meanwhile, they have issued "A Declaration of Nationalism for America's Third Century" containing this stirring passage:

"We mean to defend the citadel; we mean to make America the center of the ultimate resistance to the evil which is devastating the world; more than that, more than the center of resistance, we mean to make Her the center of resurrection [*sic*], the source of energies by which men who believe as we do may be liberated, and the lands that are subjugated be redeemed, and the world we live in be purified and passified [*sic*] and made free once more."

This worthy proclamation was forwarded to the American Revolution Bicentennial Commission by President Nixon's special consultant, Leonard Garment, who noted that "we have a very friendly relationship with Mayor Lugar," and therefore asked ARBC to "have someone make a friendly and prompt call and evaluate this on its merits, i.e., as to whether it meets the standards of Bicentennial endorsement. Then let me know your conclusion."

On July 5, 1972, David H. Cook, a real estate investor in Encino, California, wrote to President Nixon about his plans for a $360 million project to be called "Worldpark." "We have been assured the financing by one of our country's major corporations and now have a major Japanese corporation which would like to help us develop it," Cook told the President.

"The park is designed to show the living environment in the different countries of the world and all of the major tourists attractions on earth will be duplicated here for anyone to visit and experience true 'people to people' contact. An example will be the changing of the guard at Buckingham Palace. We believe Worldpark will promote better understanding among nations and people.

"Our Worldpark will be open in 1975 and it is our intention to have all the problems worked out for our Grand Opening in 1976 to help our country celebrate its bicentennial. To our knowledge this is the only project planned on the West Coast for the celebration. We intend to publicize it internationally through tourist agencies, airlines, shipping lines, and possibly through the Bicentennial Commission too. . . ."

The White House duly referred the letter to ARBC, and Cook was advised that "you can expect to hear from them."

NIXON, THE GOP, THE GOVERNMENT—IN THAT ORDER

Such propositions arrive by the score each week at the nerve center of this nation's impending 200th birthday binge—ARBC's headquarters in a handsomely restored federal style building on historic Jackson Place, a block from the White House. Most of America's major corporations, and quite a few of its small-time hustlers, are scrambling to turn a buck by climbing aboard the big Bicentennial bandwagon. They want ARBC's help, ARBC's endorsement, ARBC's permission to use the official Bicentennial emblem, a five-pointed star encased in a red, white, and blue design.

The emblem is emblazoned on a banner outside ARBC's headquarters. By 1976, if the Commission has its way, it will be as familiar as the flag to every American.

ARBC Chairman David J. Mahoney is a friend of Mr. Nixon and served as a key fundraiser in his 1960 and 1968 Presidential campaigns. He is also the chief executive conglomerate with far-flung interests in manufacturing, mass media, utilities, insurance, and other fields. His aim, he has repeatedly asserted, is to foster maximum participation in the Bicentennial by "the private sector"—his friends and colleagues among the captains of American industry.

"There's nothing wrong with profit-making," says George E. Lang, a New York consultant to hotels and restaurants and one of the Commission's few active and influential public members. His statement is not merely an affirmation of ARBC policy; it is a dominant theme—but not *the* dominant theme—of the Bicentennial celebration itself. For the Bicentennial, as it is visualized in ARBC, in the White House, in America's institutional power centers, is much more than just a get-rich-quick scheme for the nation's free-enterprisers. It is a once-in-a-lifetime opportunity to promote the virtues of the domestic status quo in an atmosphere supercharged with emotional "patriotism."

In the past, many Americans have based their personal self-confidence on the mere fact that they were Americans; the nation's greatness was their greatness, too. Today, after a decade of disastrous war, race riots, political assassinations, pollution and urban decay, political corruption, rising unemployment, and a host of other critical problems threatening our very survival, many Americans feel bewildered and confused. Many are beginning to question the very values and institutions that they long held sacred and invincible.

The pervasive, precipitous decline in national morale has been discerned in a number of public opinion polls. One Gallup survey concluded, typically, that "forty-seven per cent of the American people believe that unrest is likely to lead to a real breakdown in this country. Traditional optimism about the nation's steady progress has faltered. The average American feels that the United States has slid back over the past few years."

A new populist sentiment is emerging from this crisis. The McGovern attacks on the powerful and the very rich are—as are those, for different reasons, of the Wallace camp—attracting the enthusiastic support of millions of Americans. And President Nixon and the people who control America's wealth and power are acutely aware of the escalating populist mood. They realize that the economic and political institutions they control are under heavy attack, and that their own power is being seriously challenged. In an attempt to cope with these threats, President Nixon has conceived a plan to manipulate the mass psychology of an entire nation back into conformity with his vision of what the American way of life should be.

The strategy will be to speak of greatness to those who feel insignificant; to speak of confidence to those who feel weak; to speak of commitment to those who feel bewildered and confused. The long-range goal is to convince people that the problems facing America can be solved by existing institutions, and that the root of the evil threatening our society is not a rich corporate/government elite, but rather subversive forces determined to undermine the will and resolve of a great nation and the vitality of a great people.

"My fellow Americans," President Nixon declared in his 1971 Independence Day address "we share tonight a great moment, the beginning of the Bicentennial Era. . . To look at America with clear eyes today is to see every reason for gratitude and little for regret, strong grounds for hope and none at all for despair. The crucial challenge now is to hold the high ground of confidence, courage, and faith that is rightly ours, and to avoid the quicksand of fear and doubt."

If there are Americans who see their nation in a different light at the beginning of the Bicentennial Era—if there are Americans who are disgruntled and disaffected, who are dismayed by their nations' murderous adventures abroad or disappointed by its failure to meet the promises of the American dream at home—it is the purpose of the Bicentennial to set them straight or, if that fails, to isolate them from the nation's mainstream.

The ideological importance of the Bicentennial to the Nixon Administration was underscored in a meeting between Herbert G. Klein, President Nixon's director of communications, and Robert Guelich, chairman of the Public Relations Society of America's Bicentennial Committee, in the spring of 1970. At the close of that meeting Guelich submitted the following report to his Society's members:

"The American Revolution Bicentennial observance should be developed into the greatest single peactime public opinion mobilization effort in our nation's history."

ARBC's Director, Jack LeVant, phrased the challenge more bluntly in a "Confidential—Eyes Only" memo he drafted last January 25 for his friend and former business associate, Chairman Mahoney. The Bicentennial, LeVant rather recklessly confided, "could be the greatest opportunity Nixon, the Party, and the Government has as a beacon of light for reunification and light within the nation and with the world."

"Nixon, the Party, and the Government"—in that order.

THE SOUND OF MANY HEELS CLICKING ON JACKSON PLACE

It is President Nixon's Bicentennial Commission, as intimately linked to him as is the Committee to Re-Elect the President, located around the corner, and serving much the same purpose. As initially conceived by Congress in the mid-1960s, the Bicentenntial celebration was to span the years from 1976 to 1983—a period corresponding to America's years of revolutionary travail.

Then, without warning, President Nixon went before the nation on July 4, 1971, in a special television address, and announced—to the surprise of Congress—that the official Bicentennial Era was being changed to 1971–1976; this is a period which has no historical significance to the nation's Bicentennial, but which does correspond to what the President expects to be his remaining years in the White House. The rising crescendo of nationwide festivites to culminate on July 4, 1976, is to be the jewel in the diadem of the Nixon years. By 1976, if all goes as planned, the White House expects to imprint the Nixon thought so indelibly upon the American mind that it will continue to shape the character of our nation for generations yet unborn.

Legislation now pending in Congress to authorize ARBC to spend $6.7 million in the current fiscal year would make explicit what has long since been established as a fact of life at 736 Jackson Place: the President's total control of the Commission. Section 11 of the authorization bill states:

"For a period of one year from the effective date of this section, whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify."

Representative H. R. Gross, the crusty Iowa Republican who is the House's most jealous guardian of the public purse, was outraged when Section 11 came to his attention. "This is one of the broadest delegations of power I have ever heard of," he protested. "I understand that it is for a period of one year, but a great deal of abuse can occur in that period of time. . . . I would not vote for any bill with that kind of provision in it, no matter how meritorious it might be. Congress has already delegated far too much

power to the executive branch of the government."

Whether Congress ultimately retains or discards Section 11, ARBC is certain to remain a wholly owned subsidiary of the Nixon White House. Though it is theoretically and legally a quasi-public agency, governed by a fifty-member board of more or less prominent citizens (preponderantly drawn from the Republican business establishment), ARBC actually forms all its programs and decisions in closest consultation between its top officers and key Presidential aides. John D. Ehrlichman, director of the President's Domestic Council, supervises Commission policies. Leonard Garment and his assistant, Brad Patterson, keep an eye on ARBC's day-to-day operations. Herb Klein advises on publicity and propaganda, and William L. Safire, the ablest of Mr. Nixon's speechwriters, serves as ARBC's philosophical and spiritual counselor. Transmitting the text of a speech Chairman Mahoney was to deliver to the Congressional Medal of Honor Society, Safire assured Mahoney that the speech "will go over to that audience and also lends itself to promotional reprint. . . . Certain applause lines, especially toward the end, should be milked hard." Among the lines made for milking were these: "At a time when we hear all too much of the gospel of defeatism and despair, we would do well to remember this: we shall remain the land of the free as long as we remain the home of the brave."

Reminding Americans to be "brave"—that is, to shoulder the burdens of an endless arms race and an expanding empire, and continue allegiance to the sanctity of the profit system, are the major Bicentennial themes. The President stated the empire theme this way in his nationwide radio address last July 4: "Over the past two centuries our revolutionary heritage of self-government has helped to make the United States the freest and strongest nation the world has ever seen. It has enabled us to bear with unfailing honor the responsibility of world leadership in the cause of peace. As we look back to America's beginnings, therefore, we are surely entitled to a feeling of pride and gratitude."

As he looks to his Bicentennial Commission, Mr. Nixon is entitled to a feeling of pride and gratitude, for its loyal leaders understand their precise role and function. In one of his "confidential" memos to Chairman Mahoney, Director LeVant pointed out that in order to carry out its mission, ARBC must have "one Czar or Administrator . . . with direct access to the President. . . . Then and only then will his staff, aides, and those below click heels and see that his [the President's] wishes are carried out."

Understandably, some of ARBC's public members—particularly among those few drawn from the academic community—have grown restive as they have come to recognize their role as letterhead front-men. "We must be aware that our decision-making process has not operated well," Commissioner Richard P. McCormick, a professor of history at Rutgers University, complained last February in a letter to Mahoney. "In our full meetings we listen to many "'presentations'" engage in inconclusive discussions, rarely adopt resolutions on major policy issues. We do not receive detailed financial reports, or even a statement of how the Commission's funds are budgeted. We are aware that there is an Executive Committee, but we never receive minutes of the meetings of that Committee, and the reports of its actions at full Commission meetings are desultory. If we have any bylaws governing our organization, I have never seen them."

A similar complaint was filed by Commissioner Luther H. Foster, the president of Tuskegee Institute, who told Mahoney he had considered resigning from ARBC but "hesitated to do this because I felt we needed some minority representation . . ."

However, none of ARBC's public members can fully appreciate—at least until they read this article—how highly their contribution to the Commission is valued by Director LeVant. In his draft memo to Mahoney last January 25, LeVant wrote: "The present Commission structure must be defanged. It should be only an advising or consulting group. They contribute nothing constructive except use up time, chairs, food, booze, and expenses for traveling."

There are rumors that ARBC may soon be reorganized, appropriately enough, as a corporation.

THE SECRETS OF '76 AND OTHER EMBARRASSMENTS

Though Chairman Mahoney speaks often of his hope to involve all Americans in a "grass roots" Bicentennial commemoration, ARBC prefers to conduct its business behind closed doors, and to festoon its working papers with the jargon of Pentagon-style security classifications. The ARBC files abound in documents marked "administratively confidential" and "Eyes Only," and even White House communications are couched in conspiratorial terms. Thus, a confidential note sent January 14, 1972, from Mahoney to John D. Ehrlichman: "We have a special Bicentennial project under way, but 'under wraps.' Len Garment, John Whitaker, and Bill Safire have seen a prototype of the project. They all concur that you should see this project as soon as possible. . . . The prototype is under lock and key at 736 Jackson Place. Please give Jack LeVant a call to confirm a time—Jack alone will be with you."

A staff report on ARBC's "Communications Effort Under Way (Softsell)" carried this cautionary postscript: "Mr. LeVant asked that I reduce this to writing to report our activities to the Chairman. I suggest we keep this information carefully guarded, or, as you know, we will blow the whole ball game." The report covered the Commission's plans to tie in the Bicentennial with such diverse enterprises as the Orange Bowl Parade, the Ringling Brothers Barnum and Bailey Circus, the Miss America Contest, and the McDonald hamburger chain. Curiously, though ARBC has often been criticized as a "do-nothing" agency, it would rather not dispel that image by announcing precisely what it is doing.

Representative William S. Moorhead, Pennsylvania Democrat, who heads the House Freedom of Information Committee, was astonished to discover a few months ago that ARBC was in possession of an official "Top Secret" stamp. "What are the secrets of '76?" he wondered in a letter to the Commission. "Did your historians uncover embarrassing errors during the American Revolution which you want to hide behind a secrecy stamp while we are commemorating the 200th anniversary?"

ARBC's top brass was thrown into a panic when the unofficial, anti-establishment group, the Peoples Bicentennial Commission, citing the Federal Freedom of Information Act, requested an opportunity to examine transcripts of Commission meetings. A hurried consultation with the White House brought this advice to Jack LeVant from Leonard Garment: "With respect to transcripts, I urge the Commission to be as forthcoming as the law will permit about making these available. . . . In the future if you and Dave [Mahoney] are concerned about the privilege of Commission meetings, you may want to operate without transcripts; they may be convenient to your staff but they are an invitation to the invasion of that privilege."

ARBC's own general counsel, Eugene J. Skora, urged LeVant to review the transcripts "to isolate questionable material—i.e., that which could be embarrassing or that which comes within any of the exemptions of the Act." The Freedom of Information Act provides for a plethora of exceptions and exemptions, but it does not authorize Government agencies to withhold material which might prove "embarrassing." ARBC ultimately allowed the Peoples Bicentennial Commission access to some of the transcripts, and withheld others. The Peoples Commission could have pressed the point, but there was no need. Relying on Daniel Ellsberg's precedent and Xerox's technology, it has managed to keep abreast of ARBC's affairs. Every document cited in this article was furnished voluntarily by sources inside the President's Commission.

A FIRECRACKER THAT FIZZLED—THE PHILADELPHIA STORY

As ARBC's internal dissent would indicate, things have not always run smoothly at 736 Jackson Place. The Commission's staff—eighty-seven persons at latest count, including twenty-one receiving more than $30,000 a year—has suffered from high turnover and low morale.

Though Congress created ARBC in 1966, the Commission accomplished little in its early years. One problem was a lack of White House interest; Lyndon B. Johnson knew he would not be around to reap the political benefits of the Bicentennial ballyhoo. It was not until President Nixon grasped the potential of the Bicentennial—and placed Mahoney in charge of it in mid-1970—that the Commission entered its active phase. At that point, however, some of ARBC's troubles also intensified.

Senator Charles M. Mathias, Jr., Maryland Republican, who as a member of the House co-sponsored the original legislation creating ARBC, charged in a Senate speech last year that the Commission was well on the way toward creating "the most unrevolutionary celebration imaginable." ARBC, he said, "reflects the attitude of that anonymous civil servant who, when somebody suggested 'The Ongoing Revolution' as an overall title and theme for the Bicentennial, gave a nervous giggle and said: 'Oh no. That wouldn't do. We've got to stay away from the word "revolution" at all costs.'"

ARBC's "youth task force" resigned en masse last March, charging that the Commission "is composed—like the exclusive social club that it is—of the white and the middle-aged from the worlds of business, government, and the professions [and] is producing a Bicentennial reflecting simply its own limited composition." Similar protests have come from black spokesmen and women's organizations.

Republican Representatives Fred Schwengel of Iowa and Lawrence G. Williams of Pennsylvania—the latter serves as a member of the Commission—have emerged as its leading Congressional critics. Both recently urged the House—successfully—to defer action on ARBC's fund authorization for fiscal 1973. "No one knows exactly what anybody is doing about the past, the present, of the future in the ARBC," Williams told the House. "I am for commemorating what I believe is the greatest birthday and the most significant birthday of any nation in all the history of time," Schwengel said, "but I believe that under the present leadership of the Commission nothing really good is going to happen, certainly based upon the record so far."

ARBC passed its greatest crisis last May, when it officially abandoned the project that had long been billed as the centerpiece of its Bicentennial pyrotechnics display—a giant international exposition to be held in Philadelphia. By that time, some $3.5 million in local and state funds and private resources had been squandered on fruitless planning of the Philadelphia Expo. A series of potential sites had been considered and discarded, mainly because of vigorous opposition from residents who would be displaced or inconvenienced by the fair.

Though the Commission had concluded long ago that the Philadelphia extravaganza would be stillborn, it faced considerable po-

litical problems in arranging for a decent burial. As a staff memo for Mahoney and LeVant put it last February 2:

"Face-saving is needed for the following:

"1. President Nixon, who committed the ARBC and the country to an expo in Philadelphia. . . .

"2. Senator Hugh Scott, who got President Nixon to commit to the expo.

"3. Governor Shapp, who doesn't want to be known as the governor who lost the chance to save his state by hosting an expo.

"4. Mayor Rizzo, who ran and was elected mayor on the basis of no new taxes."

The staff's suggested solution was to defer an announcement "until all officials can gracefully back off." Meanwhile, there was to be a "high-level meeting at the White House . . . to work out arrangements for Mayor Rizzo to get several of his urgent city programs Federally funded immediately." The strategy apparently worked, for despite his disappointment at losing the exposition, Democratic Mayor Rizzo is wholeheartedly supporting Mr. Nixon for a second term.

"THE MARKETING BUG" AND 50—COUNT 'EM, 50—PARKS

ARBC's staff proposed, in the merchandising jargon it favors, that when the Commission formally scuttled the Philadelphia fair, it should "give everyone in the market area, including your stockholders, a better product to take its place." The "better product" was an elaborate scheme for the construction of fifty Bicentennial Parks—one in every state—to be built on Federal land at a cost of $25 million each, and to feature such delights as restaurants and snack bars, exhibition centers, botanical gardens, and aviaries "where live birds of the state could be featured under a transparent dome." The centerpiece of every park would be a red, white, and blue Bicentennial Plaza, topped by a Bicentennial Tower under a red, white, and blue plastic bubble dome.

This was the hush-hush "prototype" that Ehrlichman had been invited to inspect, and the White House reaction was enthusiastic. At a meeting with Mahoney and LeVant, Safire called the idea "exciting," and urged the inclusion of each park of athletic facilities for spectator sports, because "the President would like this." Another well-received suggestion—from ARBC consultant Ed Bleier of Warner Brothers—was that each park contain a "star attraction—some sort of outstanding heritage-type large-screen movie, specially produced. . . . Maybe something like John Wayne TV Spectacular."

As in all of the Commission's major undertakings, the possibilities of commercial exploitation were a key consideration. At a closed meeting of ARBC's executive committee, LeVant could hardly contain his fervor. "The marketing bug gets in me here," he said. "I think we can raise from the private sector anywhere from 500 million to a billion dollars where they are giving it to a non-profit thing, where they are making a contribution. There is a heritage. It could be called a General Motors building in one state, a Chrysler building in another state, U.S. Steel in another state. All of these companies could have a vested interest or a real tangible foothold in our project here. . . . This is a gift to America from the private sector."

Others were somewhat less enthusiastic. When the Commission's public members were finally briefed on the Bicentennial Parks program, several complained—orally and in letters to Mahoney—that they had been presented with a *fait accompli*, a "slick and finished" plan that they had had no part in devising or even discussing. There were ungrateful grumbles, too, from the grass roots—the state bicentennial commissions that were as surprised as ARBC's commissioners to hear about the Bicentennial Parks program. Gene Jones Riddle, associate executive director of the Texas Commission, protested that the plan seemed "ill-timed and ill-conceived," and inconsistent with President Nixon's declaration that "the Bicentennial must go directly to the people and derive its strength from the people."

But ARBC is moving full speed ahead on the Bicentennial Parks—assuming, of course, that Congress will provide the $1.2 billion in Federal financing. The fifty parks, says LeVant, will be the definitive answer to those who wonder what the Commission has been doing—the "one solid thing that you could put your hand on."

BOY SCOUTS, BUMPER STRIPS, MEDALS, AND MERCHANDISE

On June 1, 1972, the President's Commission wrote to twenty-three poster firms, forty-seven decal manufacturers, and forty flag and pennant producers to "determine prospects for licensing" the ARBC emblem. By 1975, if the Commission has its way, the Bicentennial star will be ubiquitous and unavoidable in all America. One million Bicentennial bumper strips will beautify the nation's highways. Bicentennial cuff links, lapel pins, and cigarette lighters are in the works, and Bicentennial medallions are already being offered to collectors. The ARBC emblem, certifying true-blue Americanism, will grace books and balloons and baseball bats—and the people who buy them.

"There are 6.25 million Boy Scouts that have been placed—literally been placed—at the disposal of the Bicentennial Commission," Director LeVant announced at an executive committee meeting. (A fortunate coincidence: one of Chairman Mahoney's associates at Norton Simon is vice president of the Boy Scouts' national council.) ARBC expects that every one of those 6.25 million Scouts will soon be wearing a Bicentennial shoulder patch—and similar plans are under way for the Girl Scouts, the 4-H Clubs, the Little Leagues, and Junior Achievement.

As the endorsement requests now pouring in at 736 Jackson Place denote, the Commission's imprimatur will carry prestige and considerable cash value. ARBC, of course, must exercise a measure of discretion in authorizing the use of its emblem, and it has provided itself with sweeping and arbitrary powers to determine who will qualify for its seal of approval. Among other criteria, applicants must demonstrate to the Commission's satisfaction that their projects are consonant with "the basic principles upon which this nation was founded and our common purpose." They must also demonstrate that "the activity [has] been conceived in adherence to professional standards. Professional standards relate to those established or adhered to by recognized associations or distinguished individual authorities or practitioners."

Finally, applicants must demonstrate that "the activity [has] been conceived in adherence to acceptable interpretations of these principles and this new understanding. Acceptable interpretations are those which are originated by an individual of standing or recognized by a school of thought which, by virtue of the integrity of its leadership or the number of its followers, can be said to have important backing." All of these determinations are left solely in the hands of the Bicentennial agency.

One way that ARBC checks on endorsement applications is to consult the Justice Department's files for "evidence of subversive activities." Another way is to rely on the judgment of the Commission's friends in the business community. Thus, one staff member reported that a friend of his had reviewed a television film called "Continental Congress of '76" and found it "definitely left of center. Excerpts of discussions between Franklin and Jefferson were used to back up the idea that the Constitution was a very temporary, expedient document and meant to be changed (an obvious lot of propaganda)." Another film maker was turned down because he was "all hung up on the subject of making social-and-political-commentary films and would be controversial for Commission endorsement."

On the other hand, some proposals submitted to ARBC receive special handling for special reasons. Last May 17, for example, Joyce Leanse, a consultant to the National Council on the Aging, suggested an idea for which she saw "excellent P.R. potential"—that "older persons participating in craft programs throughout the United States could very well be the 'manufacturers' of a sizable portion of the quantity of souvenirs necessary to meet the needs of the Bicentennial celebration."

Mrs. Leanse sent her idea not to the Bicentennial but to Mahoney's corporation, Norton Simon, Incorporated, where an alert executive that "Joyce Leanse is the wife of Jay Leanse, who is head of the Price Commission's office of Price Exceptions and someone with whom Don Surdoval [Norton Simon's comptroller] has been in contact." The proposal was forwarded to ARBC's staff with this note attached: "Please treat this with TLC [tender loving care]. Norton Simon, Inc., needs the Price Commission's good will."

As Chairman Mahoney has observed, "We, the businessmen, have much to gain if we take a positive leadership role in the nation's 200th anniversary."

EVERY HEART BEATS TRUE FOR THE RED, WHITE, AND BLUE

"If we can sell millions of bottles of soda every year, why can't we sell life, liberty, and the pursuit of happiness? If we can sell Colombian coffee to Americans, why not America to the Colombians? Why not America to Americans?"

The questions were posed by a New York advertising executive named Ben Colarossi in an open letter to President Nixon that appeared in *The New York Times* last April 2. "Are the advantages of our products clearly defined?" he asked. "Can we show the average person that our product is for him and not just the well-to-do? Are we doing enough to tell our story to the youth? Why don't we do what any intelligent company would do?" The answer, Colarossi suggested, was to "get a good advertising agency" and mount a giant campaign to sell America. "President Nixon," he concluded, "only you can put all this together."

The letter won swift and favorable notice at the Bicentennial Commission, for President Nixon *has* put it all together, and ARBC, which has a "Master Five-Year Advertising Plan," is the chosen instrument for the campaign. The splendor of the Bicentennial fete is its versatility—the fact that it provides, in one grand spectacle, an opportunity for corporate America to sell its wares, project its image, merchandise its ideology, and—not so incidentally—re-elect its President.

The Bicentennial Era is "the biggest of all public relations challenges," Robert Guelich of Montgomery Ward told members of the Public Relations Society of America. For corporations, the Bicentennial will be "a vital civic obligation and, at the same time sound business . . . the greatest series of special events ever staged." Chairman Mahoney told alumni of the Wharton School of Business that corporations that "develop a strong social conscience" will reap a two-fold reward: "First, with a better public image and social awareness, and second, by experiencing a healthier business profit."

In ARBC's terms, "social awareness" is already reaching epidemic scale in the American enterprise community. The Commission's files bulge with proposals for exploiting every facet of the Bicentennial. For example:

Mutual Buying Syndicate, Incorporated, buyers and consultants to leading department stores from Gilchrist's in Boston to Gottschalk's in Fresno, California, has alerted

merchandise and promotion managers that "the Bicentennial can mean great public relations and great plus volume . . . There is a great red, white, and blue opportunity for you. You owe it to your community and your country . . . It's not too early to look ahead." Stores are looking ahead by promoting "the American Look" in men's, women's, and children's fashions, and by scheduling red, white, and blue newspaper ads. "We are, of course, planning an enormous event for the Bicentennial," a New Orleans emporium confided to ARBC.

In Laguna Beach, California, the Laguna Federal Savings and Loan Association is using films, photos, posters, and displays generously provided by ARBC to promote its range of "Bicentennial Savings Plans"—the "Common Sense" five percent passbook account, and various savings certificates called "Patriot" (five and one-quarter percent), "Continental Congress" (five and one-half percent), "Minute Men" (five and three-quarters percent), and "Independence" (six percent). An elaborate portfolio advises patrons: "During the five years of this celebration, Laguna Federal Savings will become your Bicentennial Headquarters."

Major corporations are rushing to take advantage of the Bicentennial potential. ITT, AT&T, Ford, Gulf Oil, IBM, Control Data, John Hancock, and many more are keeping ARBC advised of their promotion plans, which run the gamut from give-away flag medallions to drive-away red, white, and blue automobiles.

ARBC not only receives such proposals, it actively solicits them. Last April 6, for instance, Daniel S. Buser, the Commission's director of communications, wrote to the president of Mack Trucks, Incorporated: "My hat is off to you because every time we turn around we see one of those powerful American Mack Trucks with their red, white, and blue sparkling in the sunshine. I would enjoy the opportunity to come to Allentown and discuss how Mack Trucks might take an active role in the national Bicentennial celebration. I know how much you love this country and how much you have done for it. It is with that thought in mind that I make the suggestion that, at your convenience, we get together and go over some of the great opportunities that are surfacing through the American Revolution Bicentennial Commission."

It was, of course, an offer no self respecting businessman could refuse. "I would be happy to welcome your suggestions," President Zenon C. R. Hansen replied in a letter signed, "Macktively yours."

When ARA Services, Incorporated, "the largest food services organization in the United States," offered its help "in making the Bicentennial celebration an event of great historical importance," it wrote not to ARBC but to a general manager of Canada Dry Corporation, a Norton Simon subsidiary. He forwarded the letter to Mahoney's corporate office with a reminder that "ARA is a fine company and could be a big user of Hunt, Somerest, and Canada Dry products"—all Norton Simon enterprises. The correspondence was promptly relayed to ARBC.

"One of the major efforts of the American Revolution Bicentennial Commission is to involve as many Americans as possible in a meaningful observance of our nation's 200th anniversary," Mahoney wrote on April 13 to the U.S. Chief of Protocol, Emil Mosbacher Jr. "With this in mind, I would like to invite approximately twenty principal executives of major corporations of our country to a dinner at Blair House. . . ."

There's something for everyone in the Bicentennial.

SOME EXCITING PROSPECTS FOR "THE BICENTENNIAL CLASS"

No one can possibly accuse the Bicentennial planners of overlooking what they like to call the "youth market." White House aide William Safire has suggested designating the high school graduating class of 1976 as the "National Bicentennial Class," but even bigger things are in the works for America's Bicentennial generation. ARBC's "Information Bank for Youth Involvement" will catalog such activities as these:

The Iowa Bicentennial Commission, whose school program calls for "contests, posters, and the selection of books, slides, and motion pictures," has already devised a "Bicentennial Quiz" for eighth graders (the Class of '76) which features such questions as these:

The Bicentennial represents how many years of freedom? (a) 100 years (b) 150 years (c) 200 years.

Food comes first, then (a) Dollars (b) Freedom (c) War (d) Cities.

The average student misses only seven out of fifty-nine questions, Iowa proudly reported to ARBC.

Among the youth-oriented projects under consideration by the American Legion's "Spirit of '76 Committee" is a plan to produce "the greatest patriotic film ever to come from the genius of man . . . with John Wayne and Bob Hope and Government VIPs . . . live actors, folk songs, flying flags, and inspiring musical scores." The Legion may sponsor "a Continental Congress inviting youngsters from across the nation to meet and discuss their ideas and explore Revolutionary War topics," though candidates would, of course, "have to be screened carefully to avoid participation by any whose philosophy is contrary to Americanism and ideals of the American Legion." Another Legion project under consideration: a nationwide tour of "freedom fighters from around the world . . . including the chiefs of staff of our strongest allies. . . . Perhaps this would be a way to dissipate the orgy of guilt complexes which Americans have in believing we are abandoning our allies."

To provide elementary and secondary students with a standardized, officially sanctioned version of American history, the American Library and Educational Services Company (ALESCO)—David J. Mahoney is a director—has proposed nationwide distribution of an ARBC-approved Bicentennial bibliography of books and audiovisual materials. ALESCO's distribution would be free to almost 100,000 schools "with the help of outside funding" from the Federal Government.

Also for classroom use, Heritage Publishers, Incorporated, of Memphis, Tennessee, has produced a book, *Forty Documents of Our American Heritage*, for nationwide distribution by Junior Chambers of Commerce. A valued feature of the text, the publisher noted in its request for ARBC endorsement, is that it encourages students to discuss such questions as "what would have happened if . . . Castro and the Communists had not taken Cuba with the resulting Communist subversion of Latin America."

Textbooks, of course, are not the only—or even the best—way to indoctrinating children. ARBC is mindful of the influence of the music industry. In a letter to Continental Dynamics, Incorporated, Commissioner George Lang predicted that a series of Bicentennial records "will sell like historical hotcakes." And starting this fall, the airwaves will be awash in Bicentennial productions. The major networks and many independent producers are eagerly seeking ARBC's approval for their long-run series and specials.

One important series, announced jointly by ARBC and American Airlines, will feature the stentorian tones of Chet Huntley presiding over "The American Experience." The programs, to run from this fall through 1976, will make it clear that The American Experience has been remarkably free of blunders or failures. "They will be 100 per cent optimistic and upbeat . . . certainly designed to inspire faith in America," says producer-director Donald B. Hyatt.

An outfit called Honor America Day is working on a show to be called "Who Stole the Spirit of '76?" starring Jack Webb as a patriotic sleuth in an "entertaining framework for a special dedicated to the American people, their frustrations, and their hopes." ARBC regards it as "probably the best TV script ever submitted" to the Commission, and has suggested some possible sponsors. The Marriott Corporation, whose chief, J. Willard Marriott, happens to be chairman of Honor America Day, could use the show to advertise "the fact that all Americans are welcome in Hot Shoppes," ARBC advised. And Mahoney's own Canada Dry could use "their present commercial showing all the faces of America."

Viacom International, Incorporated, formerly the production arm of CBS and now a leading independent television producer, has prepared a series called "Guest of Honor," which "focuses on distinguished figures from the American Revolutionary era and brings them to life in enthralling one-to-one interviews." About 120 television stations are expected to broadcast "Guest of Honor," and Viacom regards it as a natural for sponsorship by "community-involved advertisers . . . banks, utility companies, and insurance firms."

Perhaps the most spectacular television proposal has been submitted directly to President Nixon's private secretary, Rose Mary Woods, by a Chicago producer named Ted Rogers. He wants to devote almost three years to creating "*the* blockbuster creation of them all . . . a multi-million dollar project . . . a total portrait of the greatness of America in human and very personal theatrical terms." And he would like to have "some kind of visible participation by the President, thus stamping it for the audience as the ex officio White House Commission presentation."

Rogers, too, has a sponsor in mind. He told Miss Woods: "There is one company whose corporate personality and grass-roots relationship to and involvement with all of America places it head and shoulders above any other candidate. It's Sears Roebuck, headquartered here in Chicago. . . . One reason for their interest is it turns out 1976 is Sears' Centennial year."

Casper the Friendly Ghost, a favorite character for the six million readers of Harvey Comics, has been converted into Casper, the Spirit of '76, for a full-color series of TV cartoons called—of course—"Red, White, and BOO." And Harvey Comics wants to put the Bicentennial into the funny papers, too. It recently advised ARBC that it would like to prepare "special booklets to appeal to youngsters and adults alike that will bring the Bicentennial message into millions of homes across the nation."

ICE CREAM AND CAKE AND A FRIENDLY TEA PARTY

Happy Birthday, America! We'll have a cake—straight from the spotless Kitchens of Sara Lee in Deerfield, Illinois. Sara Lee's chairman, James A. Schlindwein, wrote to ARBC to offer his company's services in baking "the nation's official birthday cake for the President to cut on our country's birthday." He added: "I feel we have excellent qualifications for this honor insofar as we employ Master Bakers from all over the world, at least one of whom is an Olympic Gold Medal Winner in Culinary Arts. His specific area of expertise is pastry and cake decoration." Sara Lee also volunteered to produce actual miniatures of the Bicentennial Cake . . . allowing all citizens to share tangibly in our nation's birthday celebration."

We'll have ice cream, too. Last January, ARBC's director of communications urged Baskin-Robbins Ice Cream to "start a great American ice cream series . . . the Betsy Ross Twirl — red, white, and blue; the George Washington Cherry Tree, etc." Who says the

Bicentennial Commission doesn't get results? A color advertisement in *The Los Angeles Times* on July 2 introduced "America's Bicentennial Ice Cream dedicated to the proposition that you should not have to run all the way out to Baskin-Robbins to have one of the finest Ice Creams in the world." You can get Mount Vernon Cherry Pecan and Valley Forge Rum Ration at your nearby supermarket.

"We'll send each other greeting cards. In June, Hallmark Cards, Incorporated, flew two members of ARBC's staff to corporate headquarters in Kansas City "to determine what products Hallmark would like to produce and promote which would have some tie-in theme with the overall American Revolutionary Bicentennial." The meeting was successful; Hallmark, will soon be marketing cards conveying touching patriotism, quaint old American slogans, and wholesome humor about the New Spirit of '76.

We'll give each other presents—perhaps a few yards of whole cloth from Owen-Corning's "Revolutionary Collection" of fiberglass fabrics, which are being tastefully advertised (at the taxpayers' expense) in ARBC's *Bicentennial News*.

We'll have the biggest and best Boston Tea Party ever—much nicer than the nasty affair held on December 16, 1773. This one will be sponsored by Thomas J. Lipton, Incorporated, and—in the words of Lipton promotion consultant Alfred Stern—it will "not include a group of Bostonian bit players disguised as Mohawks contributing to harbor pollution through an anachronous re-enactment of the original event." Instead, Stern has drafted a twenty-six-page scenario calling for "a gala high tea party and reception at Faneuil Hall," featuring "the highest quality of catering" for 200 distinguished guests constituting "a veritable bluebook of Massachusetts and Boston leadership, together with TJL's top echelon."

There is one small drawback, Stern acknowledges: "The Faneuil Hall event will unquestionably be a posh establishment social affair excluding the average man, which thematically is not the essence of the Revolution and its Bicentennial." To meet anticipated criticism, Lipton Tea may contribute to the restoration of the Boston wharf area as Tea Party Park—"While all of this is somewhat nebulous, from Lipton's point of view any such contribution should result in a permanent identifying plaque or marker."

The total estimated cost to Lipton Tea is about $35,000—including contributions of $1973 each to the Massachusetts Historical Society and the Massachusetts Bicentennial Commission to "expedite" their endorsement of the event, and $8,000 for "two extremely handsome silver tea services" to be presented to the Governor of Massachusetts and the Mayor of Boston. "The inherent institutional, community, and promotional potentials could hardly be realized through any comparable expense," consultant Stern observes. "Numerous residual promotional opportunities exist. . . . There's little doubt that effective identification will enhance TJL's institutional, community, and marketing (English Blend Tea) programs, especially throughout the New England area."

BILLIONS OF DOLLARS FOR "BICENTENNIALIZATION"

An imaginative member of the ARBC staff has coined a happy word for the process to which Americans are about to be subjected—"Bicentennialization." Like its Vietnamese counterpart, the process will take time, and it will cost much money. Official estimates of Federal Bicentennial expenditures—by ARBC and other Government agencies—between now and 1976 range up to $3 billion. State and local governments are expected to spend almost $1 billion more. An additional $1 billion is to come from private contributions to projects endorsed by the President's Bicentennial Commission. The Discover America Travel Organization estimates that domestic tourist expenditures will reach $83 billion in 1976—a $28 billion increase over the current year—thanks to Bicentennial festivities. No one knows how many billions will be spent on Bicentennial books and films and television specials, or on the merchandising of Bicentennial baubles. There is no way of reckoning the environmental damage—or the psychic costs—to be exacted by the Bicentennial.

President Nixon wants "people all over this land to sense the greatness of this moment, to participate in it, and help us discover what that great spirit is," the *Reader's Digest* reminded its seventeen million readers last July in an article, "Ring Out, Liberty Bell!" by Senior Editor (and ARBC consultant) Robert O'Brien. "Thus," the *Digest* added, "the master plan for the Bicentennial calls upon all of us, and all our states and communities, to participate. . . ."

The master planners can see light at the end of the tunnel of "Bicentennialization." They see America on the move, as the *Digest* put it, "toward the mountaintop of a more perfect union"—on the march for "Nixon, the Party, and the Government," on the march for "the twenty principal executives of major corporations of our country," on the march for the Republic that the Tories inherited after all.

Will "Bicentennialization" work? Will it succeed in pacifying the natives of this land on the 200th anniversary of its founding? Only Americans can answer. The ancient Caesars found it expedient to divert their disaffected subjects with bread and circuses; Americans can cut cake—from the Kitchens of Sara Lee.

Step right up, folks, and see The Greatest Show on Earth.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS

The PRESIDING OFFICER. At this time, under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will please state.

The assistant legislative clerk read the joint resolution (S.J. Res. 241) by title, as follows:

A joint resolution authorizing the President to approve an interim agreement between the United States and the Union of Soviet Socialist Republics.

The Senate proceeded to consider the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. (Mr. ALLEN). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise to speak on the interim agreement on nuclear arms with the Soviet Union and the amendment proposed by the distinguished Senator from Washington (Mr. JACKSON). This amendment has aroused great interest and created a wholly unexpected situation on the Senate floor.

It seems to me that the administration has turned its back on its own interim missile agreement with the Soviet Union. It seems to me that President Nixon should either give the agreement his full public support or repudiate it outright if there is reason to repudiate it.

Does the President now think that the agreement which he himself helped to negotiate is so faulty that it needs a last minute resolution on the Senate floor to protect American security?

That is the implication of the administration's support of the amendment offered by the Senator from Washington. But I find it hard to believe—very hard to believe—that the President really means that.

The modified resolution introduced by Senator JACKSON is certainly a substantive change, a substantial improvement over his original proposal. Nonetheless, I cannot understand why the administration has endorsed the resolution and seemingly turned its back on its own handiwork. By supporting the Jackson resolution, the administration is undercutting the hard work and the hard bargaining it put into the agreement during the long weeks and months at Helsinki, Vienna, and Moscow. I cannot understand why the President would want to jeopardize the Soviets' faith in our negotiating process and perhaps undermine their confidence in reaching future agreements.

The President himself, along with top advisers, worked out this agreement with the Soviet leaders over a 2½-year period. That work rested in turn on preliminary efforts carried on for years before that.

I support the agreement fully as submitted to the Senate. I intend to continue supporting it unless there is new evidence that it contains serious hidden defects. Thus far, I am satisfied that no such evidence has been submitted to the Senate or the country by those raising questions about the agreement.

I want to make it emphatically plain, so far as I am concerned, that my own actions in regard to the pending interim agreement and the amendment offered by the Senator from Washington do not indicate the slightest doubt in my mind about the need for the Senate to approve both the SALT agreements. I am confident that that approval will come despite the unfortunate delays that the present parliamentary situation has caused.

The question now is: Does President Nixon no longer support the agreement as he himself negotiated it and as his staff negotiated it? If he does not support it, why does he not support it? If the President believes the agreement is defective and needs additional wording, it is extremely important that he tell us so himself. We should not be compelled to rely on vague statements by the President's press secretary about what the true feeling of the President is.

The magnitude of this agreement which binds the two nuclear superpowers

should not be subjected at the 11th hour to improvisation on the Senate floor.

I applaud the fact that the Senator from Washington dropped from his resolution the wording which he originally proposed, which spelled out new terms under which the United States could abrogate the agreement. However, the resolution still contains demands for what many Senators and others believe amounts to superiority. I believe that those demands are neither realistic nor necessary.

A number of issues have come up on the Senate floor in the course of the debate which I do not think are really relevant to the situation. I do not think they accurately portray the differences on the Senate floor over the interim agreement.

For example, there was both public and private Senate debate over whether Senators trust Andrei Gromyko and whether they trust Richard Nixon. I do not think that is the issue. I certainly trust the President of the United States to have done his very best to negotiate a treaty which he felt was in the national interest. And if he now has qualms about how successful those negotiations were, I repeat that we ought to know exactly what is in his mind.

The issue is not whether we trust the Russians. We need these agreements with the Russians because we do not fully trust them and they do not fully trust us. As a consequence of that basic situation we have been deeply involved in a costly and dangerous arms race.

Mr. President, I would like to read what Mr. Henry Kissinger had to say on this matter of trust at the time that he briefed Members of the Congress on these agreements back on June 15, 1972.

Dr. Kissinger said at that time:

> We are not basing this agreement on trust, and we believe that this agreement can be verified; and secondly, that it has adequate safeguards to prevent its being violated. We also believe that we have started a process by which we can move international relations into a new era, and we base this on the fact that we agreed with the Soviet Union over the past two years on the issue of Berlin, which has removed one of the primary causes of tension in the world for the foreseeable future, and a whole spectrum of agreements on health, space, environment, rules of navigation, that we are on the verge of making progress with them in other fields such as commercial agreements, and finally, we have signed a Declaration of Common Principles which it would have been no point to sign unless we meant to move in a major effort in that direction.
>
> So, for all of these reasons, we believe that there is a basis, that we have an opportunity both in the Soviet Union and in the United States, to move into a new era. Whether both sides have the wisdom to do it, and even if they have the wisdom they are not caught by events in areas in which they cannot control their decisions, this remains to be seen. But I think we have the opportunity to turn a significant page in history, and as far as this Administration is concerned, we are going to make a major effort in that direction.

Mr. President, in a question and answer period following his formal briefing for Members of the Senate and House, Mr. Kissinger himself asked the question:

> Can we trust the Soviets?

He answered with these words:

> The possibility always exists that the Soviets will treat the Moscow agreements as they have sometimes treated earlier ones, as just another tactical opportunity in the protracted conflict. If this happens, the United States will have to respond. This we shall plan to prepare to do psychologically and strategically and provided the Congress accepts the strategic programs on which the acceptance of the agreements was predicated.
>
> I have said enough to indicate we advocate these agreements not on the basis of trust, but on the basis of the enlightened self-interests of both sides. This self-interest is reinforced by the carefully drafted verification provisions in the agreement. Beyond the legal obligations, both sides have a stake in all of the agreements that have been signed, and a large stake in the broad process of improvement in relations that has begun. The Soviet leaders are serious men, and we are confident that they will not lightly abandon the course that has led to the summit meeting and to these initial agreements. For our own part, we will not abandon this course without major provocation, because it is in the interest of this country and in the interest of mankind to pursue it.

Then, after a few additional paragraphs, he said:

> Of course the temptation is to continue along well worn paths. The status quo has the advantage of reality, but history is strewn with the wreckage of nations which sought their future in their past. Catastrophe has resulted far less often from conscious decisions than from the fear of breaking loose from established patterns through the inexorable march towards cataclysm because nobody knew what else to do. The paralysis of policy which destroyed Europe in 1914 would surely destroy the world if we let it happen again in the nuclear age.
>
> Thus the deepest question we ask is not whether we can trust the Soviets, but whether we can trust ourselves. Some have expressed concern about the agreements not because they object to their terms, but because they are afraid of the euphoria that these agreements might produce.
>
> But surely we cannot be asked to maintain unavoidable tension just to carry out programs which our national survival should dictate in any event. We must not develop a national psychology by which we can act only on the basis of what we are against and not on what we are for.
>
> Our challenges then are: Can we chart a new course with hope but without illusion, with large purposes but without sentimentality? Can we be both generous and strong? It is not often that a country has the opportunity to answer such questions meaningfully. We are now at such a juncture where peace and progress depend on our faith and our fortitude.

Mr. President, I think that is a magnificent statement by Mr. Kissinger on the matter of trust. He makes the point that it is trust in our Nation that is partly involved in all of this, but that we are not depending on trusting the Soviet Union. We are depending upon mutual self-interest. And we are also depending, as Mr. Kissinger made plain, upon verification.

It is through trust in the verification procedures available to us that we will know whether there is a violation of the agreement. Let me quote briefly from Mr. Kissinger on that point, again from his speech at the White House on June 15.

Senator STENNIS said to Mr. Kissinger:

> Do you want to comment on detection and surveillance?

Dr. Kissinger replied:

> Well, I am sure that when Mr. Holmes testifies in executive sessions, that he can go into more detail than I can. In fact, all I can do is to make the statement that we are confident that national means of verification are sufficient to monitor the numerical limitations of this agreement.
>
> We studied this problem in great detail before we entered negotiations, and determined for each category of weapon the margin or error that we thought our collection systems had and what he could do to react once we found out that there had been a violation.
>
> In each of these cases, we found that the margin was well within tolerable limits. In this case, however, where we are dealing with numbers, we are confident that the national means of verification are sufficient to give us the highest degree of confidence that this agreement will be lived up to, or that we will know it almost immediately if it is not lived up to.

Thus I submit, Mr. President, that the issue of trusting the Soviet Union is not a valid issue in the consideration of this matter. Mr. Kissinger dealt very effectively with that full issue.

Another question that relates to the interim agreement is: what are Soviet motives? When we negotiate further agreements and consider whether or not to ratify them, we do want to know whether the motive of the other side are plainly to reduce the danger of nuclear confrontation and conflict.

If that can be done safely and securely, we can reduce the costly and back-breaking burden of the arms race.

I wonder if the Senator from Washington has any tangible reason to believe that the Soviets do not want the agreements to survive or that they might take action that would cause a collapse of SALT II. Some of his statements, together with both the original and present form of his reservation, seem to raise that question.

Is there any reason to assume that the Soviets, for some reason, are pursuing such aggressive programs that we will feel it necessary in our own self-interest to withdraw from future SALT talks? I know of no such reason.

During hearings before the Committee on Armed Services the Senator from Washington said:

> The problem really is Soviet behavior in a context of growing Soviet power. I think a more confident Soviet Union is a more dangerous Soviet Union.

I wonder what the reasons are for that statement. I wonder if it implies that the more confident we are the more dangerous we may seem to the Soviet Union.

A related matter concerns the emphasis the Senator from Washington placed on the independent unilateral statements by our side in these negotiations. On the first page of the speech delivered by the Senator from Washington last Friday, there is a statement that the Interim Agreement rests "to so remarkable a degree on statements to which the other party did not concur."

Let me say I find in the record that during the Armed Services Committee hearings the distinguished Senator from Maine (Mrs. SMITH) asked Secretary Laird if he thought it was sound judgment for Congress to consent to something based on a different interpretation by each side. The Department of Defense supplied an answer which stated that the

ABM Agreement and the Interim Agreement reflect an "adequate coincidence" of United States and Soviet views as to the meaning of these agreements so as to warrant their approval by Congress.

I wonder if the Senator from Washington can spell out any reason to believe that the Department of Defense would no longer stand by that statement.

Another large issue that has developed on the floor of the Senate is the suggestion that those who oppose the Jackson reservation do not believe that America should have equality with the Soviet Union in overall strategic strength. The Senator from Washington has repeatedly asked, "What is wrong with equality? What is wrong with parity?"

The fact is that this Senator from California, and I believe every other Senator, regardless of his views on the interim agreement and on Senator JACKSON's amendment, all agree on this fundamental point: The United States must be equal with the Soviet Union in overall nuclear strength and in overall military strength, taking all factors into account.

The only significant difference of opinion here is over the definition of equality. The Senator from Washington believes that the strategic strength of the United States can only be measured by the number of launchers and by throw-weight. I do not dispute the expertise of the Senator from Washington—I know he has great knowledge, a great background, and a long history in this field. But nonetheless others with a very great background in this field believe there are other factors which must be taken into account in addition to numbers of launchers and throw-weight. They believe that numbers of deliverable warheads, equivalent megatonnage, accuracy, range, penetrability, geography, and deployment are among the many factors that have to be taken into account.

Those of us who believe that disregarding these factors could lead to a total breakdown of negotiations are very concerned by the refusal of the Senator from Washington to consider them.

The Senator from Missouri (Mr. SYMINGTON) has a remarkable background in manufacturing in the defense field, and later in service on the three relevant congressional committees that have dealt with these problems for years—the Committee on Foreign Relations, the Committee on Armed Services, and the Joint Atomic Energy Committee. He believes that if the Senate adopted the Jackson amendment in its present form, we would be commanding our negotiators to seek superiority over the Soviet Union in the next round of strategic arms limitation talks.

If that is the belief of as loyal an American as the Senator from Missouri (Mr. SYMINGTON), who has at heart the deepest interest of our country, then what will Soviet officials believe? If the Senator from Missouri (Mr. SYMINGTON) thinks that adopting the Jackson amendment unchanged would mean demanding superiority in nuclear strength, then obviously there will be Soviet leaders and officials who will reach the same conclusion. It seems to me that we then face the possibility of a total breakdown in arms negotiations with the Soviet Union. That could be tragic, indeed, because of both the dangers and the costs of an unchecked arms race.

On the matter of equality, the Senator from Washington has stated that we cannot consider our forward-based systems. If U.S. negotiators unilaterally refuse to count forward-based systems among our strategic forces, and if the Senator from Washington does not count them, then what good are they? The Senator from Washington said repeatedly they can be swiftly overrun; that they may be of little value; that at any rate our allies are involved in their maintenance and in their levels of strength; and that, therefore, they cannot be counted. If they cannot be counted, if they are virtually valueless, why should we spend the billions of dollars we spend in NATO and elsewhere on the weapons we maintain? Why should we shoulder all the other costs connected with the maintenance of this strength at those distant locations?

If a nuclear war should break out, does anyone doubt that those bases and the weapons placed there will be available for use? They may not be directly negotiable, but why can we not count them as part of our overall strategic strength while we have them there and while we are financing them?

In his speech of last week, our able colleague from Washington defended the exclusion of our forward-based systems from the force level on the ground that these systems could not be considered without the participation of our allies. Well, why can we not get the participation of our allies in future discussions? The fact is that until other nations are involved in arms reduction negotiations, we will never be able to make the extra, significant breakthrough that the world yearns for.

On the matter of equality, the recent State Department paper entitled "Peace, National Security, and the SALT Agreements" printed in the RECORD on August 14, states:

> The United States expects to continue to hold a substantial warhead lead during the interim agreements sufficient to more than compensate for the numerical edge the Soviet Union has in missile launchers.

In view of the amendment offered by the Senator from Washington, I wonder if he flatly disagrees with the State Department. In view of White House support for the Jackson amendment, I wonder if the White House disagrees with the State Department.

The Senator from Washington discounts the matter of technological balance between ourselves and the Soviet Union as a factor in weighing the relative strengths of these two great nations.

On page 10 of the speech prepared for delivery last Friday, there is the implication in the words of the Senator from Washington that Soviet Union technology will grow at a faster rate than American technology. The Senator, therefore, reasons that we cannot use technological superiority in calculating our strategic strength.

I would like to know if I understood the Senator's words correctly. If so, what reason has he for assuming that Soviet technological growth will be faster than ours?

On the question of vulnerability of our own nuclear forces, the Senator stated on page 8 of his opening prepared statement that the Soviets could acquire the capability to destroy "virtually the entire U.S. land-based deterrent force, missiles and bombers."

I would like to know what evidence there is for assuming the Soviets could catch our bombers napping, so to speak, on the ground and destroy all of them at one devastating blow. I also wonder about our submarines. There is no reason to believe that technology has been developed that can wipe them out in a series of blows delivered all simultaneously. Without that we obviously maintain the capacity to retaliate, and thus to deter.

At times the distinguished Senator from Washington speaks of the "survivability of our deterrent" and at other times he speaks of the "survivability of our land-based deterrent." Are the two synonomous? Is the Polaris-Poseidon fleet to be totally discounted? Is it to be thought that the Nixon strategy of "assured destruction" is presently inadequate?

On page 10 of the Senator's prepared speech of last Friday, in his opening remarks, he quotes Secretary Laird's agreement with his own assessment of silo-killing warheads. That assessment by Secretary Laird was that an aggressive program beyond modernization to deploy silo-killing warheads which threatens the survivability of our Minuteman force would be considered a Soviet violation of the agreement.

I wonder if the Senator from Washington has the same feeling in reverse about the news of our own newly proposed silo-killing warhead program. Could not the Soviet Union consider that to be a violation on our side, at least potentially, of the agreements?

I do not quarrel with the distinguished Senator when he points out, as he does, that our ratification of the interim agreement involves some risks. I agree that it is perfectly appropriate for the Senate to spell out its understandings of those risks, just as our negotiators have done. Certainly nobody challenges the right of the Senator from Washington to criticize and to seek to revise the interim agreement before us.

There have long been complaints voiced in this body about going along all too easily with administration requests. It is, therefore, wholly appropriate for those Senators who have concerns to raise them, as the Senator from Washington (Mr. JACKSON) has done. It is wholly appropriate for those who supported the administration's initial approach to support it now. It is appropriate for those in the administration who supported their own agreement to wonder on which side they are now. I certainly have not hesitated to criticize the

administration whenever I felt the situation demanded it.

In relation to the pending interim agreement, however, American representatives have spent 2½ years of hard work negotiating it. More work in past years lay behind it. I salute our negotiators for their accomplishment.

So when we spell out our understanding of the risks accompanying ratification, I think we should make sure we do not cast doubt on the validity of the agreement submitted to us as signed by the Soviet Union.

Speaking of criticizing the administration, those of us who urge our withdrawal from the Indochina conflict are sometimes accused of not believing the President. That charge was raised recently right here on the Senate floor. It is not that we do not believe the President; it is just that sometimes we do not have enough facts about what the President's policies or actions are. But in the case of the SALT agreement the administration has frankly outlined the issues and the risks and the numbers and the dollars. White House and Pentagon spokesmen have emphasized that our strategic posture will remain strong during the interim period, but they have not made extravagant claims. I think their public presentations have been impressive.

So I was initially prepared to support the interim agreement as is. I am still prepared to do so. I am concerned lest any reservation or amendment will be detrimental to the validity of the agreement. The President now seems to be taking into his hands the twin jobs of reaching agreement on a written interpretation of the agreement and sketching out instructions for the negotiations of a future treaty.

In the process we must remind ourselves, the President, and the Nation, that the ultimate goal is the reduction of armaments, and not merely their limitation. The State Department has made that very plain in its official statements. For example, it stated in a recent policy pronouncement that the agreements that have been submitted provide greater national security to both the Soviet Union and the United States. The statement by the State Department declares:

> This in turn now makes it possible to negotiate additional mutual limitations, hopefully including reduction of forces on both sides.

The fact that the administration deserves praise for the progress achieved thus far in the interim agreement is not recognized in the Jackson amendment. I must agree with the distinguished Senator from Kentucky (Mr. COOPER), from across the aisle, when he said, on August 7, that the Jackson amendment "does not add to the agreement and it may cast doubt on it." In fact, I would go even further than that. I think we have here the makings of a Tonkin Gulf resolution in the nuclear arms field. I repeat—a Tonkin Gulf resolution in the nuclear arms field may well lie within the Jackson reservation.

I think the pending amendment, the Jackson amendment, gives the administration a chance to promote an aggressive strategic posture which may thwart a future agreement.

What may follow could be a request for massive new funding for weapons projects and a continuation of the dangerous upward spiral. I think the administration would then be able to come back to Congress and say, "We are only doing what you told us to do."

If President Nixon is reelected—a possibility which I by no means concede—the administration may seek to do all these things anyway. But let us not hand out the approval in advance—and in writing.

The amendment offered by the able Senator from Washington and pending before us today differs substantially from the original version. The original language left open the possibility that a Soviet weapons development actually permitted by the Interim Agreement might be grounds for our withdrawal from the agreement. My distinguished colleague was thinking mainly, I presume, of the MIRV'ing of the giant Soviet SS-9 missiles.

I am not the only one to point out that the United States cannot have it both ways. We cannot justify new spending on the basis of something which we then turn around and cite as a potential excuse for withdrawing from the agreements. As Michael Getler wrote in the Washington Post on August 7:

> To explain the need for the new weapons systems requested by the Pentagon, President Nixon related how Communist Party Chairman Leonid Brezhnev had indicated in Moscow last May that the Soviet Union would press ahead with all programs permitted by the agreements signed there.
>
> Now, Jackson is asking the Senate to warn the Russians that if they do so, it will be grounds for breaking the interim agreement.

I raise this point because we must be absolutely clear about what we are discussing. Too much is at stake to permit fuzzy interpretations of what the administration is telling us.

We all remember that only a few weeks ago massive increases in defense spending were justified on the grounds that the Soviets were carrying out modernization and procurement programs of their own. As Secretary Rogers explained in testimony before the Foreign Relations Committee:

> Mr. Brezhnev . . . explained that they were going ahead with their ongoing programs within the limitation permitted in the Interim Agreement, and our position is that we should do the same thing until we negotiate further.

Now, I gathered from this and similar testimony that the Soviet and American delegations had agreed to put up with this mutual strengthening. The tone expressed was that we had taken a significant first step, but that ongoing modernization programs were both permissible and expected.

And back in those heady June days, I might add, the distinguished Senator from Washington did not count the administration as an ally. In the CONGRESSIONAL RECORD on June 21, for example, we find him criticizing the administration for allegedly granting the Soviets "a license to outdistance us by 4 to 1 in payload capacity." At that time administration spokesmen might have said that they were doing no such thing, and that they were willing to put up with risky but permissible Soviet weapons developments in the interest of halting the continuation of a new and more dangerous Soviet buildup.

What confuses those of us who support the entire SALT package is that dueling adversaries seem to have become dancing partners.

Even now I am not clear about how far this partnership goes. The Washington Post, for example, quotes an anonymous administration source—the frank ones are always anonymous—as indicating that there is concern over the consequences of the Jackson amendment on the issue of future numerical equality. The comment was:

> This makes us a little nervous.

And well it might.

The White House has also dissociated itself from "elaborations" of the amendments and its meaning by the Senator from Washington. I shall have more to say about this later, but for the present let me concur with the Foreign Relations Committee that it is up to the President himself to set the record straight. Until he does, I can only rely on my limited understanding of the administration's immediate intentions, which is all that is available to all Senators. But I believe my understanding of the larger significance of both the treaty and the interim agreement is not so limited.

Thus far I have merely said that the able Senator from Washington and the White House have not always seen eye-to-eye on the provisions of the interim agreement. Now let me be more specific.

"SURVIVABILITY"

I want to start with the word "survivability." Since both the distinguished Senator from Washington and the Nixon administration—not to mention all the rest of us—are concerned with our survival as a nation, I think we must clarify our terms.

The Jackson amendment states that:

> The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States.

Since jeopardy to the supreme national interest is the escape clause of the SALT agreements, we may only be saying that we will withdraw from the agreements if our survival is at stake.

Mr. President, no nation will willingly commit national suicide. Survival is a strong natural instinct. If that is all that the Jackson amendment were saying, fine. I am four-square in favor of national survival, and so is everybody else.

But the phrase "survivability of the strategic deterrent forces of the United States," as printed in the pending amendment, is not synonymous with national survival. These words are inherently ambiguous. Does "survivability" mean that all our forces survive a pre-

emptive nuclear first strike? Or enough to insure the total devastation of the other side during a second-strike retaliation? Or merely enough to inflict unacceptable losses?

I would like to point out that even in the highly unlikely event than 30 Polaris-Poseidon submarines were destroyed simultaneously, the 31st one could destroy roughly 150 Soviet cities. Each submarine captain commands approximately 150 independently targetable nuclear weapons, each one of which surpasses in explosive power the bomb dropped on Nagasaki. Almost one hundred thousand people died from that blast. Even without land-based missiles and strategic bombers, just one submarine can cause more than 150 Nagasakis.

So let us make sure that when we say "survivability of the strategic deterrent forces of the United States" we are not talking about national survival, which is an obvious need, nor about the survival of each and every bomber or submarine, which may be impossible, but about our second-strike capacity to inflict unacceptable losses. If this is the general meaning of that part of Senator JACKSON's amendment, I have no hesitation in agreeing to his language. But he has something specific in mind, something which the language of the amendment itself does not reveal. I am referring to the distinction between counterforce and countercity strategy.

In a nutshell, counterforce missiles are targeted on silos. They are accurate enough to hit the other side's strategic forces. Some of our Minutemen, and the Soviets' SS missiles, are called "silo-killing" for this reason.

But the missiles launched from our submarine fleet are not accurate enough to target silos. They are aimed at cities.

The point I just raised—that one submarine could destroy roughly 150 Soviet cities—testifies to the adequacy of our countercity strike capability. But if I am understanding him correctly, my distinguished colleague from Washington appears to be saying that that capability is beside the point. What counts to him is counterforce strategy. What worries him is the argument that it is all right if the Soviets destroy our land-based missiles and our bombers, because we still have our submarines. He is apparently saying that despite the "mix" provisions in the interim agreement allowing for some substitution, counterforce capability is the only thing that counts.

I am not drawing this interpretation out of thin air, but from Senator JACKSON's own statements. Speaking in the Senate on August 3, he said:

> It is not self-evident, as some maintain, that the clear ability to engage in a massive, highly destructive attack against cities by itself provides stability against all possible forms of conflict between the two superpowers.

In the same speech he referred to the potential Soviet capability to destroy our land-based missile force and our bombers—not our submarines, which are nearly undetectable and therefore invulnerable—and equated these programs with the "survival of our strategic deterrent." So it is clear that when his amendment speaks of the "survivability of the strategic deterrent forces of the United States," it means our Minutemen and our bombers.

Mr. President, considerations of survivability depend not only on what the Soviets can conceivably do, or even what they are permitted to do, but also on what they will do. Secretary Laird has indicated that his job is to assess Soviet capability, not Soviet motives. But surely an assessment of Soviet motives is central to our own appraisal of the SALT agreements. What do we have for evidence in this admittedly intangible field?

The document entitled "The Basic Principles of Relations Between the United States of America and the U.S.S.R.," signed in Moscow together with the SALT agreements, affirms the importance of restraint and reciprocity and declares that:

> Both sides recognize that efforts to obtain unilateral advantage at the expense of the other, directly or indirectly, are inconsistent with these objectives.

Less formally, administration spokesmen have frequently asserted that the Soviet leaders want the arms agreements to survive and will think twice before doing something to jeopardize them, even if that "something" is permitted. Like our leaders, they also have an assertive military to contend with, balanced against those who are willing to give an agreement with the United States the benefit of the doubt. I hope our actions in this body give credence to the latter group.

Mr. President, in the language of the Pentagon there is something known as "worst-case threat analysis." As the name implies, this means analyzing a threat on the assumption that the worst may happen. No one wants to be responsible for a situation in which the United States is a sitting duck, at the mercy of button-pushing madmen. So you plan for all contingencies, and then you dream up weapons systems to meet them, and then you justify their cost on the basis of national security. How do we know, some people ask, that the leaders in the Kremlin are not irrational fanatics bent on worldwide conquest and destruction?

I think that when you combine the "worst-case threat analysis" mentality with a counterforce strategy, you get a recipe for the endless perpetuation of the arms race. Worst-case calculations have yielded us nothing but nightmares and deficits. I think that it is time we based our strategic planning on greater realism.

In testimony before the Foreign Relations Committee, Dr. Herbert Scoville, formerly Assistant Director of Science and Technology in the Arms Control and Disarmament Agency—a man who knows a great deal about the relationship between weapons and national security—observed that:

> If you try to develop capabilities by which you can fight a limited nuclear war, you end up by increasing the risk that nuclear war will occur.

And the distinguished statesman George Kennan recently wrote in Foreign Affairs that the military rivalry between the United States and the Soviet Union:

> Has no foundation in real interests—no foundation, in fact, but in fear, and in an essentially irrational fear at that. It is carried on not by any reason to believe that the other side would, but only by a hypnotic fascination with the fact that it could. It is simply an institutionalized force of habit. If someone could suddenly make the two sides realize that it has no purpose and if they were then to desist, the world would presumably go on, in all important respects, just as it is going on today.

Mr. Kennan continued by pointing out that:

> We stand like two men who find themselves confronting each other with guns in their hands, neither with any real reason to believe that the other has murderous intentions towards him, but both hypnotized by the uncertainty and the unreasoning fear of the fact that the other is armed. The two armament efforts feed and justify each other.

I would like to ask: Where should our will to survive lead us? To more weapons, or to fewer weapons?

Just as I think that much depends on our interpretation of the phrase "survivably of the strategic deterrent forces of the United States," so I am convinced that we must come to grips with the meaning of the word "levels." In the context of the past and present reservations expressed by my distinguished colleague from Washington, the word clearly means "numbers."

On Monday, August 7, the able Senator from Washington appeared to broaden his interpretation of the word "levels" as offered in his amendment. In a sequence which left me more confused that enlighted, he said:

> What is wrong with insisting on equality? Numerical equality is important. Equality is not just a matter of numbers.

Now, is equality in numbers all-important, or not? In the very next sentence, the Senator complained that we had entered into an interim agreement which gave the Soviets an advantage not just in numbers of strategic delivery systems, but also in throwweight. So we may assume that equality is a quantifiable term referring to numbers plus throwweight, as viewed by the Senator from Washington. As I have indicated earlier, I and others have grave questions about that as a valid basis for measuring equality or inequality.

On Wednesday, August 9, the Washington Post quoted my friend and colleague from Colorado, Senator ALLOTT, along exactly the same lines. His definition of equality was—

> Numerical equality in the aggregate, taking account of throw-weight. You cannot substitute for numbers. You cannot freeze technology. Therefore, we must have equality measured in terms of numbers and throwweight.

But what about variables that are not easily quantifiable? What about our forward-based strategic forces in Europe and elsewhere? What about accuracy? What about our overall technological superiority? What about the sheer level of overkill on each side? I was impressed with the testimony of Wolfgang Panovsky, director of the Stanford Linear Accelerator Center, to the Foreign Relations Committee:

I consider the counting of missiles and warheads and the weighting of megatonnage to be a very naive means of assessing strategic standing. There are many other important factors such as differences in geography and qualitative performance and sophistication of the strategic forces which contribute to the overall balance. However, the single most important fact is that in the absence of meaningful ABM defenses of their territories each nation is now vastly over-armed for its primary mission of deterring an attack by the other.

Somewhat less bluntly, Secretary Rogers expressed the same idea to the Foreign Relations Committee when he declared that—

Numbers alone are not an illuminating or useful measure for judging the strategic balance.

Here, apparently, lies a disagreement within the administration, since the administration's support of the Jackson amendment flies exactly in the opposite direction from that statement by Secretary Rogers.

There is another reason why an insistence on numbers is misleading or even harmful, and that is that insistence on numerical restraints tends to add emphasis to qualitative improvements. In 1963, the administration's advocacy of the partial test ban treaty was coupled with assurances that underground testing would be greatly increased. The unfortunate result was an increase in the arms race. Similarly, the administration has already hedged its enthusiasm for the SALT agreements by adding new qualitative improvement programs and accelerating old ones. As the Arms Control Association puts it:

The quantitative restraints imposed by a SALT agreement will provide added pressures to set off a qualitative arms race.

The same point was made by George Rathjens of MIT in an article printed in the RECORD on July 18.

Mr. President, I think that our SALT negotiators realize the danger of narrowing our sights to numerical restraints alone. I do not want the Senate to undermine the authority of these negotiators by insisting on written instructions which would tie their hands. This matter lies at the heart of the issue now before the Senate, our country, and our world.

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

Mr. CRANSTON. I am delighted to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I did not have the opportunity to hear all of the Senator's speech, but I heard a good portion of it. I want to commend him for the detail into which he went and for answering the arguments, really, against the interim agreement which have been made on the floor of the Senate. He has put it in perspective. Certainly in his statements recalling what the Secretary of State, Dr. Wolfgang Panofsky, and others have said, he has laid out the situation as it, in fact, exists.

It is not a question of equality no matter how many times the word is bandied about in the Senate. The question has been raised time and time again, who is against equality? Are we not all for equality? As a matter of fact, no Member of the Senate is against equality. All Members of the Senate are for equality. But equality, strange as it may sound, can be defined in different ways.

Is it equality in the amount of missiles, of which we have 1,054 and the Soviet Union somewhere between 1,600 and 1,700; or is it overall equality, taking in the mix which the distinguished Senator has already discussed in some detail, the forward bases, the carriers, the lead in heavy bombers which is at least 3 to 1 so far as this country is concerned in relation to the Soviet Union, the number of nuclear warheads in Europe which, I understand, number 7,000, the fact that we are a good deal ahead in the area of MIRVing and that takes in missiles on land as well as in submarines?

According to the administration's own figures put out by the White House and by the State Department, we have a superiority now overall, and on the basis of their calculations, we will have an overall superiority or, let us say, overall quality, at the end of the interim agreement which is to run for 5 years and which can, without any direction from the Senate, be abrogated by either country on the basis of due and sufficient notice.

I would hope that we would not be carried away by the various allegations being raised on the floor from time to time—some at the last minute—some of them very unexpected—some of them only allegations and not facts, at least the facts have not been laid out on the table.

I was one of those who, from the very beginning, was in favor of the treaty and the interim agreement. I can recall voices being raised on this floor before we even knew what was in the agreement, finding fault with the President for what he was undertaking to do at that time. I think that we should give the President the benefit of every doubt. I think that we should recognize that he, like any other President, has been working in the best interests of the country as a whole.

I would hope, when all the facts are laid out and all the allegations are proved or disapproved, that the Senate will face its responsibilities and do what it can to support the President in this worthwhile endeavor—very worthwhile endeavor—rather than to raise doubts and cast suspicion all the time. In that way, we nullify in advance whatever possibilities our negotiators may have in the conduct of the second phase of the arms negotiations.

Again, I want to commend the distinguished Senator from California for doing his usual detailed and workmanlike job. I only hope that the Senate as a whole will be able to read his remarks and ponder them before a final vote is cast.

Mr. CRANSTON. I thank the Senator from Montana very much for his generous remarks, as well as for his leadership on this issue. His deep understanding is exemplified not only by his remarks but also by his very wise and prudent amendment that is the pending business before the Senate. He has been of tremendous help to our Nation and, I think, to the world in an issue which is, in many ways, the most crucial one to come before us.

Now I should like to ask the Senator one question: Does not the Senator believe that the way we can most truly help the President of the United States—as Democrats, as Senators, and as Americans—is to defeat the Jackson amendment, modify it, or perfect it? If we cannot defeat it, we can at least keep the interim agreement as close as possible to its original form. Does the distinguished Senator agree?

Mr. MANSFIELD. I do. I think that is the only way we can really show support of the President and give encouragement to our negotiators who will be meeting in Geneva shortly to begin phase II of the negotiations covering the arms agreement.

Mr. CRANSTON. I thank the Senator from Montana very, very much.

Mr. AIKEN. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am delighted to yield to the Senator from Vermont.

Mr. AIKEN. I thank the Senator from California. I would say that I have not taken much part in this vendetta going on here in Washington—and that covers a lot of territory—over the past 2 weeks; but I would like to say that I think President Nixon knew what he was doing when he signed the interim agreement as well as the treaty with the Russians.

I was simply amazed this morning when I found that he was being charged—by those who apparently are not very enthusiastic about the interim agreement—with having been deceived by the Russians. In other words, that the President did not know what he was signing. If he did know what he was signing, then the charge is far more serious than simply to charge him with signing a document the meaning of which he did not understand, or signing it proving he was deceived by the people he was dealing with.

I think that President Nixon knew what he was signing. If he did not know what he was signing and still signed it, or if he did know that he was signing something that would be greatly disadvantageous to the United States, then he could very properly be charged with—the least we could call it would be negligence in the Office of President.

I think he has made one mistake, and that is to let the impression go out that he is backing the Members of this body who are opposed to what was apparently his own hope for greater peace in the world. That is a mistake, if he lets that story go out, as it has been going out over the past few days.

I am sure that most of us, and the entire Committee on Foreign Relations, support him.

We are supposed to know. We have information, too. We get information from our intelligence agencies and the various departments of Government, and we draw our own conclusions.

I have come to the conclusion, and I reiterate it here, that President Nixon knew exactly what he was signing. He should not be charged with either signing it, ignorant of its meanings, or sign-

ing something that he knew would be disadvantageous to our country.

I hope that those among us who make those charges will back down and give the President the respect and confidence to which, as President of the United States, he is entitled.

Mr. CRANSTON. I agree with the Senator from Vermont. I share his belief that the President of the United States knew exactly what he was doing when he signed the SALT Treaty and the interim agreement.

I should like to ask the distinguished Senator from Vermont one question relevant to that:

Does the Senator from Vermont think that whoever in the administration decided to give administrative support to the Jackson amendment knew what he was doing?

Mr. AIKEN. I do not know. We have all different kinds of people in the administration. Most of them are good people and conscientious people. There may be a few that perhaps we cannot put full reliance on. However, I am sure that the President knew exactly what he was doing when he signed this treaty, in spite of the inferences given out that he did not know. And if he did not know, he was certainly negligent in his duties as President.

Mr. CRANSTON. Mr. President, I do not think the President was negligent in his duties as President.

Mr. AIKEN. Of course not. But I do think that those who worked for 3 years to bring about this treaty should have been consulted before the alleged position of the White House had been announced by the opposition to the treaty or the interim agreement was pronounced by certain people.

I think Gerry Smith should have had a hand in the making of that decision.

Mr. CRANSTON. Apparently he was not consulted.

Mr. AIKEN. I have not been able to prove that he was consulted.

Mr. CRANSTON. Is there not an apparent contradiction between the administration signing this agreement, lending authority to the Jackson amendment, and then refusing to accept what the amendment really means as explained by the Senator from Washington (Mr. JACKSON) himself?

Mr. AIKEN. There are contradictions all over the place. There are those in this country who believe that an arms race would be good business, I am sure. There are communities in this country that owe their economic existence, almost, to the production of materials of war. Certain States are pretty well dependent on Government contracts. I do not think it is necessary for that situation to exist, because I think we can maintain full employment for these factories in these cities and these States without planning for war all the time.

Mr. CRANSTON. Mr. President, if the free enterprise system, required war to enable it to function, then there would be something wrong with it. I would favor abolishing it if war were essential for its survival. However, I do not believe that any more than the Senator from Vermont does. We can certainly get along without war.

Mr. AIKEN. Mr. President, it is not a free enterprise system if its existence depends on war or near war.

Mr. CRANSTON. Mr. President, the Senator is absolutely correct. I thank the Senator from Vermont very much for his contribution to the debate.

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

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

AUTHORIZATION OF APPROPRIATIONS FOR THE CORPORATION FOR PUBLIC BROADCASTING

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3824.

The PRESIDING OFFICER (Mr. SYMINGTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 3824) to authorize appropriations for the fiscal year 1973 for the Corporation for Public Broadcasting and for making grants for construction of noncommercial educational television or radio broadcasting facilities which was to strike out all after the enacting clause, and insert:

That (a) section 396(k)(1) of the Communications Act of 1934 is amended to read as follows:

"(k)(1) There is authorized to be appropriated for expenses of the Corporation for the fiscal year ending June 30, 1973, the sum of $40,000,000."

(b) Section 396(k)(2) of such Act is amended by striking out "1972" and inserting in lieu thereof "1973".

SEC. 2. Section 391 of the Communications Act of 1934 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. There are authorized to be appropriated for the fiscal year ending June 30, 1973, such sums, not to exceed $25,000,000 as may be necessary to carry out the purposes of section 390. Sums appropriated under this section shall remain available for payment of grants for projects for which applications approved under section 392, have been submitted under such section prior to July 1, 1974."

Mr. PASTORE. Mr. President, this bill which originally passed the Senate on July 21, 1972, would authorize $45 million for the Corporation for Public Broadcasting, and $25 million for the construction facilities program. It subsequently passed the House on August 15, 1972 and in the process was technically amended.

Mr. President, I repeat the only difference between the House-passed version of S. 3824, and the version the Senate first passed is a technical one. The substance of the bill, that is the amounts authorized to be appropriated, remain the same.

Accordingly, I urge the Senate to approve the House passed version of S. 3824.

Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. PASTORE. 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 OFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BELLMON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders have been recognized, the distinguished Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

UNFINISHED BUSINESS TEMPORARILY LAID ASIDE

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader has asked me to set aside the unfinished business for the time being and to proceed to the consideration of the National School Lunch Act. Therefore, I ask unanimous consent that the unfinished business be laid aside temporarily.

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

ANNOUNCEMENT OF VOTES AFTER RECAPITULATION

Mr. MANSFIELD. Mr. President, in discussing the situation which I am about to comment on with the distinguished Republican leader, we are in agreement, and this is to serve notice on the tally clerks, that after the recapitulation of the vote has been made, and the yeas and nays individually announced, Senators who enter the Chamber after that time, of course, will be allowed to vote. That is their privilege. But the change will be that the tally clerk will read the Senator's name and the Senator's vote at that time, loud and clear.

Mr. President, I suggest the absence of a quorum, with the time not to be charged.

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. 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.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1819) to amend the Uniform Reloca-

tion Assistance and Real Property Acquisition Policies Act of 1970 to provide for minimum Federal payments after July 1, 1972, for relocation assistance made available under federally assisted programs and for an extension of the effective date of the act, 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. KLUCZYNSKI, Mr. WRIGHT, Mr. COLLINS of Illinois, Mr. HARSHA, and Mr. DON H. CLAUSEN were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 3899. An act for the relief of Maria Camilla Giuliani Niro;

H.R. 5324. An act for the relief of Rosita E. Hodas;

H.R. 5923. An act for the relief of Mrs. Nguyen Thi Le Fintland and Susan Fintland;

H.R. 10711. An act for the relief of Mrs. Purita Paningbatan Bohannon;

H.R. 10712. An act for the relief of Flora Datiles Tabayo;

H.R. 12204. An act for the relief of Jay Alexis Caligdong Siaotong;

H.R. 12638. An act for the relief of Sgt. Gary L. Rivers, U.S. Marine Corps, retired;

H.R. 14173. An act for the relief of Walter Eduard Koenig; and

H.R. 15375. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973.

ENROLLED BILLS SIGNED

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

S. 559. An act for the relief of Albina Lucio Manlucu;

S. 889. An act to restore the postal service seniority of Elmer Erickson;

S. 2704. An act for the relief of Rita Rosella Vallerini;

H.R. 5065. An act to amend the Natural Gas Pipeline Safety Act of 1968, and for other purposes;

H.R. 9092. An act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes; and

H.R. 15097. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were severally read twice by their title and referred as indicated:

H.R. 3899. An act for the relief of Maria Camilla Giuliani Niro;

H.R. 5324. An act for the relief of Rosita E. Hodas;

H.R. 5923. An act for the relief of Mrs. Nguyen Thi Le Fintland and Susan Fintland;

H.R. 10711. An act for the relief of Mrs. Purita Paningbatan Bohannon;

H.R. 10712. An act for the relief of Flora Datiles Tabayo;

H.R. 12204. An act for the relief of Jay Alexis Caligdong Siaotong;

H.R. 12638. An act for the relief of Sergeant Gary L. Rivers, United States Marine Corps, retired; and

H.R. 14173. An act for the relief of Walter Eduard Koenig; to the Committee on the Judiciary.

H.R. 15375. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for fiscal year 1973; to the Committee on Commerce.

NATIONAL SCHOOL LUNCH ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the National School Lunch Act, Calendar No. 976, H.R. 14896.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14896) to amend the National School Lunch Act, as amended, to assure that adequate funds are available for the conduct of summer food service programs for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and for other purposes related to expanding and strengthening the child nutrition programs.

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 from the Committee on Agriculture and Forestry with amendments on page 2, line 7, after the word "section.", strike out "Funds expended under the provisions of this paragraph may be reimbursed out of any subsequent supplemental or regular appropriation hereafter enacted for the purpose of carrying out this section, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32" and insert "Funds expended under the provisions of this paragraph shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 13 of the National School Lunch Act, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32"; on page 3, line 3, after "June 30,", strike out "1972" and insert "1973"; in line 4, after "June 30,", where it appears the first time, strike out "1973" and insert "1974"; in the same line, after "June 30,", where it appears the second time, strike out "1974" and insert "1975"; in line 13, after the word "and", strike out "nonpublic" and insert "nonprofit"; in line 15, after "Sec. 3.", insert "(a)"; in line 19, after "June 30,", where it appears the first time, strike out "1972" and insert "1973"; in the same line, after June 30,", where it appears the second time, strike out "1973" and insert "1974"; in line 20, after "June 30,", strike out "1974" and insert "1975"; at the top of page 4, insert:

(b) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended to read as follows:

"APPORTIONMENT TO STATES

"(b) Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, and American Samoa, and $45,000 equally among Guam, the Virgin Islands, and American Samoa, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 4 of the National School Lunch Act, as amended. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section."

(c) Section 4(c) of the Child Nutrition Act (42 U.S.C. 1773(c)) is amended by adding at the end thereof the following sentence: "Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary."

(d) Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended to read as follows:

"NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

"(e) Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act."

(e) Section 4(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(f)) is amended to read as follows:

"(f) For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the nonprofit private schools within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are

authorized or required under this section with respect to the disbursements by State educational agencies."

At the top of page 8, insert:

(c) Section 4 of the National School Lunch Act is amended effective after the fiscal year ending June 30, 1973 to read as follows:

"SEC. 4. The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided*, That in any fiscal year such national average payment shall not be less than 8 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4."

(d) Section 10 of the National School Lunch Act of 1946 (42 U.S.C. 1759), is amended by striking "section 7." at the end thereof and inserting in lieu thereof the following: "section 7: *Provided*, Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of section 4 of this Act directly to the nonprofit private schools in such State for the same purposes and subject to the same conditions as are authorized or required under this Act with respect to the disbursements by the State educational agencies."

On page 11, line 20 ,after "Sec. 6.", insert "(a)"; on page 12, line 4, after "$20,000,000", strike out "to assist the Congress in determining the amounts needed annually, the Secretary is directed to conduct a survey among the States and school districts on unmet needs for equipment in schools eligible for assistance under section 5 of the Child Nutrition Act. The results of such survey shall be reported to the Congress by December 31, 1972.; after line 10, insert:

(b) Section 5(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1774(b)) is amended to read as follows:

"(b) Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State."

(c) Section 5(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1774(d)) is amended to read as follows:

"(d) If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

(d) Section 5 of the Child Nutrition Act (42 U.S.C. 1774) is amended by adding at the end thereof the following new subsection:

"RESERVE OF FUNDS

"(e) In each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, 50 per centum of the funds appropriated for the purposes of this section shall be reserved by the Secretary to assist schools without a food service. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children enrolled in schools without a food service in the State for the latest fiscal year for which the Secretary determines data are available at the time such funds are apportioned to the total number of children enrolled in schools without a food service in all States in such fiscal year. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without food service in such State in such fiscal year. The funds reserved, apportioned, and withheld under the authority of this subsection shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service. If any State cannot utilize all the funds apportioned to it under the provisions of this subsection to assist schools in the State without a food service, the Secretary shall make further apportionments to the remaining States in the same manner set forth in this subsection for apportioning funds among all the States and such remaining States, or the Secretary in the case of nonprofit private schools, shall use the additional funds so apportioned or withheld only to assist schools in the State without a food service. Payments to any State of the funds apportioned under the provisions of this paragraph shall be made upon condition that at least one-fourth of the cost of equipment financed shall be borne by funds from sources within the State."

(e) To assist the Congress in determining the amounts needed annually, the Secretary is directed to conduct a survey among the States and school districts on unmet needs for equipment in schools eligible for assistance under section 5 of the Child Nutrition Act. The results of such survey shall be reported to the Congress by June 30, 1973.

On page 15, line 23, after "Sec. 7.", strike out "The first sentence of section 10 of the Child Nutrition Act of 1966 is amended by inserting before the period at the end thereof the following: ': *Provided*, That such regulations relating to competitive food service shall permit the sale of nutritious food through vending machines in participating schools and service institutions where the proceeds of such sales will inure to the benefit of the schools or of organizations of students or parents approved by the schools and such sales will not substantially interfere with the programs so authorized'." and insert "The first sentence of section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended to read as follows: 'The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act, including regulations relating to the service of food for which Federal reimbursement is obtained in participating schools and service institutions.' "; and, on page 16, after line 13, insert a new section, as follows:

SEC. 8. Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by deleting the phrase "reimbursing it for" in the second sentence thereof and inserting in lieu thereof the following: "assisting it to finance" and by adding at the end of such section the following sentence: "Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary."

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged.

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. 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.

WOMEN'S RIGHTS DAY

Mr. GURNEY. Mr. President, I have checked this matter with the leadership. I am bringing up a bill under unanimous-consent request. I have cleared it with the leadership on both sides. That is what I am trying to do.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that he be permitted to do so without the time being counted?

Mr. GURNEY. I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator may proceed.

Mr. GURNEY. Mr. President, the Com-

mittee on the Judiciary reported out today unanimously the bill (S. 3490) to authorize and request the President to issue annually a proclamation designating August 26 of each year as "Women's Rights Day."

I have checked with the leadership on both sides of the aisle, the majority leader (Mr. MANSFIELD) as well as the majority whip (Mr. ROBERT C. BYRD), and the minority leader (Mr. SCOTT), and they have no objection to the immediate consideration of this bill. Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill, and act upon it.

The PRESIDING OFFICER. Will the Senator send the bill to the desk? The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3490) to authorize and request the President to issue annually a proclamation designating August 26 of each year as "Women's Rights Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The bill (S. 3490) was considered, 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, in commemoration of the anniversary of the adoption on August 26, 1920, of the nineteenth amendment to the Constitution granting women the right to vote, the President is authorized and requested to issue annually a proclamation designating August 26 of each year as "Women's Rights Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

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

The PRESIDING OFFICER. Without the time being counted against either side?

Mr. GURNEY. Without the time being counted against either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SYMINGTON). Without objection, it is so ordered.

Who yields time?

NATIONAL SCHOOL LUNCH ACT

The Senate continued with the consideration of the bill (H.R. 14896) to amend the National School Lunch Act, as amended, to assure that adequate funds are available for the conduct of summer food service programs for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and for other purposes related to expanding and strengthening the child nutrition programs.

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

The PRESIDING OFFICER. The Senator from Alabama is recognized for 20 minutes.

Mr. ALLEN. Mr. President, on behalf of the distinguished Senator from New Jersey (Mr. CASE) I ask unanimous consent that Patty Hottel and Vernon Goetches of the Select Committee on Nutrition be allowed to remain on the floor during consideration of the bill and during the rollcall votes; that Kelley Costley, on behalf of the Senator from New York (Mr. JAVITS), be accorded the same privileges; and on behalf of the Committee on Agriculture and Forestry, Mike McLeod, Jim Thornton, John Baker, Forest Reece, and Henry Casso be accorded the same privileges.

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

Mr. ALLEN. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they be treated as original text, subject to further amendment, without points of order being made.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered, and the committee amendments are considered and agreed to en bloc.

Mr. ALLEN. Mr. President, H.R. 14896, the Child Nutrition Act of 1972, is designed to clear up a number of uncertainties in the school lunch program prior to the school year which will begin later this month. H.R. 14896 was approved by the House of Representatives immediately prior to the July recess. It was rushed through the House of Representatives as a temporary measure designed to avert the kind of crisis which occurred in the school lunch program last year.

Although the Subcommittee on Agricultural Research and General Legislation, of which I am chairman, did not have an opportunity to consider this bill prior to the July recess, the subcommittee did schedule action on the bill as soon as possible after Congress reconvened. Hearings were held on Friday, July 28, and the bill was considered in executive session of the subcommittee the following Wednesday. The following day, the full Committee on Agriculture and Forestry ordered the bill reported to the Senate floor.

Although there were several important child nutrition bills pending in the Committee on Agriculture and Forestry, it was the feeling of the committee members that it would not be appropriate to undertake a complete rewrite of child nutrition programs at this time. Our major consideration was the need to provide school districts with guidelines for the coming school year.

It is the intention of the Subcommittee on Agricultural Research and General Legislation to undertake a thoroughgoing review of our numerous child nutrition programs during the next session of Congress. It is my view that there are too many overlapping programs and that Congress should consider revision and consolidation of these programs, and not to have a further proliferation of programs, which we will discuss later as amendments are offered to the bill.

In the interest of prompt action, the subcommittee and the full Committee on Agriculture and Forestry attempted to follow closely the provision of the House-passed bill. However, the committee made a number of changes designed to clarify the House bill and to make possible better administration of our child feeding programs.

As amended by the Committee on Agriculture and Forestry, H.R. 14896 would make the following changes in our child nutrition program: It would extend the special—nonschool—food assistance program for children for 3 years and it would increase the appropriation authorization from $32 million annually to "such sums as are necessary."

The popularity of the special food service program for children has been so great in recent years that the existing authorization of $32 million annually has proved insufficient. For this year's summer food assistance program, the administration found it necessary to request an additional $25 million of section 32 funds. These funds have been approved by both Houses of Congress. By removing the authorization limit of present law, H.R. 14896 will enable the administration and the Appropriations Committees to respond more adequately to the increasing needs of this program.

The bill will extend the school breakfast program for 3 years and remove the current appropriation authorization limit. The school breakfast program is another program that has experienced increasing popularity in recent years. Due to this popularity, the administration found it necessary to budget $52,500,000 for the program for fiscal year 1973 although the appropriation authorization for this year is only $25 million. The committee bill also extended the school breakfast program for 3 years, and authorizes an extension of programs for all the schools who apply for it.

H.R. 14896 requires the use of section 32 funds in such amounts as may be necessary to carry out section 4 of this National School Lunch Act and provide an average reimbursement of not less than 8 cents per meal in each State in fiscal year 1973.

I hasten to add, lest there be confusion at this point, that 8 cents per meal applies to each and every meal served regardless of whether free, reduced price or full price. There is a special provision under section 11 that provides for a subsidy for free and reduced price lunches which has been set by action of Congress at not less than 40 cents for each free lunch.

This amendment is necessary because rising food costs and increased labor costs have made it impossible for school lunches to be served with the present rates of reimbursement unless there is an increase in the sale price of lunches, which we all want to avoid. Such an increase would mean substantially decreased participation in the school lunch program.

Let me say parenthetically, Mr. President, that in addition to the 6 cents now

authorized by law for each lunch served, and 8 cents under the bill, provision exists now and will continue to exist for furnishing commodities to the school lunch program in a value of 7 cents for each meal served, so that under the school lunch program under the bill there will be 8 cents in cash for each and every meal served whether free, reduced price, or full price and 7 cents in commodities for each meal served, and then 40 cents from the Federal Government for each free meal, and then for reduced-price meals at least the difference between 40 cents and the amount paid by the child, which can in no event, under law, be more than 20 cents.

Also, the committee amended H.R. 14896 to establish for future years for section 4 of the National School Lunch Act and for the school breakfast program a system of performance funding. That has reference to the 8 cents for each meal served—8 cents under the bill, 6 cents under existing law, and also, of course, as I say, there is the commodities subsidy of 7 cents per meal as well.

Currently funds appropriated for section 4 of the National School Lunch Act are apportioned to the States on the basis of two factors: first, the participation rate of the State, and second, the assistance need rate for the State. Those two factors would be figured in an apportionment of the funds under section 4 of the existing law. This formula results in varying levels of reimbursement among the States. Congress very wisely has said that irrespective of how it comes out in the formula at this time there will be 6 cents paid for each meal served. So we have the performance system in effect required by law and but not in operation by formula. This bill would put the performance formula in the law for section 4.

The existing formula results in various levels of disbursement among the States. The formula in the bill would provide for a uniform system. In addition, the present formula tends to discourage the expansion of the school lunch program within the States because such an expansion would tend to jeopardize the funding levels available to already participating schools.

By legislation last year—Public Law 92-153—the Congress did provide performance funding for section 4 and section 11 of the National School Lunch Act. The Congress legislated a minimum of 6 cents for the regular school lunch program—section 4—under an amendment offered by the Senator from Iowa (Mr. MILLER), and 40 cents for the special assistance program—section 11. That could be set by the Secretary at more than 40 cents. However, Congress has decreed it shall be a minimum 40 cents for each free meal served. Thus, the USDA was required to guarantee all States a reimbursement of 6 cents for the regular school lunch program and a reimbursement of 40 cents for the free and reduced-price lunch program.

The committee felt that it would be preferable to establish a continuous system of performance funding for the future rather than attempt to legislate performance funding each year. Therefore, it accepted an amendment which would guarantee performance funding for the regular school lunch program and for the school breakfast program.

Mr. President, lest we feel that the 2-cent raise suggested under the bill is of small moment to the program, let me point out that that is, as I say, for each meal served, whether free or reduced price or paid for. However, that extra 2 cents will run in cost, it is estimated, for the coming fiscal year, $85 million. That is what the added 2 cents will amount to. And that is on just part of the program, as I will point out as we go along. In other words, each State agency will receive an average payment for each breakfast served and each lunch served under the regular school lunch program. The state agencies will be able to plan their program well in advance and they will be able to expand their program with the assurance that they will receive a certain level of reimbursement for each meal served.

In addition, the committee modified H.R. 14896 to provide for advanced payment for the school lunch and school breakfast programs. That is certainly a constructive move. If the local school system had to wait until after they have furnished the meal, if there is a long wait, they would not be able to carry on the program while they waited for reimbursement. So the new amendment provides for advance payment for the school lunch and school breakfast program. Hopefully, this amendment will end the unnecessary delays that some schools have experienced in receiving the funds for the school lunch program.

While the committee attempted to follow closely the provisions of H.R. 14896, it did add the performance funding and advance payment amendments for it felt that these amendments would receive universal acceptance and were necessary for more efficient administration of the child feeding programs.

The Committee on Agriculture and Forestry accepted the House provision regarding eligibility standards. Present law requires that free or reduced price lunches be served to all schoolchildren from families whose income is not above the income poverty guidelines. Currently the income poverty guideline for a family of four is 4,110. Although the law establishes a minimum eligibility standard for the serving of free and reduced price-lunches, it contained no maximum.

Mr. President, with all due respect, that possibility opened up for some systems the opportunity of setting very liberal standards. One system set a standard of more than $13,000 as the family income that could be earned by a family and still have the children of that family get free lunches. So, there was no ceiling on it. They could go just as high as they wanted to in providing the maximum that a family could earn and still have the children receive the free lunches, which would lead to considerable abuse unless we adopted the principle that all schoolchildren, whether from wealthy families, from middle income families, or from poor families, would be entitled to free lunches.

So the Senate Committee on Agriculture and Forestry accepted the House provisions setting a maximum that a family should earn, the maximum income that a family should have in order for the children to get free lunches. And it was set by the House, as the bill passed the House and by the committee that for free lunches a family could earn up to 25 percent more than the poverty level of $4,110.

Then, to be eligible for reduced-price lunches, they could earn 50 percent more than the poverty level, or roughly some $6,100 under the House bill. The Senate Committee on Agriculture and Forestry adopted the House provision with regard to free and reduced-price lunches.

There will be an amendment later, and we will discuss that when it comes up, seeking to freeze in these higher and more liberal standards and setting this assistance apart as being allowed to continue with the higher level for allowing the free lunches. We will discuss later why the committee felt we should have the uniform standard throughout the country. In other words, under the existing law it is required that the local system having a free and reduced-price lunch program must furnish a free lunch to children where a family of four is earning $4,110 or less.

But there is no maximum under present law, and the House bill and the committee bill seek to put those standards at 25 percent above the minimum for free lunches and 50 percent over the minimum for reduced price lunches.

Because some school districts were taking advantage of the absence of a ceiling limit to establish standards well in excess of the income poverty guideline, there is a need to establish a maximum as well as a minimum standard. H.R. 14896 provides that free lunches must be served to every child whose family income does not exceed a guideline fixed by the State educational agency, such guideline to be not less than 100 percent nor more than 125 percent of the income poverty guideline for each size family. If a school elects to serve reduced price lunches they would have to be served to every child within guidelines fixed by the State educational agency at not more than 150 percent of the applicable family-size poverty guideline, which would be a little under $6,200.

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

Mr. ALLEN. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, the bill increases the nonfood assistance appropriation—this is for fixtures, equipment, stoves, and things of that sort—to $40 million annually for the fiscal years 1973, 1974, and 1975. Currently there is great need for equipment in many schools which do not have a food service program. Also, a large number of schools have highly inadequate and obsolete food service equipment. It is hoped that the appropriation of $40 million annually will provide adequate funding both for schools which do not have food service and for schools whose food service equipment is obsolete.

Under the bill it is provided that one-half of this $40 million annually shall be reserved by the Secretary for schools that have no facilities whatsoever, and the other half would go for the schools that have some equipment but need to update it and modernize, but that at least one-half of it will be reserved for systems that have no school lunch facilities at all.

It is provided that this money is allocated to the States and in order to be eligible for this assistance there must be a contribution from local sources—States, counties, or cities—of 25 percent of the amount. In other words, if $10,000 worth of equipment were to be bought, the Government would put up $7,500 and the local agency $2,500.

A significant feature, however, is that the needy systems would be able to get their funds without putting up anything. The one-fourth that the State has to put up is based on an overall State average. In other words, if there were two systems, one a rich system, we will say, and the other a poor system—and I have discussed this because there is to be an amendment offered by the distinguished Senator from Minnesota—but, for example, if there are two systems, one a wealthy system and one a poor system, each needing $10,000 worth of equipment, the poor system could get the full $10,000 without putting up anything. The State would require that the rich system put up one-half of the cost. Therefore, it would be an average for the State of 25 percent. So it is the opinion of the Committee on Agriculture and Forestry that the amendment that is to be offered should not be accepted.

Another feature of H.R. 14896 is the amendment to reserve to State and local authorities the regulation of food items which are in competition with programs authorized under the Child Nutrition Act and the National School Lunch Act. Section 7 of the bill would rescind the statutory authority to regulate the sale of these food items, leaving that authority in the hands of the local officials, leaving them to decide what regulations shall be adopted with respect to the sale of items in competition with those included in the lunch program.

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

Mr. ALLEN. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, since there are a number of child nutrition programs currently on the books I think it will clarify consideration of this bill to briefly describe each of these programs and their current status.

NATIONAL SCHOOL LUNCH PROGRAM

The national school lunch program was authorized in 1946 to help safeguard the health of the Nation's schoolchildren. It provides cash and commodity assistance to public and private nonprofit schools for use in serving nutritious lunches at modest prices to nonneedy children and at free or reduced prices to needy children. Funds are allocated among the States based on statutory formulas and provided through letters of credit which the State agencies draw against when they reimburse schools for lunches served. When funds provided through the statutory formulas are exhausted, supplemental section 32 funds are provided as needed.

In fiscal 1962, 15.6 million children participated in the program, with 1.6 million receiving free and reduced price lunches. In fiscal 1972, over 25 million children were reached, with 8.4 million receiving free and reduced price lunches. The program in fiscal 1973 is expected to cost $862 million in cash and $300 million in commodity assistance.

SCHOOL BREAKFAST PROGRAM

Authorized by the Child Nutrition Act of 1966—Public Law 89-642—as a pilot program to assist States in initiating, maintaining, and expanding nonprofit breakfast programs in schools. From its inception, the program was oriented toward schools drawing attendance from low economic areas and schools where children traveled long distances. Program funding was initially very tight with $566,458 appropriated in fiscal year 1967.

A 1968 amendment—Public Law 90-302—extended the program for 3 years—through fiscal year 1971—and increased the appropriation level to $12 million. In 1971, Public Law 92-32 extended the program through fiscal year 1973 at an authorized funding level of $25 million. The program has grown from 80,232 children in fiscal year 1967 to 959,555 children in fiscal year 1971.

The fiscal year 1973 congressionally authorized appropriation for the school breakfast program is $52.5 million including $19.5 million from a May 6 request by the President for additional funds in the current fiscal year. Funds are made available to the States by a letter of credit in accordance with a statutory apportionment formula. When additional funds or supplemental funds are made available, such as the May 6 request, these are made available to States depending on their relative needs, according to the level of program participation.

SPECIAL MILK PROGRAM

Authorized in 1954 by Public Law 690 at an appropriation level of $50 million. The program met a real nutritional need in schools not participating in the national school lunch program and provided additional milk to children in participating schools, including children carrying lunches from home.

Subsequent amendments, such as Public Law 465 in 1956 which extended the special milk program benefits to nonprofit service children institutions, have tended to broaden the furnishing of adequate nutrition for children. At the present time the special milk program is authorized to be provided children in nonprofit schools of high school grade and under, nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children.

Funds are allocated by letters of credit to the States based on their use rate the preceding year, with a reserve for adjustments to cover shifts in program participation.

In fiscal year 1962, total Federal expenditures under the special milk program were $89,169,556. The fiscal year 1973 appropriation bill approved in Congress contains $97,123,000 for the program.

As additional schools and service institutions have participated in the regular school and nonschool food programs, participation in the special milk program has leveled off. In fiscal 1971, 2.6 billion half pints were served. The fiscal year 1973 appropriated funding level of $97,123,000 should be adequate for the program.

NONFOOD ASSISTANCE PROGRAM

Such a program was authorized by section 5 of the National School Lunch Act, although this authority was not funded after 1947. The Child Nutrition Act of 1966—Public Law 89-642—authorized a similar program to assist States with their equipment needs in public and private schools in low economic areas. Schools receiving assistance now furnish 25 percent of the purchase price of such equipment.

The program was extended in 1970 by Public Law 91-248 through fiscal year 1973. In fiscal year 1967, the first year the program was funded under the Child Nutrition Act of 1966, $698,183 was expended. In fiscal year 1973 the appropriation level as authorized by Congress is $16,110,000.

SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

The special food service program was authorized in 1968 to extend child nutrition program benefits to children, especially needy children, in group situations outside the school. It provides cash and commodity assistance for food service on a year-round basis in day care centers caring for preschool and schoolchildren after school—food service for children in Headstart programs is generally funded through Headstart. The program also assists in providing nutritious meals to school age children in summer recreational activities in parks and playgrounds to help bridge the gap in school food service benefits during the summer. Up to 25 percent of program funds may also be used for non-food equipment assistance for food service under the program.

Funds for year-round activities are allocated among the States based on a statutory formula while funds for summer activities are allocated "as needed" based on applications. As in the lunch program, funds are provided in the States through letters of credit which the State agencies draw against to reimburse service institutions for meals served.

In fiscal 1972, the program reached 20,000 children in year-round activities, and this summer funds are available for about 2 million children to participate in summer feeding programs.

SUPPLEMENTAL FOOD PROGRAM

The supplemental food program currently offers selected nutritious foods to persons in low-income groups considered especially vulnerable to malnutrition—specifically, women during pregnancy

and for 12-months portpartum, infants under 12 months, and children through 5 years of age.

Medical authorities prescribe these foods, which include evaporated milk, canned meats and vegetables, peanut butter, scrambled egg mix, corn sirup, fruit juices, and iron-fortified farina and instant rice cereal, to eligible women, infants and children.

The Department donates the foods and pays for the cost of delivery to points designated by the State distributing agency. Thereafter, State and local agencies are responsible for storage, handling, and distribution of the foods.

For fiscal year 1972, $15.1 million was budgeted for food costs for the supplemental food program. The latest complete figures—May 1972—show 264 project areas participating with a total caseload of 164,298 recipients.

Since the inception of the supplemental food program in late 1968, the variety of foods made available to families in households have been increased to over 20 items. The family feeding program also makes additional evaporated milk, sirup, and farina available to households with infants up to 1 year of age.

FOOD CERTIFICATE PROGRAM

The Department of Agriculture began an experimental food certificate program in February 1970 to supply iron-fortified infant formula, iron-fortified cereal, and milk to pregnant women, infants, and their mothers. The program was designed to operate through regular grocery stores and the test sites were in Chicago, Ill., Bibb County, Ga., Brazos County, Tex., Yakima County, Wash., and the northern portion of Vermont. Low-income mothers in the selected areas receiving public assistance or using the public health clinics were eligible. Enough certificates were given to purchase all formula the infant needed and enough to provide the mothers with extra milk that she needed. All eligible families in the selected areas are being served at an annual cost of slightly in excess of $1 million.

In addition to the programs I have described, the USDA's family food programs provide great nutritional benefits to children. These programs are the food distribution program and the food stamp program.

FOOD DISTRIBUTION TO FAMILIES

In 1960 the food distribution program was the only means of Federal food assistance for families and operated in fewer than half of the Nation's counties and independent cities. The approximately 1.3 million persons who participated in the program in some 1,300 areas were offered only five food items worth about $2.20 per person per month. The items distributed at that time were lard, rice, flour, nonfat dry milk, and cornmeal.

Subsequently, participation has increased significantly as USDA increased the variety and quality of foods available for distribution and at the same time made concerted efforts to encourage States and localities to initiate family food assistance programs. At the end of the decade there were only a handful of areas which still lacked either the food distribution or food stamp program.

Today, approximately 3 million persons in families benefit from the food distribution program, even though the number of areas where it operates has declined to a little more than 1,000. This decline has resulted from the rapid expansion of the food stamp program. More than 20 foods are now available for distribution and have a per person value of about $16 per month. These foods can provide over 100 percent of the basic nutrients necessary for good health and about 80 percent of needed calories. The quantity of foods allocated to each family depends, of course, on the number of household members, including infants. In addition, families with infants—up to 1 year of age—not benefiting from the supplemental food program may be issued the needs for bottle formulas—evaporated milk and corn sirup—and farina.

FOOD STAMP PROGRAM

The food stamp program is a cooperative Federal-State effort to enable low-income households to increase their food expenditures and thus upgrade the quality of their diets. Under it, eligible households make a reasonable investment of their own money to buy food coupons worth more. The difference between the amount that the household pays for the coupons and the value of the total coupon allotment—the free coupons—represents the Federal contribution to the family's increased food purchasing power. The household uses the coupons to purchase any food—except for certain imported items—in regular retail stores at the retail price prevailing in such stores. Retailers redeem the coupons through the commercial banking system.

At the end of fiscal year 1968, 2.4 million people in 1,027 counties increased their food purchasing power with food stamps. At that time, a family of four could have received as little as $48 a month.

Since 1968, the food stamp program has expanded significantly and important improvements have been made. Now it is our major weapon in the war against poverty-caused hunger and malnutrition.

At the end of fiscal year 1972, 11.8 million people in 2,126 counties were participating in the food stamp program. The monthly food stamp allotment for a family of four has been increased to $112—enough to assure the purchase of a nutritionally adequate diet.

More than 1.7 million families of three or more persons participate in the food stamp program. Most of these families contain children.

Mr. President, the committee bill is one of which we can be proud. It contains much-needed changes and improvements in our child nutrition programs. It is the product of a bipartisan effort by members of the Committee on Agriculture and Forestry to provide a minimum level of nutrition for the Nation's children.

Mr. President, before yielding to the distinguished Senator from Georgia I would like to make one further comment. We have been discussing here $25 million, $32 million, $85 million, and some may feel that this is a rather small program and that to make added changes in it would not add greatly to the outlay. I would like to point out that for child nutrition programs—and I am not talking about the food programs; all the food programs add up to $4.1 billion per year—the child nutrition programs already appropriated for the current fiscal year amount to $1,426,774,000, or almost $1.5 billion.

Now, the program envisioned by the bill under discussion, without further amendment, would call for an additional outlay of between $188 million and $248 million, so that the total cost of all the child nutrition programs, not family programs but child nutrition programs, would run to about $1.650 billion, not an inconsequential sum.

Mr. TALMADGE. Mr. President, will the Senator yield to me for 2 minutes?

Mr. ALLEN. I am delighted to yield to the distinguished chairman of the committee, the Senator from Georgia.

Mr. TALMADGE. Mr. President, I am proud of the expeditious manner in which the Senate Committee on Agriculture and Forestry has acted on H.R. 14896, the Child Nutrition Act of 1972. It was the feeling of the committee that we should act promptly on this legislation because school districts across the Nation had communicated to us the difficulty they would have in beginning a school lunch program within a few weeks if no legislation was passed.

Schools around the country have been particularly concerned about the level of funding for the regular school lunch program, known as section 4. This is a program that is available to all children, the children who pay for their lunches as well as the children who receive free or reduced price lunches. Rising food costs and increased labor costs have put a severe strain on the budget of school lunch authorities of the Nation. During consideration of legislation which became Public Law 92-153 last year, the distinguished ranking minority member of the committee proposed an amendment which guaranteed schools reimbursement of 6 cents per meal for the regular school lunch program. This guaranteed 6 cents per meal was enacted into law.

However, this year the schools feel they must have a minimum of 8 cents per meal if they are to maintain the high quality of the program without increasing the price of the lunches drastically. School administrators tell me that they are reluctant to increase the price of school lunches because they feel that each 5-cent increase results in a 10-percent decrease in participation. The 2-cent increase might not seem important to a lot of people; however, this increase is vitally important to school lunch programs around the country. As one school lunch administrator testified, "We deal in pennies."

School lunch administrators do indeed deal in pennies, for they have always had to operate with extremely tight budgets. Despite this fact, they have managed to operate a program which has given nutritionally balanced meals to millions of schoolchildren. For this reason, the school lunch program has,

through the years, been one of the best investments the American taxpayer has ever made.

This program, which was authored by two distinguished Senators who recently passed from our midst, Richard B. Russell, of Georgia and Allen J. Ellender, of Louisiana, has been improved by additional legislation through the years. I had the honor of being the author of the last major changes in our school lunch program, legislation that was enacted in 1970 and became Public Law 91–248.

The most important feature about this legislation was the fact that for the first time it required that every needy schoolchild in the Nation receive a free or reduced price meal and it provided the mechanism for accomplishing this objective.

Unfortunately, when the administration did not move aggressively to implement the mandate of Public Law 91–248, it was necessary for Congress to take additional action last year. In order to avert a certain disaster for the school lunch program, I found it necessary to introduce a resolution requiring a minimum level of funding for free or reduced price lunches.

Congress acted promptly on this legislation, which became Public Law 91–153. The prompt passage of this legislation after the 1971–72 school year had already begun remedied a real crisis—a crisis which would have resulted in the suspension of the school lunch program in many schools.

Mr. President, we do not yet have a crisis on our hands this year. The new school year has not yet begun; however, it will begin in a couple of weeks, and if my correspondence and the telephone calls I have received from school lunch administrators both in Georgia and other States is any indication, the school lunch program will face a real crisis this year if we do not take prompt action.

Increased food costs and rapidly rising labor costs will make it impossible for some schools to operate a school lunch program if they do not have increased funding.

In addition to the 2-cent increase for the regular school lunch program, the bill before us will do a number of other things which are necessary for the continuation and expansion of sound child nutrition programs.

It would extend the special—non-school—food assistance program for children for 3 years and increase the appropriation authorization from $32 million annually to "such sums as are necessary."

It would extend the school breakfast program through June 30, 1975, and increase the appropriation authorization to "such sums as are necessary."

It would establish a more efficient method of apportioning funds for the regular school lunch program.

It would establish an equitable set of guidelines which will allow the States to establish reasonable eligibility levels for the free and reduced price lunch program.

It would increase the equipment assistance appropriation authorization to $40 million annually. If we are ever to fulfill the congressional mandate of providing every needy child with a free or reduced price meal, we must make food service programs available in our schools. Since needy schools are unable to finance the purchase of such equipment, additional Federal assistance is a necessity. In addition, there are many schools in my own State and in other southeastern States that have school lunch equipment that is obsolete. Needy schools in these States often have no financial resources with which to purchase modern equipment.

The bill would provide for advanced payments for the school lunch program as well as the school breakfast program, thereby easing the financial strain upon State and local governments who sometimes suffer unnecessary delays in receiving reimbursement funds.

Mr. President, I want to compliment the chairman of the Subcommittee on Agricultural Research and General Legislation, Mr. ALLEN, who has rendered yeoman service on this bill as well as many other important bills which have been reported out of the Committee on Agriculture and Forestry. The Senator has had the heaviest workload of any subcommittee chairman in the Committee on Agriculture and Forestry. Yet he has always performed his tasks willingly and thoroughly.

The bill which we are considering today is a good bill, it is a necessary bill. It contains substantial improvements over the bill that was passed by the House of Representatives. Passage of this bill will mean that we are keeping faith with the schoolchildren of America.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Georgia, the chairman of the Committee on Agriculture and Forestry, and I pay tribute to him for his leadership in this program and for his hard work and his diligence in attempting to get this bill to the floor of the Senate and passed in time to become effective before school starts.

Mr. President, before yielding the floor, I ask unanimous consent that there be placed in the RECORD as a part of my remarks the statement on page 1 of the committee report starting with "Short Explanation," continuing down through "Committee Amendment," all of page 2, and that the table on page 10, showing the child nutrition program, and the table on page 17, showing the estimated additional costs of the programs provided by the bill during the years 1973, 1974, 1975, 1976, and 1977, going up as high, in 1975, as $464 million additional provided by the bill.

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

SHORT EXPLANATION

This bill is designed to clear up uncertainties in the School Lunch Program prior to the 1972–73 school year and to make necessary changes in our Child Nutrition Programs. The bill would—

(1) extend the special (non-school) food assistance program for children thru June 30, 1975, and increase the appropriation authorization from $32 million annually to "such sums as are necessary";

(2) authorize the use of $25 million of Section 32 funds during the period May 15 to September 15, 1972, for the Special (non-school) Food Assistance Program for Children;

(3) extend the School Breakfast Program through June 30, 1975, and increase the appropriation authorization therefor to "such sums as are necessary";

(4) require the use of Section 32 funds in such amounts as may be necessary to carry out Section 4 of the National School Lunch Act (the regular school lunch program) and provide an average reimbursement rate of not less than 8 cents per meal in each State in fiscal 1973;

(5) require that free lunches be served to every child whose family income does not exceed a guideline fixed by the State Educational Agency, such guideline to be not less than 100 percent nor more than 125 percent of the income poverty guideline for each size family. If a school elected to serve reduced-price lunches, they would have to be served to every child within guidelines fixed by the State Educational Agency at not more than 150 percent of the applicable family-size poverty guideline;

(6) increase the non-food assistance (equipment) appropriation authorization to $40 million for each of the fiscal years 1973, 1974, 1975, and $20 million for each succeeding fiscal year;

(7) rescind the statutory authority of the USDA to regulate the sale of food items in competition with programs authorized under the Child Nutrition Act and the National School Lunch Act. The decision on such matters would be left to State and local authorities;

(8) beginning with fiscal year 1974, provide for Federal performance funding for Section 4 of the National School Lunch Act and for the School Breakfast Program; and

(9) provide for advance payments for the School Lunch Program as well as for the School Breakfast Program.

COMMITTEE AMENDMENTS

The Committee amended H.R. 14896 to—

(1) conform the provision for reimbursement of Section 32 funds in section 1 of the bill to the provisions of existing law and to section 4 of the bill;

(2) extend the special (non-school) food assistance program for children through June 30, 1975 (rather than June 30, 1974);

(3) extend the school breakfast program through June 30, 1975 (rather than June 30, 1975);

(4) extend the school breakfast program the new eligibility standards that the House bill would apply to the school lunch program;

(5) provide for Federal performance funding of the school breakfast program and of the section 4 (food assistance) phase of the lunch program, beginning in fiscal 1974;

(6) change the due date of the Secretary of Agriculture's report on unmet needs for equipment from December 31, 1972 to June 30, 1973;

(7) require that half of the appropriated funds for equipment assistance in 1973, 1974, and 1975 be reserved for schools without food service;

(8) rescind the statutory authority of the Secretary of Agriculture to regulate the sale of food items in competition with programs authorized under the Child Nutrition Act and the National School Lunch Act (in lieu of the House amendment requiring that USDA regulations permit the sale of nutritious food through vending machines); the Committee amendment reserves this decision for state and local authorities; and

(9) provide for advance payments in the school lunch program, as well as the school breakfast program.

TABLE I.—U.S. DEPARTMENT OF AGRICULTURE, FOOD ASSISTANCE PROGRAMS

[Program level; in thousands of dollars]

Program	1962 actual	1963 actual	1964 actual	1965 actual	1966 actual	1967 actual	1968 actual	1969 actual	1970 actual	1971 actual	1972 current estimate
A. Child nutrition program:											
1. Cash grants to States:											
(a) School lunch (sec. 4)	98,680	108,537	120,793	130,413	139,016	147,657	154,732	162,151	168,023	225,761	249,000
(b) Free and reduced-price lunches (sec. 11)					1,866	1,958	4,878	42,021	132,018	309,246	497,000
(c) School breakfast						573	2,000	5,540	10,870	20,162	26,000
(d) Equipment assistance						698	736	10,230	16,673	37,159	18,000
(e) State administration expenses								539	1,719	3,493	2,800
(f) Nonschool food program								3,244	7,258	20,967	42,000
Total, cash grants	98,680	108,537	120,793	130,413	140,882	150,886	162,346	222,725	336,561	616,788	834,800
2. Commodities to States	182,101	179,846	194,930	272,408	174,856	188,358	234,125	292,107	276,219	261,790	311,625
3. Nutrition, training, and surveys										750	1,150
4. Federal operating expenses	1,664	1,888	1,930	1,649	1,674	1,704	1,955	2,531	3,579	4,880	6,100
Total, child nutrition programs	282,445	290,271	317,653	404,470	317,412	340,948	398,426	517,363	616,359	884,208	1,153,675
B. Special milk program:											
Total, special milk program	89,328	94,035	99,721	97,758	96,552	99,286	102,494	102,510	102,124	93,294	103,681
Grand total, child nutrition programs	371,773	384,306	417,374	502,228	413,964	440,234	500,920	619,873	718,483	977,502	1,257,356

ESTIMATED ADDITIONAL COSTS

[In millions of dollars]

	Fiscal years				
	1973	1974	1975	1976	1977
Sec. 4	85.0	91.0	94.0	97	100
Sec. 11	80.0–140.0	80.0–140.0	80.0–140.0	80–140	80–140
School breakfast		75.0	100.0		
Nonfood assistance	23.9	30.0	30.0	10	10
Special food service		90.0	100.0		
Federal operating expenses		.6	.6		
Total	188.9–248.9	366.6–426.6	404.6–464.6	187–247	190–250

Mr. ALLEN. Mr. President, I also ask unanimous consent to have inserted in the RECORD a statement of the 1973 appropriations for the child nutrition program.

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

1973 appropriations

Child nutrition program:	
Cash grants to States:	
School lunch (sec. 4)	$274,747
Free and reduced-price lunches (sec. 11)	587,500
School breakfast	52,500
Equipment assistance	16,110
State administration expenses	3,500
Nonschool food program	74,000
Total, cash grants	1,008,357
Commodities to States	313,700
Nutrition, training and surveys	1,000
Federal operating expenses	6,567
Total child nutrition programs	1,329,624
Special milk program	97,123
Grand total, child nutrition programs	1,426,747

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield me 2 minutes?

Mr. ALLEN. I am glad to yield to the distinguished Senator from North Carolina 2 minutes.

Mr. JORDAN of North Carolina. Mr. President, I want to associate myself with the remarks made by the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Georgia (Mr. TALMADGE), and the distinguished Senator from Alabama (Mr. ALLEN), who led the hearings and the discussions in the subcommittee. I have the honor of serving on the Committee on Agriculture and Forestry. I had a part in drafting this bill and having it reported.

I think it is the most liberal bill we have ever had for child nutrition, school lunch, and other programs for children. It carries more money than ever before, and it reaches more children, and returns to the States a larger amount of money than has ever been provided before.

As I understand it, a benefit of 55 cents can go to a child; 7 cents in donated commodities, 8 cents in cash reimbursement, and 40 cents under section 11.

Mr. ALLEN. That would go to the lunch program for his benefit.

Mr. JORDAN of North Carolina. The 55 cents total for a lunch is by far the most generous program that has ever been enacted. This bill reaches more people than ever before. It also provides that equipment can be purchased for those places where schools do not have facilities for cooking their own meals, running their cafeterias, and so forth.

So I am glad to join in the passage of this bill, which is a necessity. Only in the past few years has the breakfast program been included in the school lunch program. It is not entirely new, but never has it been covered to the extent in the bill at this time.

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

Mr. ALLEN. I yield the Senator 2 additional minutes.

Mr. JORDAN of North Carolina. I hope we can pass this bill in the form it is in, because we had hearings and discussions on the bill. I think amendments will be offered which we considered, but which we felt went beyond what this bill ought to carry.

Mr. ALLEN. I thank the Senator from North Carolina for his contribution to the discussion, and wish to commend him for many years of distinguished service on the Committee on Agriculture and Forestry. He certainly has been a friend of agriculture. He has been a friend of the poor. He has been one of the leaders in the fight for the nutrition programs of the Government and for the school lunch and breakfast programs. He has given them his unfailing and unswerving support during the time he has been a member of the Committee on Agriculture and Forestry.

I would like to point out one further little matter. The Senator mentioned that for a school child there would be 55 cents for each lunch. Actually, for each free lunch there would be really more than that, for this reason: The 8 cents that we give under section 4 for each meal served is for all meals, whether paid for or free or at a reduced price, and in 1972 only 32 percent of all of the meals served were served free or at a reduced price. The remaining 68 percent were paid for. So if 7 cents in commodities and 8 cents in cash were paid for each meal served, that would really mean two-thirds more going onto the free lunches. So, in a sense, it runs three times plus the 8 and 7 cents for each meal served.

I do thank the Senator for his contribution.

Mr. CASE. Mr. President, will the Sen-

ator yield me a quarter of a minute on the bill?

Mr. ALLEN. I yield.

THE SCHOOL BREAKFAST PROGRAM

Mr. CASE. Mr. President, a really gratifying aspect of the school lunch amendment before the Senate today is the recognition of the school breakfast program as a genuine part of this Nation's commitment to needy schoolchildren.

Earlier this year I urged the Department of Agriculture to ascertain how many schools wanted to implement the breakfast program. Finally, after serious inadequacies in the initial study were identified, it was found that over 20,000 schools wanted the breakfast program. This measure before us will guarantee these schools will be able to participate, and I urge the Senate to adopt the committee's recommendations on the breakfast program.

The school breakfast program has proven its worth. School principals in my own State have written to me and told me the breakfast program improves the alertness of a child in the morning hours when attention by the student to classroom instruction is most important. And the principals also have reported that after implementing the breakfast program school attendance has improved, because children look forward to the morning meal and the comraderie that goes with it.

The recognition of the breakfast program as a genuine part of the child feeding effort will make unnecessary an approach some schools in New Jersey and, I am sure, elsewhere have taken in providing luncheon at an early hour to cover the absence of a good breakfast. And, I think, we will now be in a position to turn attention away from insuring participation in the breakfast program to the task of improving the content and quality of the breakfasts offered to children.

Mr. HART. Mr. President, this bill contains much which will be helpful to the Nation's impoverished children. The committee is to be commended on this. But some provisions are going to be less than helpful.

Section 3 of the bill will expand the national school breakfast program from a pilot project to a full-scale national program available to every school in the Nation. We provide the structure for this by two amendments to section 4(a) of the Child Nutrition Act of 1966. First, we remove the limitation on the amount of funds that can be expended in the program. This open-ended authorization will make certain that Congress can provide as large an appropriation as is needed to reach all the schools in the country. Second, we make clear that all schools are equally eligible for the program without regard to the relative neediness of the pupils, the distances they travel, or any other criteria. Therefore, it must be understood that we intend every school that makes application for the program to be provided immediately with the necessary funds to implement it by the Secretary of Agriculture and the school's State agency. Thus, if 1,000 schools apply for the program this September, then 1,000 schools shall have it this September. There will be no limit on the number of new schools that can institute it. That means, of course, that in addition to immediately providing funds to applying schools, the Secretary must also guarantee that each breakfast served will be supported by an adequate Federal per meal reimbursement payment which shall not be decreased during the school year by the Secretary or the various State agencies, regardless of how many new schools come into the program.

Section 4(b) reiterates the poverty priority rule which requires the Secretary to apportion school lunch funds in such a way as to aid the neediest children and the neediest schools first. Also, I want to point out that nothing in this section or any other part of this bill amends or repeals the 40-cent reimbursement rule that was incorporated into section 11 of the School Lunch Act by last October's joint resolution, Public Law 92–153; moreover, that 40-cent reimbursement rule does not expire with the ending of this fiscal year. It was a permanent amendment to the act. That rule requires that the Secretary provide Federal funds in the amount of 40 cents or the cost of providing the meal, whichever is less, to support free lunches and 40 cents or the cost of providing the meal, whichever is less, minus the highest price charged for the lunch in the case of reduced price lunches.

Section 5 places a new restriction upon the power of State agencies and local school authorities to establish free and reduced price lunch eligibility standards. Henceforth, the free lunch standards cannot exceed the Secretary's "income poverty guideline" by more than 25 percent and the reduced price standard cannot exceed it by more than 50 percent. But, this section does establish, for the first time, the unequivocal requirement that all the school children in the Nation, coming from families having incomes below the Secretary's "income poverty guideline", are to be provided free lunches only. This, therefore, eliminates the discretion that States and localities had in the past to serve free or reduced price lunches to these, the poorest of the poor. As to the new eligibility standard rule provided here, I urge all State and local officials whose eligibility standards are lower than the maximum that this bill allows immediately to exercise their full powers hereunder and raise their standards to the 25 percent and 50 percent limits. Also, it should be noted that nothing here is intended to restrict the power of local school authorities to set their own standards as high as this law will allow, without regard to what other schools in their State do, as long as they have the approval of their respective State agencies.

A MAJOR ACCOMPLISHMENT FOR THE SCHOOL BREAKFAST PROGRAM

Mr. COOK. Mr. President, I want to take this opportunity to commend the distinguished members of the Senate Agriculture Committee for their work in designing the Child Nutrition Act of 1972—H.R. 14896—which is a major accomplishment in legislation to clear up the uncertainties in the school lunch program prior to the 1972–73 school year and to make significant changes in the child nutrition programs.

I was pleased to see that some of the provisions in this bill were adopted from proposals contained in S. 3661, of which I am a cosponsor. Among the proposed provisions contained in the Child Nutrition Act of 1972, I feel that those pertaining to the school lunch program deserve special noteworthy attention.

In this bill, the breakfast program is extended for 2 years—through fiscal 1975. Last year this program faced serious problems of being discontinued in several States due to lack of funds. This problem was taken into account by authorizing in H.R. 14896 the appropriation of such sums as may be necessary to permit the program to operate in all schools which apply for the program. Beginning with fiscal year 1974, funding for this program will be based on a performance basis, which in theory will encourage participation and expansion of the program.

These provisions lend more permanency to the school breakfast program and allows the program to develop its full potential. To permit the program to operate in all schools that make application for the program is a very significant element for the growth of this major child nutrition program. The passage of this provision is of urgent concern to State school food service directors across the country since they need to make plans for this school year. Many schools nationwide have applied for the breakfast program and will not be able to participate unless this provision in H.R. 14896 is passed by Congress.

This sense of urgency for immediate congressional passage of this bill was recently expressed by the Kentucky school food service director in two letters addressed to me. These correspondences ably convey the desirability for the breakfast program in the educational process and the need for the features contained in this legislation. Since most schools begin the 1972–73 term this month and in view of the congressional recess to begin at the end of this week, I strongly urge my fellow colleagues to quickly act on the passage of H.R. 14896.

Mr. President, I ask for unanimous consent to have printed in the RECORD the text of Mr. Bevins' correspondence.

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

DEPARTMENT OF EDUCATION,
COMMONWEALTH OF KENTUCKY,
Frankfort, July 24, 1972.

Hon. MARLOW COOK,
U.S. Senate,
Washington, D.C.

DEAR MR. COOK: School officials in Kentucky realize that the hot weather, two National conventions, and an ever increasing load of work for each of us creates a situation of delay in getting needed legislation passed. It is also realized, however, that on August 14, 1972, many schools in Kentucky will open their doors for the 1972–73 session. It is, at that time, that all school officials need to have before them the plan for conducting school food services for the year. To delay making the school food service operations available until a few months later creates an undesirable situation and one which

stymies our combined efforts toward providing maximum benefits to every child in Kentucky schools.

With the above thoughts in mind, it can easily be seen that H.R. 14896 needs to become a law so that the school food service program can become a definite reality. Whatever changes need to be made should be made without too much delay so that we will at least have a plan for the coming school year, whatever that plan may be.

There are many desirable features of H.R. 14896 which should play an important role in upgrading school food services in Kentucky. The provision which provides an open-end authorization on the School Breakfast Program is a most desirable one. The attached letter from Salyersville is one example of a continuous plea received from school officials for the Breakfast Program since all school officials are beginning to realize that children without a desirable breakfast cannot receive adequate instruction during the morning hours. School officials also realize that those children who do not have a breakfast and must wait until lunch for their first complete meal of the day often find themselves in a very much relaxed condition due to the presence of the large noonday meal and cannot face their tasks during the afternoon. When both the morning hours and the afternoon hours are not as fruitful as they should be, how then can we justify continuing schools without a complete Breakfast Program for every child who comes to school without this important meal.

The increase of Section 4 rate of reimbursement from 6¢ to 8¢ would help considerably in reducing the need for increasing the daily cost of lunch to pupils. This is another important feature of H.R. 14896. The increase in the authorization for use of Nonfood Assistance Funds will help us to replace old equipment which was designed for smaller numbers, but is now doing double duty in that the number of noonday lunches have doubled to say nothing of the added load because of the Breakfast Program.

On behalf of every school child in the state of Kentucky, may we encourage prompt passage of the school food service pending legislation. It is felt that the food service program can and will go forward and play an ever increasing important role in the achievements of our children.

Thank you for your support of the school food service program in the past and your efforts in the future. These are appreciated more than you will ever know.

Sincerely yours,

C. E. BEVINS,
Director, Division of School Food Service.

JULY 14, 1972.

BREAKFAST PROGRAM,
Dept. of Education,
Frankfort, Ky.

DEAR SIRS: This year I will be principal of an elementary school of approximately 500 pupils and 40 adults, which includes teachers, aides, cooks, janitors, etc.

I have taught school for 25 years and have 4 children of my own and I feel that I know something about the breakfast needs of children and adults. I know we can have a much better school, with more alert and energetic pupils and adults, by providing a wholesome, well-balanced breakfast.

Mr. Aenett our Supt. of Schools, thinks this is an excellent idea.

The cooks would have to start earlier and I would have to pay them more and I would have a few more records to keep, but everyone's willing, to try, a breakfast program.

I know most of the families represented on Willard Hensley School, and the greater majority only have one good, hot, well-balanced meal per day, and that's lunch at our school.

Our school is scheduled to begin August 21st. I would like to know all about this program before school begins.

Thank you.

Sincerely,

ALKA MONTGOMERY.

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF EDUCATION,
Frankfort, August 1, 1972.

HON. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR MR. COOK: Letters such as the attached one from Floyd County, Kentucky, continue to be received. Since schools in Kentucky will be commencing the 1972-73 term very shortly, we are at a loss to know how to proceed. The situation is becoming a desperate one and the Breakfast Program need to be open-ended as identified in H.R. 14896.

Any help you can give us will be appreciated by the many boys and girls attending schools such as Allen Central High.

Sincerely,

C. E. BEVINS,
Director, Division of School Food Service.

Mr. CRANSTON. Mr. President, I am in support of H.R. 14896, the Child Nutrition Act of 1972, and I urge my colleagues to vote for it. While it does not begin to go far enough toward meeting the nutritional needs of our schoolchildren, it does contain certain provisions which, if administered in accordance with congressional intent, will be of benefit to hungry children.

Chief among these beneficial features is section 3 which establishes an open-ended authorization for the school breakfast program. It also requires the Department of Agriculture and the State educational agencies to provide immediately upon application of local school authorities all the funds necessary to institute the breakfast program. This nondiscretionary duty effectively abolishes the present USDA priority system, under which participation in the breakfast program was largely limited to those schools with the neediest children and those having large numbers of students required to travel great distances to and from school. Now, under the provisions of section 3 of H.R. 14896, priority systems are disallowed. Hereafter, every school making application shall be immediately provided with the funds necessary to institute the breakfast program.

Section 4(b) makes clear that as he apportions funds authorized by section 11 of the National School Lunch Act—the free and reduced-price lunch program—the Secretary must insure that the funds go first to the neediest children and the neediest schools as expeditiously as possible. Section 11 funds, moreover, must be paid according to the 40-cent reimbursement formula established by Public Law 92-153, last October's joint resolution. It must be borne in mind that it is only the resolution's section 32 borrowing authority which expires at the end of fiscal year 1972. The section 11 reimbursement formula was made a permanent part of the act, and it provided that every free or reduced-price lunch served would be supported by a minimum 40-cent reimbursement or the cost of the lunch, whichever is less, minus the highest reduced price charged, if any.

Section 5 of the bill circumscribes the power historically held by State agencies and local school authorities to set free and reduced price eligibility standards as high above the Secretary's "income poverty guidelines" as they choose and still receive Federal reimbursement for all the meals served. Now, although the local school authorities still have the right, with State agency approval, to establish their own eligibility criteria higher than the Secretary's "guidelines," and the State agency can set criteria for the whole State in excess of the "guidelines," neither can exceed the Secretary's free lunch standard by more than 25 percent, or the reduced price standard by more than 50 percent.

State and local school authorities should understand that it is the intent of Congress that they set their standards as high as this law would permit, for in no other way can all hungry children who cannot afford to pay the full price of their lunch have their nutritional needs met.

I am confident that this is a good bill, which merits the full support of the Senate. At some point in the near future—presumably soon after the next Congress convenes—we will have an opportunity to hold hearings on and, hopefully to pass, some more fundamental improvements in our child nutrition programs. In the meantime, H.R. 14896 merits the full support of every Senator in order that State agencies and local school districts can make the appropriate plans and arrangements for the school lunch and school breakfast programs that are scheduled to commence in September.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from South Dakota (Mr. MCGOVERN).

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

STATEMENT BY SENATOR MCGOVERN

I would like to speak in my capacity as Chairman of the Senate Select Committee on Nutrition and Human Needs for passage of H.R. 14896 and for acceptance of the several amendments that have been offered by my distinguished colleagues, Senators Humphrey and Case.

H.R. 14896 is, in my mind, an emergency measure that requires quick enactment, as amended by the Humphrey-Case proposals, if we are to avoid the sort of last minute crises that beset the lunch program at the start of the last school year.

Additionally, it is the vehicle for taking the long overdue step of making the School Breakfast Program a full-fledged member of the child nutrition arsenal in our continuing effort to put an *end*—I repeat, an *end*—to hunger in America.

By our vote for this legislation, we are making it clear that hereafter each and every school in the nation which makes application for the Breakfast Program will immediately receive from the Federal Government the funds needed to begin operations. This means that all schools wishing to have the Program need only execute an application in order to have the required funds. In the past, USDA

had only allowed the Program to be started in schools having the highest concentration of needy pupils and those having the highest numbers of children who traveled long distances. By virtue of the duty section 3 imposes upon the Secretary of Agriculture, he may not now use such criteria or any other priority criteria to determine which schools get the Program. From today on, any school making an application for the Program is immediately entitled to have it.

There remains only the question of reimbursement rates for these breakfasts. Prior to the beginning of each school year, the Secretary will announce the amount of federal per meal reimburesment that will be provided to the State agencies and local school authorities for each breakfast served. In order to fully carry out our intent in this law, the Secretary must guarantee that the per meal reimbursement rate is large enough to allow the schools to actually carry on a meaningful nutritious Program. This means, of course, that the likely expansion of the Program occurring during this coming year may well require more funds than Congress contemplated during the Appropriations process. In such event, the Secretary should return to Congress and inform us of the need for a supplemental appropriation. It is to facilitate just such supplemental funding that we have made the appropriation authorization open-ended.

Four other matters in this bill need be clarified:

First, section 4(a) instructs the Secretary to apportion funds under sections 4 and 11 of the National School Lunch Act in a manner that will best enable schools to meet their obligations with respect to the service of free and reduced price lunches and meet the objectives of section 4 of the Act. This is a reaffirmation of the poverty priority in the Lunch Program which means that in apportioning funds the Secretary must see to it that the neediest children and the neediest schools are aided first.

Second, nothing in this bill repeals or amends the 40c minimum reimbursement rate formula that was contained in the Joint Resolution we passed last October, P.L. 92-153. Therefore, every free or reduced price lunch must still be supported by federal funds in the amount of a minimum of 40c or cost, whichever is less. The aggregate reimbursement may still be lessened by the revenues collected for reduced price meals served.

Third, today we are restricting the eligibility standard setting power of local authorities and State agencies by a new rule which prevents them from setting their free lunch standard more than 25% higher than the Secretary's "income poverty guideline" and their reduced price standard more than 50% higher. But, nothing here prevents a local school authority from exercising its own discretion to bring its standards right up to those limits—regardless of what the other schools in the State do—so long as it has the State agency's approval.

Fourth and finally, H.R. 14896 contains one particularly significant provision. Section 2(a) of the bill provides an open-ended authorization for Section 13, the Special Food Service Program for Children. The Special Food Service Program for Children includes the authority to provide food assistance for all those children in non-profit, non-residential, non-school settings, such as day care centers, Head Start Programs, summer recreation programs, and settlement houses where the children of working mothers gather after school. In three short years the program has grown dramatically in popularity, alongside the rapidly growing need in the critical areas it serves. There are few in the country who would not acknowledge the dramatic growth in day care in recent years, or the growing concern of the cities to respond effectively to the needs of out-of-school youngsters in the summer.

This year the President and the Congress agreed that the summer lunch programs should be fully funded. The President sent a special message to the Appropriations Committee of both Houses, requesting the additional funds. That was a praiseworthy action, and one in which the Congress was happy to concur.

But the Section 13 authority is equally important to programs that operate year-round for pre-school and other out-of-school children. There the need for additional funding has grown as rapidly as the need for expanded summer funding. The President's budget request dealt only with the summer programs. The year-round programs—in day care, Head Start, and settlement houses—would once again be frozen at the same level of spending as the year before, thus pitting 1973 food costs and needs against 1971 funding.

For the rapidly expanding public and other non-profit day care programs, this decision is a serious and very costly one. Every grocery shopper, every reader of a daily newspaper knows that food prices have continued to go up and up. During the past year reports have come in from all over the country to the Select Committee on Nutrition and Human Needs, which I chair, and to the office of Congressman Vanik of Ohio, the author of Section 13. Over and over the story is the same: food costs have risen, the number of children being served in each day care center is growing, the waiting list of centers that wish to be found eligible for Section 13 food assistance is growing. The response from the Department of Agriculture is also constant: that there are no funds available.

The Open-ended authorization in H.R. 14896 provides the opportunity that the Congress has needed to respond to the year-round needs as fully as we have now responded to the needs of our urban children in the summer. With the open-ended authorization we will be able to provide full funding for the cost of food assistance in our Head Start programs, estimated now at $30 to $35 million. We will be able to allow the natural expansion of our food assistance efforts in day care and other pre-school settings, to the $30 to $40 million already attested to from around the country. We will be able, before next summer, to provide a separate fund for feeding migrant children in the summer time. Now they tend to be left out of the programs because their "summers" (often May-June-July, or August-September-October) do not coincide with the "summer" of children who are stationary. School systems are not able to provide for the migrant children out of their budgets which cover September-June, and cities are similarly unable to provide for them out of authority that extends only from mid-June until early September. With additional funds, it would be possible to set aside the $7 million required to meet the needs of these specially needy youngsters.

The Report of the House Education and Labor Committee has used the figure of $125 million as the estimated need in the Section 13 program areas. Our own estimates would accept that as the current need in a range that might go as high as $160 million. With the open-ended authorization, and the clearly expressed interest of the Congress in the adequate financing of the many parts of the Special Food Service Program for Children, I feel confident that we may better meet the needs of our pre-school youngsters in Fiscal Year 1973 than has been possible before.

Now, I would like to address myself to the amendments offered by Senators Humphrey and Case. I regard them as essential to this legislation.

Two important provisions in those amendments deserve particular attention.

One allows the State agencies to waive the 25% matching requirement presently contained in the equipment assistance programs as to especially needy schools within their state. This will mean that a State agency will have the power to determine that a school needing to purchase cafeteria equipment is unable to match the Federal assistance money with funds of its own and should therefore be provided with 100% support for its equipment purchases from Federal funds. Having made such a determination the State agency will then transfer such 100% Federal assistance funds to the local school. This step is a major one to finishing our task of ending hunger in America's schoolrooms. Today, about 20,000 schools are without the facilities they need to operate a Lunch program. In those schools are at least 1½ million hungry children—nearly 50% of the eligible children not now being reached by either the Lunch or Breakfast programs. This problem affects particularly urban elementary schools and those schools in extremely rural areas, as well as 60% of the Nation's parochial schools. These schools, *these children* need our help now.

The other important provision is a "grandfather" amendment as to local eligibility standards for free or reduced price lunches. Since the bill's new 25%-50% formula sets a ceiling on the eligibility standards that a local school authority or a State agency can establish, many schools would, without this amendment, be required to rescind their last year's eligibility criteria and replace them with lower criteria that would comport with the new formula. That would of course mean that many thousands of children who were provided with free or reduced price lunches last year would no longer receive them. This amendment will prevent that catastrophe from happening—any local school authority having a free or reduced price eligibility standard in effect as of July 1, 1972, which is in excess of the standards to be allowed by the new formula may keep its high standards in effect and still receive Federal reimbursements to support the service of meals pursuant to such higher standards. In this way, children who were fed a meal in school last year will not be told that the federal government no longer regards them as worthy of our assistance.

Mr. President, I urge adoption of these amendments and passage of H.R. 14896.

Mr. KENNEDY. Mr. President, I am pleased to give my full support to the package of amendments to be offered by Senators HUMPHREY and CASE. These amendments authorize approximately $23 million to bolster the food assistance programs included in H.R. 14896, the National School Lunch Act amendment. Less than 2 months ago, I chaired a hearing before the Nutrition Committee concerning the failures of the Agriculture Department regarding food assistance programs. At that time, the committee was concerned that the department was more interested in meeting budgeting guidelines than in meeting the needs of hungry people.

Officials in the Agriculture Department testified that over 19 percent of the money allocated for Federal food programs was going unspent, while 43 percent of America's 26 million poor receive no Federal food assistance. The administration had chosen to withhold $700 million out of $3.681 billion that Congress approved to fund food projects.

I was appalled at that disclosure and I informed Agriculture Department officials that I would do everything possible to insure that hungry people would re-

ceive the Federal aid that the Congress had provided for their nutritional adequacy. It is gratifying therefore that the Senate is acting at this time to extend the coverage of the national school lunch program with the amendment offered by Senators HUBERT HUMPHREY and CLIFFORD CASE. And when the Congress appropriates money for the purposes delineated in this legislation the administrators of the Federal school lunch program deserve to be reminded that the Congress insists that the money appropriated for that purpose must be used to meet the needs identified by the Congress.

At the same time, it is important to emphasize that the bill before the Senate today amends section 13 of the National School Lunch Act—special food service program—to provide open ended authorization for full funding of food assistance programs in Head Start, Day Care and in other preschool projects. In addition this legislation will insure funding of food programs for children of migratory workers who have traditionally been denied the benefits of Federal food assistance projects.

The action we take here at this time marks a broader national commitment to the task of feeding hungry children. It signifies our determination to continue America's effort to feed those who have been denied adequate nutrition. The amendment succeeds in bringing into the fold many children who would otherwise have been excluded under the present school lunch program. And I am pleased to join as a cosponsor of this vital measure.

Included in this proposal by Senator HUMPHREY is the national infant feeding program, which authorizes $20 million for a 2-year pilot program to feed pregnant women and infants from low-income areas who suffer severe nutritional deficiencies because of their economic condition. The infant feeding program would compensate inadequate diets, thus combating malnutrition among expectant mothers and preschool children. Studies have shown that women who suffer from malnutrition during pregnancy, risk permanent physical and mental damage to their unborn children. Infants who fail to maintain a balanced diet can fall victim to permanent brain damage. Thus the infant feeding program is a type of preventive medicine. Physical and mental damage sustained either in the womb or in early infancy due to nutritional deficiency, can be prevented through supplemental food assistance programs.

The second amendment would prevent any child who participated in last year's free and reduced price school lunch program from being ruled ineligible in the future by reason of any newly adopted standards. At a cost of $200,000 this provision insures that rigid federally imposed standards will not be used to deny a child now receiving free or reduced price lunches from eating next year simply because participation qualifications are changed to satisfy bureaucratic requirements. This program has been designed to meet the needs of hungry people and the adoption of this feature would prevent as many as 25,000 children from being ruled ineligible to participate in the school lunch program in the future. Unless the school lunch program is responsive to those who are intended to receive services, there is no reason for the school lunch program to continue. I am firmly in support of this provision to bring under its wing some 25,000 children throughout the Nation who would otherwise have been excluded because of new Federal eligibility standards.

Current law makes it necessary for schools to contribute 25 percent of the funds needed to set up kitchen equipment for Federal school lunch programs. The third amendment would cost about $3 million to furnish 100 percent Federal assistance for those schools which have been deemed needy by State school authorities. Schools that are financially unable to match the Federal subsidy requirements must not be denied participation in the school lunch program simply because they cannot overcome such funding barriers.

Expansion of the lunch program has occurred mainly in affluent suburban communities where new schools are fully equipped with food preparation facilities. But too many students in urban and rural public and parochial schools do not receive lunches because they are in old buildings and their schools have no cooking facilities. By guaranteeing funds for equipment purchases, students in the most deprived schools can be assured of receiving decent meals.

These amendments to the school lunch bill introduced by Senators HUMPHREY and CASE will begin to make nutritional adequacy a reality for many of the hungry children in America who have been denied because of these insensitive restrictions. Not only do the amendments provide us with the tools to combat hunger in our classrooms, but they also take a substantial step in the effort to alleviate hunger among the Nation's infants.

Amidst the modern affluence of America, millions of children wake up hungry, go to school hungry and return home hungry, while surplus food storage bins in the United States overflow. Thanks to advanced sophisticated techniques, food is produced in greater quantity than ever before. Yet, food rots in our storehouses, while millions of American children starve. Major nutritional deficiencies transform an ordinarily attentive alert child into one who is lethargic, despondent and restless.

For nearly three decades, Congress has debated whether the Nation has made the commitment to feed hungry children. In 1946, Congress enacted the national school lunch program, pledging to "supply lunches without cost or at a reduced cost to all children who are determined by local authorities to be unable to pay the full price." Not until 1966, 20 years later, were funds appropriated by Congress specifically for the purpose of feeding hungry children.

Though the school lunch program has come a long way since 1946, the journey will not be completed until all of America's children are relieved of stomach cramps.

The question before the Senate today is "do we as a Nation have the commitment to feed all of our hungry children?" And if so, "how much of a commitment, in terms of dollars and cents, are we willing to make? Each year billions of dollars are extracted from our Federal budget for supersonic aircraft, space projects, and lethal defense systems, not to mention the billions of dollars expended in Vietnam for the past 10 years. Yet, we have provided only crumbs to feed our children and the administration has even been stingier with the resources Congress provides. We tighten our belts at the expense of our children. Why are our national priorities so distorted? Is the space shuttle more vital than human life? Can we in full conscience deny the needs of our Nation's children?

Mr. President—I am certain the provisions in these amendments will be an effective and helpful way to further close the hunger gap. And I urge the Senate to pass these amendments along with the overall provisions of this vital legislative measure.

Mr. WILLIAMS. Mr. President, since it was first enacted in 1946, the school lunch program has grown into one of the most important Federal initiatives affecting the health and well-being of American children. During the last school year over 25 million young people received lunches free of charge or for a token payment.

The Child Nutrition Act of 1972 (H.R. 14896), as reported by the Committee on Agriculture, is basically a sound piece of legislation. Among other things, the bill would expand the school breakfast and lunch programs, extend the nonschool food assistance programs, and increase the authorization for equipment to be used in the various feeding programs. Nevertheless, I feel that this bill contains some glaring omissions.

Many children who participated in the free and reduced-price lunch programs last year would be precluded from participation this year if the Child Nutrition Act were to pass in its current form. The bill restricts State and local eligibility standards for free and reduced-price lunches. Henceforth, such standards for free lunches could not exceed the Secretary's income poverty guideline by more than 25 percent and the standard for reduced-price lunches could not exceed the Secretary's guideline by more than 50 percent. Many urban areas, where the cost of living is particularly high, have income eligibility standards currently in effect which are above those which would be allowed under the committee version of the bill. Cities in New Jersey such as Newark, Camden, Trenton, Elizabeth, Jersey City, and Paterson, as well as many other urban areas across the country, would be adversely affected by the eligibility provisions of the committee bill. Thousands of children will be eliminated from the program nationally. For these reasons I have joined with Senators HUMPHREY and CASE in sponsoring amendments which would prevent any child who participated in the program last year from being ruled ineligible in the future by reason of the new income eligibility standards. I think it would be unconscionable to adopt any other policy.

These amendments would also add a

new section to the Child Nutrition Act authorizing a modestly funded pilot program to provide supplemental food assistance to pregnant and lactating women and to infants until they reach 4 years of age. Studies have repeatedly shown that a lack of proper nutrition in infancy often leads to the impairment of physical and mental development and may even lead to chromosomal damage. Increased Federal assistance in this area is clearly warranted.

Finally, the amendments I have cosponsored would allow specially needy schools to receive Federal funds for the purchase of equipment needed to establish lunch facilities without having to meet the 25-percent matching requirement, and the determination as to which schools are unable to meet the matching requirement would be made by the State agency which administers the program. There are at present 18,000 schools which do not provide lunch service to children. While the committee bill reserves half the funds authorized for equipment assistance for schools without food service, many schools will still be unable to take advantage of the funds if they must meet the matching fund requirements. I think a concerted effort should be made to insure that a lunch program is available to every needy child in the country.

While the cost of these amendments will be modest, their effect will be significant. If the Child Nutrition Act were to pass, and children who were fed by the school lunch program last year were denied a meal this year, it would, to my mind, be an unfortunate step backward.

As I mentioned previously, Mr. President, H.R. 14896, with the addition of our amendments, is an excellent measure. The principal benefit of this bill for the poor, hungry schoolchildren of the Nation is to be found in section 3 which creates the legal framework for a truly significant expansion of the national school breakfast program. Indeed, if the intent of Congress is carried out, we can expect that every school in the Nation making an application for the program during fiscal 1973 will be able to institute it with no delays whatsoever. The bill accomplishes this by, first, providing an unlimited authorization for appropriations and, second, by explicitly imposing upon the Department of Agriculture and the State agencies the obligation to provide immediately upon application all the funds to local school authorities that are needed to implement the program. Clearly, in order to carry out the intent of this mandate, the Secretary will have to establish and provide an adequate Federal per meal reimbursement rate to support all the breakfasts served. The Secretary then will have to provide a State with whatever apportionment it needs to bring new children and new schools into the program and still maintain this reimbursement rate for all breakfasts served.

Section 4(b) requires the Secretary to apportion funds for free and reduced-price lunches in such manner as will best enable schools to feed their children who could not otherwise afford to purchase a nutritional meal. This section's silence in regard to minimum reimbursements from section 11 of the National School Lunch Act is not to be taken to mean that the 40-cent minimum reimbursement rates provided by the formula established by Public Law 92-153 last October is in any way amended or repealed. The 40-cent minimum rate was a permanent amendment to section 11 of the act.

In the Child Nutrition Act of 1972 we have an opportunity to improve programs whose worth has been conclusively demonstrated. In the amendment which has been offered by myself and Senators HUMPHREY, CASE, and others we have an opportunity to expand these programs to include all children who are not now receiving adequate nutrition, and to insure that children who participated in the programs in the past will be allowed to continue their participation. I urge my colleagues to support the amendments and the bill.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I shall offer an amendment and speak on the amendment. I would like to ask the chairman if he would be willing to yield me 10 minutes on the bill.

Mr. ALLEN. Yes, I am delighted to yield.

The PRESIDING OFFICER. The Senator from Alabama has only 9 minutes remaining on the bill.

Mr. ALLEN. I yield the Senator all time I have, then.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 9 minutes.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that my amendment to the bill, amendment No. 1431, be considered en bloc.

Mr. ALLEN. Mr. President, I object and ask for a division.

Mr. HUMPHREY. Does the Senator wish to take it up item by item rather than en bloc?

The PRESIDING OFFICER. The amendment has not been stated.

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

Mr. HUMPHREY. May I send the amendment to the desk first, so that we may have a proper procedure?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 10, line 25, strike out the period after "Secretary" and insert in lieu thereof a comma and the following: "except that any local school authority having income guidelines for free or reduced price lunches which exceed those allowed by this subsection may continue to use such guidelines for determining eligibility if such guidelines were established prior to July 1, 1972.".

On page 15, line 16, strike out the period after "State" and insert in lieu thereof a comma and the following: "except that such condition shall not apply with respect to funds used under this section to assist schools without food service if such schools are especially needy, as determined by the State.".

At the end of the bill add a new section as follows:

"SEC. 9. The Child Nutrition Act of 1966 is further amended by adding at the end thereof a new section as follows:

"'SPECIAL SUPPLEMENTAL FOOD PROGRAM

"'SEC. 17. (a) During each of the fiscal years ending June 30, 1973, and June 30, 1974, the Secretary shall make cash grants to the health department or comparable agency of each State for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State serving local health or welfare needs to enable such agencies to carry out a program under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income. Such program shall be operated for a two-year period and may be carried out in any area of the United States without regard to whether a food stamp program or a direct food distribution program is in effect in such area.

"'(b) In order to carry out the program provided for under subsection (a) of this section during the fiscal year ending June 30, 1973, the Secretary shall use $20,000,000 out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1974, there is authorized to be appropriated the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). Any funds expended from such section 32 to carry out the provisions of subsection (a) of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose of such section.

"'(c) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 10 per centum of the Federal funds provided under the authority of this section.

"'(d) The eligibility of persons to participate in the program provided for under subsection (a) of this section shall be determined by competent professional authority. Participants shall be residents of areas served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

"'(e) State or local agencies or groups carrying out any program under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary shall submit to the Congress no later than October 1, 1973, his recommendations regarding appropriations to be authorized for the continuation and expansion of the program provided under this section, including, but not limited to, his recommendations regarding a formula for allocating such funds among all the States of the United States.

"'(f) As used in this section—

"'(1) "Pregnant and lactating women" when used in connection with the term at "nutrition risk" includes mothers from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth

(underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

"'(2) "Infants" when used in connection with the term "at nutritional risk" means children under four years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include (at the discretion of the Secretary) children under four years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

"'(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A and vitamin C. Such terms may also include (at the discretion of the Secretary) any food product commercially formulated preparation specifically designed for infants.

"'(4) "Component professional authority" includes physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians, or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.'."

Mr. HUMPHREY. Mr. President, the action which we are about to undertake is eagerly awaited by school officials in every State. If Congress enacts this legislation and the President signs it before the end of August, schools will open with the school lunch program ready to operate smoothly. If we fail to act, or the President fails to support school lunch, then we will repeat the confusion and uncertainty which has marked school food service programs each fall in the past 3 years as school has opened.

I support this legislation and I want to commend the chairman of our Committee on Agriculture and Forestry, Senator TALMADGE, and Senator ALLEN, chairman of the Subcommittee on Agricultural Research and General Legislation, for their efforts and leadership along with the other members of the committee in getting this important legislation to the Senate before the start of the school year. I also want to pay tribute to the chairman of the House Committee on Education and Labor, Congressman CARL D. PERKINS and the other members of his committee for acting so promptly in completing their work and in gaining House passage of this bill.

Although I enthusiastically support this legislation, I believe the Senate can improve it even further with several amendments which I am cosponsoring with Senators CASE, AIKEN, BROCK, BAYH, WILLIAMS, MONDALE, MATHIAS, BURDICK, JAVITS, CRANSTON, PACKWOOD, GRAVEL, HART, HARRIS, EAGLETON, HOLLINGS, KENNEDY, MCGOVERN, RIBICOFF, STEVENSON, NELSON, HUGHES, PASTORE, MCGEE, MUSKIE, MCINTYRE, TAFT, BEALL, and MOSS.

The legislation before us provides a guarantee that each State will receive at least an 8-cent reimbursement from Federal funds this year on each lunch served under the national school lunch program. This is an increase of 2 cents over the 6-cent minimum which the Congress legislated last school year. This legislation does not repeat the guarantee of 40 cents reimbursement for each lunch served to needy children. The reason is, and please correct me if I am wrong, Senator TALMADGE, that the 40-cent guarantee which we legislated for free and reduced price lunch reimbursement is permanent legislation and does not need to be repeated.

The legislation also authorizes the States and local school districts to set income eligibility standards for free lunches which shall be served to needy children who are from families with income 25-percent higher than the national minimum income eligibility guideline which, for a family of four persons, is $4,110 in fiscal 1973. The eligibility standard for a reduced price lunch may be set to reach income 50 percent above the Federal minimum.

The legislation also authorizes "open-end" appropriations for the breakfast and the nonschool food service programs for children, such as summer feeding and day care. A USDA policy which had been used to deny the breakfast program to some schools has been reversed by the legislation, and now any school requesting the program may provide breakfast service to children.

I should also like, at this point, to remind the members of the Senate Appropriations Committee, and other Members of the Senate, of my floor discussion during consideration of the Agriculture Appropriations bill last month concerning adequate funding of these child nutrition programs for this fiscal year in accordance with the authorization action we are taking here today. You will recall that the distinguished Senator from Wyoming (Mr. MCGEE) asked the Senate not to increase funding for these programs over what his subcommittee had provided in that bill until the authorization bill we are now considering was enacted. You will further recall his promise that the Appropriation Committee would act promptly to provide whatever funds were needed within those authorization levels following passage of this bill.

We know the Senator from Wyoming and other members of the Appropriations Committee will keep that promise, as they have on so many other previous occasions. I bring this matter up mainly because in the bill we are considering today, open-ended authorizations are provided for the school breakfast and most of the nonschool, section 13 child feeding programs. You will recall in my amendment to the Agriculture Appropriations bill, that I asked for an additional $100 million to fund the 2-cent increase in general assistance money we will be providing to States under H.R. 14896, as well as an additional $50 million to adequately fund the nonschool child feeding programs such as Headstart, non-Headstart preschool, and summer recreation programs. At least $125 million will be required in fiscal 1973 to adequately fund these nonschool child feeding programs and I would hope that the administration would request, receive, and expand at least that amount during this fiscal year.

With respect to the breakfast program, the bill now before us makes clear that all schools desiring to conduct such programs will be funded. Given the authority Congress provided in Public Law 32-92, I believe the Secretary has sufficient authority to transfer from section 32 whatever funds he needs over and above the $18.5 million already appropriated for that particular program this fiscal year.

The provisions contained in the committee bill we are considering today are very smiliar to those contained in the legislation as originally passed by the House last month. The committee added several provisions which, unfortunately, were never discussed on the basis of testimony since witnesses in hearings were informed that the committee would take up these issues at a later date.

One of the new committee amendments would abolish the method used since 1946 to apportion school lunch funds for general assistance. Until now, each State is allocated funds on the basis of a formula which gives special consideration to States which are poor and which serve more lunches. The "assistance-need" rate rewards those States which are doing a good job and which need more help. Overall, about 14 States would receive proportionately more assistance than others. Most are in the South and others in the Midwest.

The legislation proposes to replace this formula with a flat national average assistance payment. All States would be treated the same under general assistance. The special assistance provided for needy children has, theoretically, eliminated the need for a weighted formula elsewhere.

The USDA has been pushing aggressively for this new reimbursement procedures, arguing that it would enable the Department to more efficiently administer the program. Maybe it will, but frankly I am not certain of that, and I do not believe the other members of the committee or the Senate can be either. I had hoped that this new formula, along with the other provisions of the President's Child Nutrition bill, would receive thorough study and scrutiny later this year or early next year, when, hopefully, the Congress will undertake a comprehensive review of all our child nutrition and child feeding programs with the objective of overhauling and streamlining the legislation under which they now operate.

These programs have grown tremendously since 1946 and today we find that we have a patchwork of programs instead of one comprehensive national child nutrition program. I have a proposal pending to accomplish this objective; namely, my Universal Child Nutrition and Nutrition Education Act. Senators PERCY, MCGOVERN, HART, CASE and others have similar proposals pending that also tend to move in the direction of completely overhauling these programs. I hope we have an opportunity

within this next year to get at this work before we are again faced with performing another patchjob just before a school year begins.

I wish to make clear that I am reserving judgment on this new so-called performance funding formula. The performance funding provisions contained in this bill as they relate to section 4 and breakfast program funding in fiscal 1974 were added in our full committee mark-up without benefit of previous committee study or hearings.

I hope that our committee will carefully study these provisions as well as any further extension of this new concept to section 11 programs before the beginning of fiscal year 1974. Although this new concept appears to be an improvement over existing formula funding concepts, many of us have not had an opportunity to give this matter the careful study it deserves. If we have learned anything this past year in our experiences with the administration, we know that we must examine any proposals made by it in this particular program area most carefully.

The budgetary politics that the administration continues to play with these programs is what I characterize as substituting "cold promises for hot lunches." I wish they would stop playing this kind of politics with these programs so we can continue our progress to put an end to hunger and malnutrition in this country.

A second amendment proposed by the committee would reserve half of any funds appropriated by the Congress for assisting schools to obtain equipment and facilities for use by schools which do not now provide lunch service. This is a commendable and constructive proposal. Some 18,000 schools are in this position, of which at least 4,400 could likely be classified as especially needy, financially.

The amendment would insure that any school not now providing lunch service would receive first preference. Most of these are either parochial schools or public schools serving low-income areas, and they qualify by any reasonable interpretation as especially needy schools. Unfortunately, since the law requires these schools to match 25 percent of the Federal equipment funds, the economic condition of the school or district precludes its use of the equipment money. Senator CASE and the other cosponsors of the amendment package we are submitting are proposing that the matching requirement be dropped for these more needy schools altogether.

Although the committee bill, in addition to reserving half of the funds authorized for this particular program, also would permit States to pool individual school requests for these funds in applying to USDA for such assistance, the especially needy schools within this group still would likely find it difficult to gain access to these funds through such a mechanism.

If the purpose of the committee amendment is to assist schools to serve meals to children, then we should eliminate the fiscal barrier rather than reduce it to an obstruction. Our amendment would eliminate the obstruction as it relates to especially needy schools as determined by the State agency administering the program.

I want to indicate specifically that the State educational agency that administers this program, would have to make that determination within the State, so that there would be considerable pressure on that agency to be very careful in identifying schools that could not provide 25 percent matching.

Adoption of our amendment would mean that States, in pooling and submitting their requests for such assistance, would not have to provide 25 percent in matching funds for that portion of their statewide request which would be applied to especially needy schools as determined by the State agency. Furthermore, adoption of this amendment would not result in any additional authorized appropriations for this program under the bill. It would merely mean that a small portion of the funds now authorized would not require matching, which likely would involve only $2 or $3 million out of the total sum of money authorized under the bill.

A second amendment in our packet would include within the eligibility provisions a grandfather clause which authorizes schools that operated last year under standards higher than those in the legislation may continue operating under them.

As few as 25,000 children would be sheltered under this provision, which simply says that a school which operated under the law to help children obtain a more adequate diet should not be penalized now because of the new maximum income eligibility levels we are establishing with this bill. The estimated cost of protecting these children from being dropped from the free or reduced-price lunch program is about $200,000 a year. I should also like to point out that given any modest rise in inflation in the future, these children will soon be brought in under the maximum levels now provided in this bill.

The third amendment in our package would authorize a 2-year pilot program for supplementing the diets of infants and pregnant and lactating women.

The campaign to abolish hunger in America is now almost 6 years old. We have improved the school lunch program, and we have started a school breakfast program. The food stamp program has grown 10 times over, and earlier this year we authorized a food service program for the elderly. We have acted to improve the nutritional welfare of every group with the voice and ability to speak for its interests, and we have continued to ignore the one group which cannot speak—and which is the most vulnerable to malnutrition.

An infant from 6 months prior to birth and 6 months after birth can be permanently retarded both physically and mentally. We have done little to assist this group which is at greatest risk, except that the research completed over the past 6 years demonstrates the terrible price in physical health and mental competence which some Americans are being forced to pay because of mal- or sub-nutrition.

Please read the news article taken from the Memphis Commercial Appeal which is attached to the letter on your desks from Senator CASE and myself. It tells the story of Lucy, a young infant in her earliest months of life who lost her race against malnutrition. It tells of her battle to avoid the crippling effects that malnutrition brought to her, some of which she will carry with her for the rest of her life.

Now let us look at the before and after photographs of Lucy and another child which I have brought into this Chamber for you to see. If you feel they are too harsh and visible a symbol of the reality of malnutrition, think of what could have been, of what should have been done to help these children.

I, and the Senators cosponsoring the package of amendments, are proposing that we begin to attack this problem by funding a number of projects, some already supported in a limited way from private funds, to gain national experience in reducing nutritional risk among infants in low-income families in poor neighborhoods.

The data which we have accumulated in recent years as to the physical and mental consequences of malnutrition among infants has come through programs operated in hospitals, neighborhood clinics, and similar well-baby programs. The infant and mother receive health care as well as nutritional supplements. Mothers also can participate in nutrition education programs. The projects which would be established under the amendment which I and my cosponsors are proposing would also operate in the same way and under similar conditions. This program would be available to both rural and urban areas.

The program is geared to serve individuals, both infants and mothers, in clinics in low-income areas, rural as well as urban, which provide medical services to low-income families.

An estimated 400,000 infants and children up to age 4 who otherwise could suffer from physical and mental retardation from malnutrition such as we have seen with Lucy could be helped each year under this program. Officials at St. Jude's Hospital in Memphis report that the cost of providing this type of care to mothers and infants is running about $40 per child for 6 months, and that includes the cost of the vitamin enriched formula, its distribution and administrative costs.

The amendment we are offering would authorize $20 million for each of the fiscal years 1973 and 1974, with the first year funding being drawn out of section 32 funds which are to be reimbursed through supplemental appropriations.

I believe it is time now to take the action which can end the tragic cost of mal- and sub-nutrition among the young. Medical research has established clearly that nutritional deficiencies can reduce the physical and mental potential of an individual, especially when it occurs during the later months of pregnancy and the first 6 to 12 months following birth.

When the evidence is clear, and when specific foods—such as infant formula—

are available to be prescribed, and the only thing lacking is the ability to deliver the food, then Congress should step in and correct the situation. And I do not think it is asking too much for it to do so in this case.

Therefore, I urge the Senate to support the amendments we propose to the committee bill on child nutrition, and to endorse the amended bill overwhelmingly.

I ask unanimous consent that an analysis of the proposed amendment for special supplemental food program be printed at this point in the RECORD.

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

SUPPLEMENTAL FOOD FOR INFANTS AND MOTHERS

The proposed amendment would differ from the current program being operated by the Food and Nutrition Service in these major aspects:

1. It would be in addition to the USDA supplemental program, now limited to a certain number of surplus food commodities.

2. It would provide infant formula, in the main, and would be selective because of this emphasis.

3. It would operate in conjunction with clinics and other health service facilities available to the community.

4. Eligibility would be determined by competent professional authority. Individual eligibility based on income would not be used. Residents of low-income areas where pregnant and lactating women and children up to age 4 are shown to be at nutritional risk would be eligible for the program.

5. Grants to states or local communities would be made through state health agencies.

The following statement explains in greater detail the operating concepts which would guide the USDA in carrying out the program through regulations, instructions and guidelines.

I. PURPOSE

The purpose is to improve the nutritional status and upgrade the health of the target population, namely infants and young children (up to the age of 4 years) and pregnant and lactating women. It is not to establish a program simply to encourage more food consumption.

The Program is to be in addition to any current USDA efforts in behalf of this target population; that is in addition to commodity distribution and Food Stamp Programs and shall operate in conjunction with either.

This program shall be used for cash grants to states and communities, and not converted into commodities by USDA. Any commodities would be provided in addition to funds authorized. Current USDA supplemental food programs may be expanded, however, under this Section to provide to the target population supplementary foods as hereinafter defined.

II. DEFINITIONS

Nutritional Risk.—Pregnant and lactating women at nutritional risk would include mothers from low income populations which demonstrate one or several of the following characteristics; known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Low income individuals with evidence of previous high risk pregnancy as evidenced by abortion, premature birth, or servere anemia would also be included.

Infants or young children (under 4 years) at nutritional risk would include those in low income population which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. In addition, the parameter of nutritional anemia may be used to designate infants at risk, such as to include those with hematocrits of 33.9 percent or below. Low income infants from populations where nutritional studies have shown inadequate infant diets should also be included.

Supplemental Foods—For purposes of this legislation this shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks: in particular high quality protein, iron, calcium, Vitamin A and Vitamin C.

III. SUGGESTED PROCEDURES

A. For an initial period of two years, until more funds are available, programs funded under this Section should be treated as pilot programs. Therefore there shall be no effort to allocate funds to states on a formula basis.

1. At least two statewide programs, in addition to smaller local programs, should be established in states with both urban and rural populations; such states not being so large as to consume all the funds appropriated, nor so small as to preclude the transferability of conclusions from such projects to other states and localities.

2. These programs should include an evaluative component, for which administrative costs shall be paid, so that the impact of the program on the health of the target population may be recorded and the cost efficiency of various distribution methods may be analyzed.

3. Methods of distribution to be evaluated should include but not be restricted to the following: direct distribution of supplemental foods through health or welfare agencies, who would purchase product(s) on bid; and coupon distribution programs (coupons being specific for supplemental foods as herein defined) permitting purchase of said supplemental foods at normal retail outlets.

4. There may be Nutrition Education component, and the costs, paid by the Department, shall be in addition to the 10% administrative costs provision.

5. Priority for state programs should be given to areas which have demonstrated a competence in operating such programs and a willingness and ability to expand the program statewide.

6. Priority should also be given to programs involving easily monitored supplemental foods specific for the target populations and supplying nutrients known to be deficient in diets of persons at nutritional risk.

B. The intent of this Amendment is to authorize this new nutrition program for pregnant and lactating women; infants and young children on a permanent basis. Funds appropriated under this Section shall be used in fiscal 1973 and the Department shall make a request for additional funds for fiscal 1974 in order to continue, on an annualized basis, initially funded programs. Thereafter, the USDA shall recommend a funding level to the Congress and suggest a reasonable method of apportioning funds equitably among the states.

C. Grants to a state or local health or welfare agency, or private non-profit agency serving health or welfare needs shall imply a commitment to continue funding for at least a three year period; however, grants from present appropriations shall be for expenditures within this fiscal year only.

D. Up to 10% of the grant to each state or local agency may be for administrative costs. The fact that this was inserted, underscores the point that administrative costs are to be paid, with discretion, but this provision is not to be used to deny programs to communities. It is the intent of this legislation that programs established under this Section be wholly funded by USDA. No state or local funds are required.

IV. ELIGIBILITY

In view of the pilot nature of these programs, eligibility shall be determined as simply as possible with a minimum of administrative cost, hence eligibility is primarily to be on a "nutritional need" basis as determined by competent professional authority.

Eligibility is to be a professional determination not an administrative function. The intention is for group service to populations of infants, and women at nutritional risk. When programs are evaluated for administrative purposes, auditors should evaluate eligibility only to the extent it has been determined on a group basis.

A. That participants are residents of low income areas likely to be a nutritional risk: Examples: Areas defined as low income under ESEA legislation or Model Cities Areas.

B. That participants are served by other health and welfare programs likely to meet the needs of populations at nutritional risk: free school lunch program, Food Stamp program, prenatal and well baby/child clinics, Public Assistance Recipients.

C. Participants are persons who are members of populations likely to be potentially eligible if not recipients of this kind of service: Migrants, Drug Abusers or their children.

D. Nothing in the above shall be interpreted as to exclude individuals within the target population determined by competent professional authority to be at nutritional risk and unable to purchase necessary foods.

This amendment authorizes a comprehensive program to reach the one group which most needs nutritional aid and is least likely to be served by present child nutrition legislation: infants and young children at nutritional risks who can be impaired physically and mentally by malnutrition before birth or in their early crucial formative years. It is a logical and essential addition and foundation to present Child Nutrition Programs which reach children in day care centers and schools.

Regulations, instructions, guides and other administrative devices should facilitate the development of programs to provide supplemental foods to the target population and not inhibit or retard the development of such programs.

Mr. HART. Mr. President, these amendments will establish two important safeguards for children participating in the national school lunch program. The first amendment applies to the limit being set by this bill and the power the States and the local school authorities presently have to establish free and reduced price eligibility standards as far above the Secretary's income eligibility guidelines as they see fit. The bill provides a ceiling on these State and local standards which will operate to prevent any school from subsequently increasing its standards to any point above that allowed by the formula. What this amendment does is make clear that no school will have to roll back its existing standards to conform to the ceiling as long as such standards were in effect prior to July 1, 1972. And, of course, all such schools which come under this amendment's protection will continue to receive Federal reimbursements for all the free and reduced price lunches they serve even if those meals are served to children from families having income above that allowed by the new 25–50 percent formula—provided only that such meals are served pursuant to eligibility guidelines that the school had in force prior to July 1, 1972.

The amendment's other protection for

the lunch program is the power created in the State agencies to provide 100 percent Federal reimbursement to especially needy schools in their State for equipment purchases. This amendment will, thus, allow the State agency to decide which of its schools are unable to meet the existing rule that they match every three Federal equipment assistance dollars with one of their own. Having made such a finding, the State agency will then forward 100-percent Federal reimbursement to such schools for all of their equipment needs. The State agencies will exercise this power free of Federal regulation just as they do under present law when deciding which schools are so needy as to require 60 cents Federal reimbursements for their free lunches instead of 40 cents Federal reimbursements. I urge the adoption of the amendments.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that this amendment, which consists of three parts, be considered en bloc.

Mr. ALLEN. Mr. President, reserving the right to object, as I understand it, the amendment the Senator has offered is three separate amendments incorporated in one draft, which he calls a bloc amendment. Actually they are on widely ranging points, one having to do with the grandfather clause freezing in certain eligibility, another having to do with a 25-percent contribution by local governments, and the other being an entirely new program the Senator wishes to set up. There might be some Senators who might see merit in one proposal but who would not see merit in another proposal, while it is going to the position of many Senators that there is no merit in any one proposal. For that reason I ask for a division.

The PRESIDING OFFICER. There is objection.

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

Mr. HUMPHREY. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, as a matter of clarifying the situation, I think I should inform the distinguished Senator from Minnesota and the distinguished manager of the bill that I expect to offer an amendment to the amendment of the Senator from Minnesota and that my amendment deals with each part of the Senator's amendment.

I do not care to take time to argue it right now, but I thought it might clarify the situation for the Senator to know what to anticipate.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. CURTIS. Under the unanimous consent agreement under which we are operating, how much time will there be on an amendment, and how much on an amendment to an amendment?

The PRESIDING OFFICER. There are 40 minutes on each amendment, and 30 minutes on any motion, appeal, or amendment to an amendment.

Mr. CURTIS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Suppose a multiple amendment is offered with three parts, and a division is requested. What is the time limitation there, on each part of the amendment?

The PRESIDING OFFICER (Mr. HUGHES). The Parliamentarian informs the Chair that if the amendment is submitted in multiple form and debate is participated in, and then a division is requested, it would still receive only the time of one amendment.

Mr. CURTIS. If it is offered as three, they will each be recognized as an amendment under the agreement?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that each amendment would have to be offered individually to be entitled to separate consideration.

Mr. HUMPHREY. Mr. President, if that is the case, then it would be rather foolish to offer an amendment en bloc, if it is not to be considered en bloc. Therefore, I will take the amendments up separately, in separate parts, and therefore be eligible for 20 minutes on each amendment. Would that not be the effect?

The PRESIDING OFFICER. There is a total of 40 minutes on each full amendment, so the Senator from Minnesota would be entitled to 20 minutes under his control on each amendment. The clerk will state the first amendment.

Mr. HUMPHREY. Mr. President, the first amendment will start on page 2, line 1, running through line 7.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 10, line 25, strike out the period after "Secretary" and insert in lieu thereof a comma and the following: "except that any local school authorities having income guidelines for free or reduced price lunches which exceed those allowed by this subsection may continue to use such guidelines for determining eligibility if such guidelines were established prior to July 1, 1972.".

Mr. HUMPHREY. Mr. President, this amendment can be, for purposes of our discussion, called the "grandfather clause." What it says, in substance, is simply that the new rules or guidelines that are incorporated in the bill before us, H.R. 14896, shall in no way affect those States which have standards or guidelines above those in the present proposed legislation.

This affects a very small number of students or young people, and a very few States. As I recollect, as few as 25,000 children would be sheltered under this provision, which simply says that a school is obligated under the law to help children obtain a more adequate diet, and should not be penalized now because new maximum income eligibility levels are established by this bill.

The estimated cost of protecting these children from being dropped from the free or reduced rate lunch program is about $200,000 a year.

I should like to point out that, given even a modest inflationary rise in the future, these children would soon be brought in under the maximum levels now provided in this bill. So what we have here is a provision which is quite common in legislation that we take care of in this body, namely, that where there has been an operative program under other standards, the new standards which are brought in do not supersede those to the disadvantage of the recipients.

It is my judgment that this amendment, which really affects only the States of Virginia, New York and the State of New Jersey and I believe maybe one or two others, ought to be adopted.

Mr. President, I ask unanimous consent that the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of this amendment.

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

Mr. HUMPHREY. I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I thank the Senator. I shall not impinge upon his brief time, but I would like to emphasize what he has stated, that for States like New Jersey, and in addition, Maryland, and I believe, California, is another, this would have a catastrophic effect, and that the importance of the grandfather clause to us is beyond expression, really.

I ask unanimous consent that an explanation of this amendment in respect to its application particularly to my State, and to a number of towns within it, including Camden, Paterson, Hoboken, Elizabeth, New Brunswick, Passaic, and the Oranges, as well as Newark, be printed in the RECORD at this point.

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

THE GRANDFATHER CLAUSE

The grandfather clause will insure that all children now participating in the school lunch program will be able to continue to do so. It will accomplish this goal by allowing the states to retain their existing eligibility standards for free and reduced price lunches if these standards are higher than the proposed national standard. It will insure that the President's commitment to provide a school lunch to every needy child is carried out.

The need for a "grandfather" clause in the school lunch program is not new. Customarily, the states have set their own income poverty guidelines and were allowed to do so by the Department of Agriculture. I have no quarrel with the Department of Agriculture's plan to have a flexible national income poverty guideline, but I do think the flexibility standard must recognize the special circumstances of urban areas.

In New Jersey and in California, for example, both states permit certain cities with unusually high living costs to set a somewhat higher eligibility standard. In New Jersey this would include the cities of Camden, Paterson, Hoboken, Elizabeth, New Brunswick, Passaic and Orange, as well as Newark for reduced price lunches. In California this includes the city of San Francisco. There are also cities in Virginia, New York, and other states. In New Jersey the standard has been set at $500 higher than the state-wide standard.

Everyone is well aware how food prices have increased this year. It is a topic that is on the front pages of newspapers almost every day. But not everyone is aware how severe other increases in the cost of living have been in selected areas. These increases only cause a small ripple in national statistics.

In New Jersey one of the great problems

facing half the population is the outrageous increase in apartment rentals in the last two years. Apartment rents have legally increased as much as fifty percent under the Economic Stabilization program, and in 1970 similar increases were reported.

This is a severe problem because so many people in New Jersey are rent payers. Over seventy percent of the population of Hudson County are rent payers; Essex county has almost sixty percent rent payers and Passaic County is almost fifty percent rent payers.

The people of New Jersey have been dealt a number of set-backs in trying to keep ahead in the last few years. Indeed, it will be most unfortunate if the children who can now take advantage of the free and reduced lunch program are cut out of the program.

The estimates of the number of children affected by this amendment vary. I am told by school food program administrators that as many as 25,000 children will be cut from the program. However, I was advised by the staff of the Agriculture and Forestry Committee the number of children involved is only 5,000. In either case, we are not talking about a great number considering the scope of the school lunch program. The cost for 25,000 children is only $200,000. I urge the adoption of the grandfather clause without a time limit restriction.

I am advised there may be an effort to amend my amendment to limit the grandfather clause to one year. I do not believe this is necessary since we may, next year, want to broaden the eligibility criteria if the cost of living continues to increase. Moreover, once we make a commitment to children, as we have done in the past, I believe we should keep the commitment.

Mr. CASE. I thank my colleague, and I am happy indeed to be a cosponsor with him of this amendment and his other amendments.

Mr. HUMPHREY. I thank the Senator from New Jersey.

To simplify it, Mr. President, this amendment would include within the eligibility provisions of the bill before us a grandfather clause which authorizes schools that operated last year under standards higher than those in this legislation to continue operating under those standards.

I repeat, it is a modest request, but it would be very difficult for the school authorities in the areas that have been alluded to now to have to come back and cut out those students from the school lunch program. I think it would precipitate a kind of difficulty in the school systems which we ought not to force upon them by any kind of congressional action.

This is not a sum of money that will seriously impinge upon the treasury, or cause our budget to be out of balance. It is a responsible, reasonable, limited sum of money that affects a reasonable number of children, some 25,000 throughout the Nation, but those 25,000 children are in need. The school authorities in the respective communities and States have identified them as being in need; and to change the eligibility standards now for those children, I think, might very well provoke a major problem in the school systems that would be affected by the new standards in the bill.

I would hope that the manager of the bill, my distinguished friend from Alabama (Mr. ALLEN), who has done such an admirable job on this legislation—and I want to compliment him on his diligence and his very effective leadership—would see fit to accept this amendment. It is a modest amendment, and it is one which could be cleared up in conference if there is any difficulty with it. However, I am happy to say it is my judgment that the other body would look with favor upon it.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

I appreciate very much the kind remarks of my good friend the distinguished Senator from Minnesota (Mr. HUMPHREY), and certainly I commend him for his dedication, for the leadership that he has given to the area of child nutrition programs, and for all his humanitarian programs with reference to social problems. But I feel that I must, in fairness to the remaining systems within the Nation, oppose setting up a little empire here that, from now on, would have different rules with regard to eligibility for participating in the school lunch programs from the remainder of the entire Nation.

Mr. President, I urge the rejection of the pending amendment, for it is an amendment designed to perpetuate inequities rather than to bring uniformity and commonsense to the school lunch program.

This amendment, which would establish a so-called grandfather clause for those few cities which have established unreasonably high eligibility levels for free or reduced price lunches, would give preferential treatment to those administrators who have taken advantage of a weakness in the law to get all the Federal dollars they could. At the same time, it would penalize the vast majority of school lunch authorities around the Nation, whose administrators have been prudent in establishing an eligibility level for free and reduced price lunches and still assure that the truly needy children would be taken care of. Some school lunch administrators would prefer that all children in their schools, whether needy or not, be served free or reduced price lunches. It is a matter of simpler administration. During the past school year schools received a reimbursement rate of 6 cents per meal for the regular paying lunches plus 7 cents worth of donated commodities, for a total of 13 cents. At the same time schools received this 13 cents plus another 40 cents for reimbursement of free lunches.

If a school could succeed in qualifying all or nearly all of its student body for free lunches, it would relieve itself of a lot of administrative redtape and the difficulty of differentiating between the children who must pay for lunches and those who receive them at reduced prices or at no cost.

The committee adopted what it felt was an extremely fair position in regard to the eligibility levels for free and reduced-price lunches. Although the administration had argued that eligibility standards for free lunches should be set at no more than 115 percent of the income poverty guideline and that the eligibility standards for reduced-price lunches be set at not more than 130 percent of the income poverty guideline, the committee accepted the provisions of the House bill. Under H.R. 14896, free lunches must be served to children from families with income within guidelines fixed by the State at not less than 100 percent and not more than 125 percent of the income poverty guideline. If reduced-price lunches are served, they would have to be served to every child within guidelines fixed by the State educational agency at not more than 150 percent of the applicable family size poverty guideline.

The committee considered the adoption of a grandfather clause. However, the committee felt that its adoption of the maximum levels of 125 percent for free lunches and 150 percent of the income poverty guideline for reduced-price lunches made it unnecessary to adopt a grandfather clause. Indeed, the author of the pending amendment proposed a grandfather clause amendment in the committee markup, but he withdrew it when the committee adopted the 125- to 150-percent standard. I cannot understand why this matter should now be before the Senate.

Mr. President, I think we should make two points clear:

First, only a small number of schoolchildren who presently receive free or reduced-price lunches would be declared ineligible under the standards set by H.R. 14896.

Second, these children are from families with income levels up to $13,440, well above the income poverty guideline.

In no State is there a statewide eligibility standard that is above the eligibility guidelines of H.R. 14896, 125 to 150 percent. Only a few selected cities in a few States have exceeded this guideline.

I have seen all kinds of figures in the press about the number of children who would be "cut off" from receiving free or reduced-price lunches under the committee's bill. Apparently these figures are nothing more than the enthusiastic guesses of public relations men. According to the figures supplied by the U.S. Department of Agriculture, fewer than 22,000 children would be affected at all by the imposition of the standards of H.R. 14896. Of this amount, 19,000 children would go from free to reduced-price lunches and only 3,000 children would be eligible neither for a free or a reduced-price lunch.

Mr. President, the issue of a grandfather clause was considered thoroughly by the Committee on Agriculture and Forestry. This amendment was rejected in the committee for good and sufficient reasons. I can see no cause for the Senate to approve this amendment, which is designed to perpetuate inequities rather than to create equity and uniformity.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a list of the systems involved—systems that would continue to use the eligibility requirements that they put in that were above the requirements set by all other systems in the country, and that was above the 125 percent for free lunches and the 150 percent above the guideline for reduced price lunches.

As I stated in my opening remarks, one

of the systems here has eligibility for free lunch set for families making as much as $13,440; whereas, systems throughout the country would cut off that eligibility at $5,137.50. Why should one system have its children getting free lunches when the families make up to $13,440 and it is cut off for everybody else at $5,137.50?

It is not right to say that there are six systems in New Jersey where they do not pay any attention to the Federal guidelines, but everybody else does, and they go by the guidelines they set prior to the time a limit was put. The bill as passed by the House would set it at 150 percent of the poverty guideline, which is $6,165. They could get reduced price lunches. But the Senator's amendment would freeze it in for all time.

I understand that the distinguished Senator from Nebraska is going to offer an amendment to limit the duration of the grandfather clause—I say to the distinguished Senator from Minnesota—to 1 year. In other words, it would serve notice that at the end of the present year, the grandfather clause would end. They would come under the other system.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alabama?

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

FISCAL YEAR 1972 ELIGIBILITY STANDARDS FOR FREE AND REDUCED PRICE LUNCHES IN SELECTED CITIES WHICH ARE HIGHER THAN FISCAL YEAR 1973 ELIGIBILITY STANDARDS PROPOSED IN ADMINISTRATION BILL

City	Free lunch standard		Reduced price lunch standard	
	Amount	Percent of 1973 poverty guideline	Amount	Percent of 1973 poverty guideline
Alaska:				
Nome	$13,440	270		
New Jersey:				
Camden	6,000	146		
Elizabeth	6,000	146		
Jersey City	5,500	134		
Newark	5,400	131	$7,500	182
Paterson	5,400	131		
Trenton	5,500	134		
New York:				
Rochester	5,500	134		
Oregon:				
Portland	5,375	131		
Pennsylvania:				
Philadelphia			6,500	158
Pittsburgh			7,000	170
Virginia:				
Arlington			6,640	162

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

Mr. ALLEN. I yield.

Mr. CASE. Assuming that the amendment is offered by the Senator from Nebraska—as I am sure it will be—would the Senator from Alabama think that if Senator HUMPHREY's amendment is so amended, to limit its effect to 1 year, it might then be acceptable to the committee?

Mr. ALLEN. Yes. It is the judgment of the Senator from Alabama that if this grandfather clause is not frozen in for all time and is limited to the upcoming school year only, the year starting in September, so that they would have noticed that at the end of this year they would have to comply with the same rule that everybody else has and that there would be no abrupt denial of the benefits they had during the last school year, I would recommend that the amendment be accepted, as so modified.

Mr. CASE. The Senator from New Jersey appreciates that. It is typical of the Senator from Alabama's compassion and understanding of the problems of municipalities, including those in our State, which are very severe, particularly in the high-cost areas.

I wonder whether the Senator from Minnesota might express a view on this question.

Mr. HUMPHREY. Mr. President, I express my appreciation to the Senator from Alabama and the Senator from New Jersey.

I think the suggestion of the Senator from Alabama is sensible and practical. It gives some time to turn around, so that the new eligibility standard is not too abrupt in its application.

I should like to modify my amendment, if the Senator from Alabama would be in accord on it, so that the language would read as follows:

Except that any local school authority having income guidelines for free or reduced price lunches which exceed those allowed by this subsection may continue to use such guidelines for determining eligibility (for one more year) if such guidelines were established prior to July 1, 1972.

Mr. ALLEN. That would be fine with the Senator from Alabama.

I wonder whether it would be the better policy, however, to allow the distinguished Senator from Nebraska to offer this as an amendment to the amendment of the Senator from Minnesota and for the Senator from Minnesota to accept that.

Mr. HUMPHREY. I would be pleased. Is this one of the amendments the Senator from Nebraska has in mind?

Mr. CURTIS. It is.

Mr. HUMPHREY. Would the Senator make his modification, then?

Mr. ALLEN. I would suggest that we yield back our time on the pending amendment, so that the amendment of the distinguished Senator from Nebraska would then be in order. Then we could approve that by a voice vote and then approve the amendment of the Senator from Minnesota, as amended by the amendment of the Senator from Nebraska, also by a voice vote.

Mr. HUMPHREY. That is agreeable.

I yield back the remainder of my time. Does the Senator from Alabama yield back his time?

Mr. ALLEN. I yield back the remainder of my time, with that understanding.

The PRESIDING OFFICER. All time on the amendment of the Senator from Minnesota has been yielded back.

Mr. CURTIS. Mr. President, I send to the desk an amendment to the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 6, of amendment No. 1431, after the word "eligibility" insert the following: "until July 1, 1973."

Mr. CURTIS. Mr. President, I shall be very brief.

The recommendation of the administration and the act of the subcommittee provided that if a family's income did not exceed 115 percent of the poverty level, the children would be eligible for free school lunch; and if it did not exceed 130 percent of the poverty level, they would be eligible for a reduced price school lunch. The full committee raised those figures to 125 percent and 150 percent, respectively.

In spite of that increase, we find that these guidelines are exceeded in two States and 13 cities.

The purpose of the amendment offered by the distinguished Senator from Minnesota is to grandfather in the schools whose guidelines exceed this amount, without time limitation. I doubt that they should be grandfathered in at all. On the other hand, I realize that we are ready to start a school year and that there will be inconvenience and an element of unfairness in it. Therefore, I am willing to see a grandfather clause go in if it is limited to a year; and in the meantime, this matter might be explored further.

Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I feel that this is a good modification. I hope we can have a vote on the amendment of the Senator from Nebraska, and then we can vote on the entire amendment.

Mr. CURTIS. I yield back the remainder of my time.

Mr. HUMPHREY. I yield back the time on behalf of the chairman.

The PRESIDING OFFICER. All time on the amendment of the Senator from Nebraska has been yielded back.

The question is on agreeing to the amendment of the Senator from Nebraska to the amendment of the Senator from Minnesota.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Minnesota, as amended.

The amendment, as amended, was agreed to.

Mr. HUMPHREY. I thank the Senator from Alabama and the Senator from Nebraska for their helpful consideration.

Mr. President, I call up the second amendment, on line 8 through line 13.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 15, line 16, strike out the period after "State" and insert in lieu thereof a comma and the following: "except that such condition shall not apply with respect to funds used under this section to assist schools without food service if such schools are especially needy, as determined by the State.".

Mr. HUMPHREY. Mr. President, I will take just a few moments on this amendment, and I ask unanimous consent that the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of this amendment.

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

Mr. HUMPHREY. Mr. President, I would hope that the manager of the bill would see fit to take this amendment to conference, and talk it over in the conference with Members of the other body. I think it would be helpful particularly in the rural areas, where a number of schools find it almost impossible to meet their matching funds requirements under this program. I have discussed this amendment with Senators and Members of the other body and they say that many rural areas in America are in great need of this kind of relaxation of the matching requirement.

I repeat, this is not something just to dip into the funds for each State which the State has to apportion out by the State agency. The State agency in this instance would have to determine which schools are in need. It would be a decision made at that level.

Mr. CASE. Mr. President, I support the Senator from Minnesota in his amendment, of which I am cosponsor. It is an excellent amendment. I hope, with him, that it will be possible for the manager of the bill to accept it and take it to conference.

Mr. President, at the present time, over 18,000 schools still do not provide lunch service to children. Many of these schools are located in older sections of cities, some are parochial schools. Others are in rural areas.

The school lunch amendments this year proposes to authorize $40 million for cafeteria equipment which is available on a matching basis where the Federal Government pays 75 percent of the cost and the State or school district or individual schools pays 25 percent.

The Senate committee also set aside half of this $40 million for schools that now lack cafeteria equipment. This is helpful, but I believe we must go further and insure that financially hard pressed schools are given priority in participating in the school lunch program.

Our amendment waives the matching requirement for needy schools. This will be a strong incentive to equip the poorest schools first and it will allow parochial schools to participate in the lunch program where State law prohibits financial assistance.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

Mr. President, not only is this amendment unnecessary and superfluous, it could prove to be extremely expensive and harmful to the school lunch program.

Section 5 of the Child Nutrition Act of 1966 authorized the nonfood assistance program. This program is designed to provide poor schools with equipment for the storage, preparation, transportation, and service of food. The purpose of this section of the law is to help the needy schools, schools that do not have the financial resources to purchase equipment necessary for a school lunch program. However, it was the feeling of Congress that some local effort should be required. Therefore, the law requires that at least one-fourth of the cost of any equipment to be financed under this section must be borne by State or local funds.

There was some question as to whether this provision of the law meant that the 25-percent matching requirement should be applied to each individual school or whether it should be applied on a statewide basis.

Realizing that some schools are too poor to meet even a 25-percent matching requirement, the committee made clear that 25-percent matching of nonfood assistance funds is to be applied on a statewide basis. On page 4 of the committee report it stated:

> In addition, the Committee wishes to make clear that the required 25 percent state or local matching non-food assistance funds is to be applied on a statewide basis. If it deems necessary to meet the needs of a State, the State educational agency should have the flexibility to vary the required level of matching by individual schools or school districts, as long as the 25 percent matching was achieved each fiscal year by the State as a whole. The same flexibility is intended for the USDA when it administers the program in non-profit private schools in each State.

In this whole concept of the State matching of funds for nonfood purposes, as I say, for such things as stoves, refrigerators, tables, or anything used in connection with the school lunch program, the Federal Government will pay three-fourths of the cost of that equipment for the State as a whole, so that the State has ample authority to say that the poorer systems get 100 percent of the funds needed but they would have to give some other systems less than 25 percent. But, overall, the State and local governments would have to put up the 25 percent giving the States full flexibility on apportioning the money and requiring the matching.

Now, Mr. President, we all know that if the State and local governments are required to pay a portion of the cost, not only are they going to wait until they need the equipment, but half of this is reserved for systems that have no lunch program, or no equipment, and the other half would be for existing systems. But if each State has to put up some of the money, they will appreciate it more. They will not buy more than they actually need. If the Federal Government says, "Yes, we will pay the whole cost. Just buy it and send us the bill," they will purchase a whole lot more equipment than is actually needed. But if the local government had to put up one-fourth of it, they would appreciate it more. It will be something to achieve for themselves, not something that the Government handed to them without any cooperation or assistance or participation by the local government.

Mr. TALMADGE. Mr. President, would the Senator yield?

Mr. ALLEN. Mr. President, I would be delighted to yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, is it not a fact that the pending amendment would leave the determination to a particular State as to whether the school district in that State was especially needy?

Mr. ALLEN. The Senator is correct. The pending amendment would let them say that they are all needy.

Mr. TALMADGE. And if a State made that determination, then the Federal Government would have to put up 100 percent of the funds.

Mr. ALLEN. The Senator is exactly correct.

Mr. TALMADGE. Under the pending amendment, all a State would have to do to relieve itself of the burden of putting up 25 percent of the money, either local or State, would be to issue a statement that that school district was especially needy and then transfer that burden, 100 cents on the dollar, to the Federal Treasury.

Mr. ALLEN. The Senator is exactly correct.

Mr. TALMADGE. Mr. President, is that not one of the problems we are confronted with in the social services program which started out 5 years ago at an estimated cost of $40 million and has grown to $4.6 billion?

Mr. ALLEN. The Senator is exactly correct.

Mr. TALMADGE. Mr. President, does the Senator think that is a prudent policy to follow?

Mr. ALLEN. I do not.

Mr. TALMADGE. Does the Senator have any sympathy with the taxpayers of this country who are already burdened with excessive taxation if we were to pass such an open-ended provision as this?

Mr. ALLEN. I do not think it would be in the interest of the taxpayer; no.

Mr. HUMPHREY. Mr. President, on my time, I would like to point out first that this does not increase the authorization. It does not do that. Secondly, I doubt that States are that dishonest.

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

Mr. HUMPHREY. Mr. President, may I say that the number of schools so identified as being especially needy would be identified by the State agency. It does not seem to me that it would be that troublesome.

Mr. TALMADGE. Mr. President, would the Senator agree that if a State were to say that a particular school district is needy, it would immediately pass the burden to the Treasury in the amount of 100 percent?

Mr. HUMPHREY. Within the amount of money in the authorization.

Mr. TALMADGE. That is quite correct.

Mr. HUMPHREY. This is not an open-ended authorization.

Mr. TALMADGE. Does the Senator have any doubt that when this thing pyramids far beyond the amount of money authorized, there will be a hue and cry throughout the country to raise the authorization?

Mr. HUMPHREY. The Senator may be correct. However, this body has the right to grant such a request or to deny it. This is far different from the social services provision that was before the Senate earlier.

Mr. TALMADGE. Mr. President, under the social services provision, it does require 25 percent State funds. Under the Senator's amendment it would require zero State funds.

Mr. HUMPHREY. Within the authorization. May I say that if there is a school in a district that does not have a lunch program and does not have the equipment for such a program, there ought to be same kind of flexibility that would

permit that school to get the equipment it needs.

Mr. ALLEN. The Senator is exactly correct. And that is provided for under the pending bill, I say to the distinguished Senator from Minnesota. The State can say that if the school district that the Senator says is too poor to put in the 25 percent is not able to do so, the State will pay 100 percent. However, if this involved a school that did not put in funds, not because they did not have it, but because they did not get around to it, we would make that school pay 50 percent and that would meet with the requirements and the poor district would get 100 percent of their funds.

Mr. HUMPHREY. Mr. President, I do not question that. I realize that the committee is moving the program forward, and I said so in my statement. I simply felt that this little degree of added flexibility would not impinge upon the authorized funds for school facilities and would permit a quicker response to the special needs of some of the more impoverished school districts which we regrettably have in this country.

Mr. ALLEN. Would the Senator then say that, as to the poor districts, the States could say that they did not have to pay anything under the Senator's amendment and the others would have to pay 25 percent?

Mr. HUMPHREY. The Senator is correct.

Mr. ALLEN. But the State would have authority under the Senator's amendment to say that all of the school systems that are applying are poor systems and cannot pay and that therefore none of them would have to put up the 25 percent if a State were to so state.

Mr. HUMPHREY. Mr. President, I suppose that would technically be possible if everyone would make himself out to be an official liar. However, I doubt that that is going to happen. I do not believe that the school authority in the State of Minnesota would say that the Edina School District, one of the suburbs of Minneapolis, is needy. However, I do know that there are schools in some of the rural areas of our State that are needy and cannot buy school equipment and I know that they ought to have it.

Mr. ALLEN. Under this bill, the authorization is being raised from $15 million, I believe, to $40 million.

Mr. HUMPHREY. Mr. President, I want to say again, and I am sure that the Senator understood that I was very strong in support of the committee amendment, and the chairman of the subcommittee is surely to be commended for his leadership in this matter.

It was just brought to my attention that there are needy areas that might be helped by the proposal I have offered. I do not consider it to be a life-and-death matter. That is why I hoped the Senator would see fit to take the amendment to conference and to discuss it and determine whether this provision is really needed, as I believe it would be in many needy school districts.

Mr. CASE. Mr. President, if the Senator will yield, the point has been made, and I can understand the concern of the Senator from Alabama and that of the Senator from Georgia, too, about the determination of this matter exclusively by the States themselves.

Would it be possible to take this amendment to conference if that determination is made, not by the State, but by the Secretary of Agriculture? This would assure uniform application of proper criteria all over the country as a whole and eliminate the possibilities that have been suggested, that the States would take it upon themselves to do this.

Would that be a possibility, of taking the matter to conference? This is a matter of great importance all over the country, and particularly again in my State. There are areas there of great poverty and difficulty where the districts are not even able to handle additional smaller amounts of money. It would be very helpful if that could be done.

Mr. ALLEN. I appreciate the suggestion of the distinguished Senator from New Jersey. However, I believe that the Secretary of Agriculture has enough problems on him now without our putting this additional problem in his lap.

I can envision that, if this responsibility is placed on the Secretary, there would be great pressure by the local school districts to have themselves declared needy districts. I can envision the possibility that Members of the House and Members of the Senate would be called on to suggest to the Secretary that these school districts are poor districts and therefore they ought to be relieved of these problems.

I feel that is a matter of principle in this regard. And I do not feel that this is a matter that we should accede to in the Senate and take to conference.

Mr. TALMADGE. Mr. President, if the Senator will yield, the Senate Finance Committee this morning reported a 5-year revenue-sharing bill involving more than $30 billion by a vote of 12 to 4. Every county, every municipality, and every State in the United States will get money from that fund. It will be handed out in the next few months, as soon as Congress passes the bill and the President signs it. The money will be paid out retroactive to January 1 of this year.

If this is a matter of high priority in some of these counties, and I am sure it is, it will be authorized and it will be approved and utilized for these specific purposes under the revenue-sharing bill that will give 100 percent of Federal money for this specific purpose.

It is not restricted. That would be available. I think it would be a bad practice to pass an amendment to transfer all the burdens of government to Washington, where a State, on its own declaration, could say, "This county will pay nothing." We would make that burden fall entirely on the Treasury, 100 percent on the dollar in addition to revenue-sharing money.

Mr. ALLEN. I thank the distinguished Senator from Georgia for his fine remarks. I endorse them 100 percent.

I am hopeful the distinguished Senator from Minnesota, instead of asking that this amendment be taken to conference, would be willing to withdraw the amendment so that we might get on to other matters. I know he has other amendments.

Mr. HUMPHREY. I wish to add that in examining our child nutrition programs, that in designating the schools as especially needy, where full funding by the Federal Government under the breakfast program is concerned, this has not been abused. I do not think there is any chance for abuse under this. Yes, there may be some chance, but I do not believe we have to fear that kind of abuse under the school lunch program.

While the committee bill does give greater flexibility than we had before, and increases the authorization substantially, which is highly commendable, I was hopeful this amendment could be added so as not to deny schools that are in need of setting up these programs. There are 18,000 schools in America today that do not have the school lunch program. Many of them are designated as needy schools. I hope we will be able to do something about it.

I have a number of cosponsors for the amendment. I wish to say to the Senator from Alabama, that is what is bothering me with respect to the request of the Senator from Alabama. I would rely a great deal on the judgment of the Senator. If we could take this to conference it seems to me we could resolve it there and not cause additional difficulty at all.

Mr. ALLEN. If it had only to deal with the amount of money involved, the Senator from Alabama, representing the committee, might take a different view of it, but there is a principle, as pointed out by the distinguished Senator from Georgia, trying to load onto the cost of the Federal Government when the States are required only to put up one-fourth. They should continue to do that so that they will appreciate the investment more. It will be more of a community spirit, more of a community asset, and something they can use and appreciate, having contributed something to it, more than a certification that they are too poor to do so.

The committee language makes the pending amendment unnecessary. The States are provided with sufficient flexibility to meet the needs of those extremely poor schools who cannot even supply the 25-percent matching requirement. In other words, the State is authorized to require that some schools pay more than a 25-percent matching fund requirement while reducing or eliminating the matching requirement for the extremely poor schools.

That is where poorer schools come in, with the State parceling this money out to the poorer schools on the basis of need and giving less to the wealthier schools, less than the full 75 percent of Federal money.

I might say that there is ample precedent for this statewide approach, rather than to require each community to put up 25 percent.

Under section 4, the 6 cents and the 8 cents provided by the bill are given to the State authority, and the State parcels that money out; not necessarily 8 cents to each school, but possibly 6 cents

to some and 10 cents to another. Eight cents is not what each school will get, but what all the assistance in that State collectively would get per lunch serving. So the State does save the 8 cents for each lunch in the poorer schools in the allotment under section 4. So it would be nothing more than handling these funds in the same way.

Let us look at the effect of the Humphrey amendment. It would modify the matching requirement in the law by the following clause, "except that such condition shall not apply with respect to funds used under this section to assist schools without food service if such schools are especially needy, as determined by the State."

This amendment would create great administrative difficulties by the Department of Agriculture because it would leave solely to the State the determination of which schools are especially needy. It has become extremely popular for some States recently to raid the Federal Treasury for every possible dollar. The current controversy over spending for social services is a good example of this problem.

Under the pending amendment, any State which wished to eliminate the matching requirement altogether would merely have to declare that all schools without a food service are especially needy. The determination would be strictly up to the State. Since the adoption of such a policy would relieve State and local governments of the burden of raising funds, we can expect that this is exactly what would happen.

Mr. President, the school lunch program has been successful through the years, it has been singularly free of scandal, it has received universal acceptance and approval because it has relied heavily on State and local effort and cooperation. If we take steps to remove all requirements for State effort and participation, we will not only create an unbelievably costly program, but we will also transform the school lunch program from a cooperative Federal-State-local program to just another Federal giveaway.

The bill before us, H.R. 14896, increases the authorization for equipment assistance funds from the current authorization of $15 million for 1973 and $10 million for subsequent years to $40 million for fiscal year 1973 through fiscal year 1975 and $20 million for subsequent years. It was necessary to take this step because we do have severe unmet equipment needs around the country, both in schools without any food service and in schools with obsolete and outmoded food service equipment.

Mr. President, the committee bill provides for adequate funding for food service equipment assistance for the school lunch program. It provides flexibility to enable States to meet the needs of the poorest schools in each State. The pending amendment would undermine both of these objectives. I urge that the amendment be rejected.

Mr. HUMPHREY. I believe we will have to vote on this amendment. I have so many cosponsors I do not feel that I have the right to withdraw the amendment. Is the Senator prepared to yield back his time? I am prepared to yield back the remainder of my time and get on with a vote.

Mr. ALLEN. Very well. I yield back the remainder of my time.

Mr. HUMPHREY. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Richard Lyng, Assistant Secretary of Agriculture, addressed to me under date of August 14, 1972.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 14, 1972.

HON. JAMES B. ALLEN,
Chairman, Subcommittee on Agricultural Research and General Legislation, U.S. Senate, Washington, D.C.

DEAR SENATOR ALLEN: This is in response to your request for the Department's views on the three floor amendments proposed for H.R. 14896.

The Department has serious reservations about the proposed amendment, as written, concerning the new special supplemental food program. We believe additional consideration is needed to insure that any such program would have effective results. Our beliefs are based upon the following:

1. The need for the program is based upon the fact that there is increasing evidence that improper nutrition during the last six months of pregnancy and the first six months following birth may cause serious and irreversible problems. Yet the proposed program is designed to serve children through four years of age. We believe that if such a program is to be operated, it should be targeted to infants, not to young children in general.

2. We have not yet been able to determine how this proposed program would differ from our Pilot Food Certificate Program. This is of critical importance because an independent evaluation of the Pilot Food Certificate Program by the Cornell University showed that program did not encourage the substitution of commercially prepared infant formula for whole milk for infants six months to a year old; thus it did not contribute to the intake of iron in this age group. It was on this basis that we suspended further expansion of that pilot program. Before launching another pilot program, we would want assurance that this major program weakness was overcome.

3. We are not certain, under the provisions of the amendment, whether the program is designed for families without regard to their incomes, or for families of low income. Subsection (a) of the proposed amendment speaks of women and infants determined to be nutritional risks "because of inadequate nutrition or inadequate income." However, subsection (f)(1) defines pregnant and lactating women as those from "low income populations" that display certain characteristics. Such inconsistencies should be clarified before any pilot program is launched.

We also believe the two amendments affecting the school feeding programs are not necessary.

Under the provisions of H.R. 14896—as approved by the House and reported out by the Senate Committee on Agriculture and Forestry—States will be able to establish eligibility standards for free and reduced price school meals for children from families with incomes of up to 50 percent above poverty. This is a reasonable and equitable standard under which the Federal government stands ready to pay most, if not all, of the cost incurred by a school in providing free or especially reduced price meals to needy children.

For children from families with incomes more than 50 percent above the poverty level, the Federal government will still be providing a substantial basic subsidy to the price of a school lunch. It is true that in the last school year, a few schools had higher eligibility standards—one as high as 180 percent of the poverty level for a reduced price lunch. We feel there could be real inequity to thousands of other schools, if these few schools were provided with an exception to the 150 percent-of-poverty guideline authorized in H.R. 14896.

The Senate Committee also has made clear that States are to be permitted to supply the required 25 percent State and local matching of nonfood (equipment) funds on a Statewide basis. We conclude that the Senate Committee has already provided States with the flexibility the proposed amendment is designed to achieve. Under Statewide matching, a State will be able to use Federal funds to pay the full cost of the food service equipment required by the neediest schools. This, we understand, was the purpose of the proposed amendment.

Sincerely,

RICHARD LYNG,
Assistant Secretary.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment (putting the question).

The Chair is in doubt.

Mr. HUMPHREY. Division.

The PRESIDING OFFICER. Those in favor of the amendment will stand and be counted.

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

The PRESIDING OFFICER (Mr. BEALL). The yeas and nays are requested. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Wyoming (Mr. MCGEE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Illinois (Mr. PERCY) is absent to attend the funeral of former Senator Ralph T. Smith.

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

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 54, nays 30, as follows:

[No. 379 Leg.]

YEAS—54

Aiken	Gravel	Montoya
Anderson	Griffin	Moss
Baker	Hart	Muskie
Bayh	Hartke	Nelson
Beall	Hatfield	Packwood
Bible	Hollings	Pastore
Boggs	Hughes	Pearson
Brooke	Humphrey	Proxmire
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Schweiker
Cannon	Kennedy	Scott
Case	Magnuson	Smith
Chiles	Mansfield	Spong
Church	Mathias	Stafford
Cook	McClellan	Stevens
Cooper	McIntyre	Stevenson
Cranston	Metcalf	Tunney
Eagleton	Mondale	Williams

NAYS—30

Allen	Edwards	Roth
Bellmon	Ervin	Saxbe
Bennett	Fannin	Sparkman
Bentsen	Fong	Stennis
Buckley	Goldwater	Symington
Byrd,	Gurney	Taft
Harry F., Jr.	Hansen	Talmadge
Cotton	Jordan, N.C.	Thurmond
Curtis	Jordan, Idaho	Young
Dominick	Long	
Eastland	Miller	

NOT VOTING—16

Allott	Hruska	Percy
Brock	Javits	Randolph
Dole	McGee	Tower
Fulbright	McGovern	Weicker
Gambrell	Mundt	
Harris	Pell	

So Mr. HUMPHREY's second amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, with the indulgence of the distinguished Senator from Minnesota——

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats.

The Senator from Montana may proceed.

Mr. MANSFIELD. And with the approval of the chairman of the committee, the manager of the bill, and the ranking minority member of the committee, as well as the leadership on this side——

Mr. GURNEY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats and refrain from engaging in conversation. Senators in the rear of the Chamber will please take their seats or retire to the cloakroom.

The Senator from Montana may proceed.

Mr. MANSFIELD. I ask unanimous consent that the pending business be laid aside for a period of not to exceed 5 minutes, for the purpose of calling up emergency legislation which must be considered at this time, and which will be handled by the distinguished Senator from Colorado (Mr. DOMINICK).

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

SENATE JOINT RESOLUTION 260, TO DELAY THE EFFECTIVENESS OF CERTAIN AMENDMENTS TO THE INTEREST SUBSIDY PROVISIONS OF THE GUARANTEED STUDENT LOAN PROGRAM IN THE CASE OF CERTAIN STUDENTS

Mr. DOMINICK. Mr. President, I send to the desk a joint resolution. It is offered on behalf of myself, the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. JAVITS), and the Senator from Rhode Island (Mr. PELL). I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which was read the first time by title, and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) until April 1, 1973, in the case of students whose adjusted family income is less than $15,000, the provisions of section 428(a)(1) of the Higher Education Act of 1965, as amended by the Education Amendments of 1972, shall not apply, and in lieu thereof, the provisions of section 428(a)(1) of such Act in effect on June 30, 1972, shall be applicable and shall be retroactively effective to July 1, 1972.

(b) Section 431(b) of the General Education Provisions Act shall not be applicable to any regulations promulgated with respect to such section 428(a)(1) prior to April 1, 1973.

Mr. DOMINICK. Mr. President, I ask unanimous consent to add as cosponsors of the joint resolution the names of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Delaware (Mr. BOGGS), and the Senator from North Dakota (Mr. YOUNG).

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

Mr. DOMINICK. I yield to the Senator from Delaware.

Mr. BOGGS. Mr. President, I thank the distinguished Senator for yielding, and I commend him for bringing this matter to the attention of the Senate at this time. I appreciate his adding my name as a cosponsor of the joint resolution.

Mr. President, through a combination of ambiguous law and overrestrictive regulations, the guaranteed student loan program has come to an almost complete stop; and we are finding that many students from middle- and low-income families who had to borrow to pay for their education in previous years are now learning that they are no longer eligible for subsidized loans under this program.

Time is working against us. The students have to know within a matter of days whether or not they will be able to get the money to go to school in September.

I, for one, do not want to see this Congress adjourn until we correct this problem that is facing hundreds of thousands of students and their families.

I do not have to remind my colleagues that this is one of the few programs aimed directly at middle-income families. They are not poor enough to qualify for grants or scholarships. They are not rich enough to lay out the money. All they want is to be able to get a guaranteed student loan, which they must pay back, so their children can get the benefits of an education.

This program involves 20,000 financial institutions and 8,000 colleges, universities, business and vocational schools.

It has provided more students with more aid at a lower cost to the Government than all other educational aid programs combined.

I urge my colleagues to support this emergency legislation.

Mr. DOMINICK. I thank the distinguished Senator from Delaware for his support.

Mr. President, this situation comes about because of the fact that, under the higher education bill which we passed and the conference which was worked out, the rules and regulations concerning subsidized student loans have been so cumbersome and so troublesome that very few students have been able to get past the institution's financial officer and through the bank.

With the need for loans in higher education becoming ever more apparent as we get closer to the fall term, it seems advisable to everyone concerned, both Democrats and Republicans, and to the administration, to suspend that provision which provides for having an assessment of need before the bank could determine whether or not it was going to make a loan, and return to the previous situation that we had under the old act.

The guaranteed student loan program is in trouble.

Students in my district find that they are facing delays caused by the new amendments and the new regulations. They will not be able to get loans in time to go back to school.

What this emergency legislation does is postpone the effective date of the new laws and the new regulations. In effect, we are telling the students, the schools, and the lenders to use the old system they have used over the past several years to get the loans out to the students so they can start back to school next month.

Time is very short. The students are trying to get the loans right now. Many of them are uncertain about the system and they don't understand the delays. The best thing for us to do right now is say, Look, do it the way you used to do it so that the only program this Government has to help middle-income families send their children to school will not fall flat on its face.

The change would apply only until April 1, 1973, but that would give us time, during the interval, to see what changes should be made. This is an emergency situation, and I very much appreciate the courtesy of the Senator from Ala-

bama and the Senator from Iowa in giving me this time.

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

Mr. DOMINICK. I am happy to yield to the Senator from Pennsylvania, but first I ask unanimous consent to have printed in the RECORD a statement by the Senator from New Jersey (Mr. WILLIAMS) on behalf of this proposal.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR WILLIAMS

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, so that students from families earning more than $15,000 could receive interest subsidies.

Mr. President, there has been some controversy about the interepretation of the change from prior law. Without getting into the intricacies of who is right and who is wrong, while legal interpretations are being made, thousands of students across the country are finding it impossible to get their Guaranteed Student Loans—loans which they received in previous years—and planning for the fast-approaching fall semester has abruptly come to a standstill.

The resolution which is presently before the Senate, simply delays the provisions of the newly passed higher education bill with respect to families with adjusted gross family incomes of less than $15,000 until April 1, 1973. In essence, this means that the program will continue to operate as it did in the past for the next two school semesters, although the higher amounts per year are retained. In addition, provision is made for loans to those with adjusted gross incomes above $15,000 under the new guidelines.

Mr. SCOTT. Mr. President, I simply rise in support of the program, and state that I regard it as of importance. This is an emergency action, and it is the only type of aid available to middle-income families, or those with an adjusted gross income of less than $15,000.

Mr. President, this legislation is indeed double-emergency legislation for many students in Pennsylvania whose families have been affected by the flood and find the need to borrow even greater than in previous years. They do not know whether or not they will be able to get loans because of the delays and confusion that now permeates the guaranteed student loan prrogram.

The thrust of this legislation is to tell educational institutions and lenders that they should use the ground rules that applied last year which enabled over 1 million students from low- and middle-income families to borrow $1.3 billion to finance their education.

This is not a grant program. It is a loan program. The Government pays the interest while the student is in school. After the students leave school, they must pay back the loan.

I urge all of my colleagues who are interested in seeing students back in school on schedule to support this emergency bill.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the names of the Senator from Michigan (Mr. GRIFFIN), the Senator from Kentucky (Mr. COOPER), and the Senator from Maryland who is the present occupant of the chair (Mr. BEALL) be added as cosponsors of the joint resolution, as well as that of the Senator from New Jersey (Mr. CASE).

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

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

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

The PRESIDING OFFICER (Mr. BEALL). The joint resolution having been read the third time, the question is, Shall it pass? All those in favor will say "aye"; and those opposed, "no." The "ayes" have it and the joint resolution is passed.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on August 14, 1972, the President had approved and signed the following acts:

S. 916. An act 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; and

S. 2499. An act to provide for the striking of medals commemorating the 175th anniversary of the launching of the U.S. frigate *Constellation*.

AID TO STUDENTS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUGHES) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

In recent years, a major source of aid to students attending post-secondary schools has been the Guaranteed Student Loan Program. During the year ending this past June 30, over 1,000,000 students were able to borrow $1.3 billion to finance their education. Over 8,000 schools and 20,000 financial institutions are currently participating.

Support of this program has been bipartisan. It was created under the Administration of President Johnson, and it has been expanded and improved by the present Administration.

However, some provisions of the "Education Amendments of 1972," because of ambiguities in the language of the legislation, have had an unintended effect of raising the possibility that many thousands of students who have benefited under the subsidized loan portion of the program in the past may not be able to obtain the loans they are counting on to return to school this fall.

We are doing everything possible in the regulations implementing the law to avoid this result, which was intended neither by the Administration nor by the Congress. But uncertainty remains. Because we are at the peak of the borrowing season under this program, I request that the Congress enact emergency legislation that would delay the implementation of the troublesome section of the law—specifically that it amend Section 132C(1), so that the lenders could continue to provide loans on the same basis as they did last year.

This would make it possible for students, parents, schools, and lenders to use a system with which they are all familiar, and which has served the students well. It would make it possible for students to obtain loans in time to go to school—which after all is the purpose of the program.

RICHARD NIXON.

THE WHITE HOUSE, *August 16, 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. 12652) 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; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CELLER, Mr. BROOKS, Mr. HUNGATE, Mr. MCCULLOCH, and Mr. HUTCHINSON were appointed managers on the part of the House at the conference.

NATIONAL SCHOOL LUNCH ACT

The Senate resumed the consideration of the bill (H.R. 14896) to amend the National School Lunch Act, as amended, to assure that adequate funds are available for the conduct of summer food service programs for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers, and for other purposes related to

expanding and strengthening the child nutrition programs.

The PRESIDING OFFICER. The bill (H.R. 14896) is open to further amendment.

Mr. MILLER. Mr. President, I join my distinguished colleague from Alabama (Mr. ALLEN) in urging the adoption of the Child Nutrition Act of 1972 (H.R. 14896).

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. I yield myself such time as I may require.

Mr. President, let us have order.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. MILLER. Mr. President, I join my distinguished colleague, the Senator from Alabama, in urging adoption of the Child Nutrition Act of 1972—H.R. 14896—as amended by the Committee on Agriculture and Forestry.

At this point I would like to express my appreciation to our chairman, the Senator from Georgia (Mr. TALMADGE), and the chairman of the Subcommittee on Agricultural Research and General Legislation, the Senator from Alabama (Mr. ALLEN), for their diligence in reporting this bill as quickly as possible, while at the same time giving the committee the opportunity to consider some additions to the House bill, which I believe greatly improve it.

I was particularly pleased that the committee agreed to accept the most important portions of the school lunch bill—S. 3661—which Senator TALMADGE and I introduced on behalf of the administration.

The committee accepted the concept of performance funding for general assistance under section 4, beginning with the 1974 fiscal year. This means that, instead of requiring the Department of Agriculture and State and local school agencies to go through the agonies of accounting for both regular appropriated funds and section 32 funds, the States will be reimbursed under section 4 strictly on the basis of the number of lunches served.

Mr. President, I had intended to offer at this time an amendment to provide the same type of performance funding for free and reduced price lunches as our committee provided for the general assistance to the school breakfast and school lunch programs.

The committee adopted the performance funding concept and applied it to section 4 of the National School Lunch Act. Since I do not believe it is logical to have performance funding for only one part of the school lunch program, I had intended to offer an amendment to extend performance funding to section 11 of the act.

While it is my understanding that this amendment, which would have guaranteed each State a minimum of 45 cents for each free lunch served, would have increased reimbursement to the States for free and reduced price lunches by at least $60 million over 1972, some of my colleagues have raised questions about the matter and would like to have it considered more extensively in formal hearings. They have taken this position notwithstanding an agreement to include a provision for a price increase escalator and a further provision to insure that no State would receive less money than it received for fiscal year 1972.

The American School Food Service Association has gone on record in support of performance funding.

My purpose in proposing that performance funding for section 11 be added to this bill was to prevent the dilemma we now face from recurring next year, when we are a week away from the opening of schools in some areas and still do not have a bill.

According to my information there is some chance the House Committee on Education and Labor will accept the bill we are now considering as adopted by the Committee on Agriculture and Forestry without a conference. This means that with unanimous consent of the House this bill could still be enacted before we recess on Friday.

My only interest is in providing better funding for the school lunch program this year and the years to come. Since I feel that it is especially crucial that Congress act before the recess, I shall not bring up my amendment, and hopefully there will be no further controversy on the floor over the bill.

As I stated a moment ago, there is some chance that if we approve the Agriculture Committee bill today it can be acted on by the House this week and the Nation's school administrators will not be forced to begin the school year without knowing what type of food assistance the Federal Government will be offering.

Mr. President, the distinguished Senator from Illinois (Mr. PERCY) propounded some questions on the floor yesterday with regard to the language of the bill as reported by the Committee on Agriculture and Forestry.

As Senator PERCY noted, the bill as reported by the Senate Committee on Agriculture and Forestry provides for an "average national payment per lunch which in no case shall be less than 8 cents." The Senator from Illinois is correct that each school within the State is not guaranteed an 8-cent reimbursement. Rather, it is the State that receives the total amount, based upon an 8-cent reimbursement per meal.

I would point out, however, that this is consistent with present law. Each State is presently guaranteed 6 cents per meal served within the State, but that 6 cents can be divided among schools on a need basis as determined by the State educational agency. Therefore, the performance funding provided in the Agriculture Committee bill makes no change with regard to distribution of general assistance funds within each State.

With regard to the Senator's question as to why the term "national average payment" is used, I would state merely that this is the language that was used in drafting the bill. The Department of Agriculture has assured me that they interpret this to mean one rate—8 cents—applied nationwide to each State.

It was my intent, and I feel the intent of the entire membership of the Committee on Agriculture and Forestry, to provide the State educational agencies with a sum of money equal to 8 cents for each lunch served by participating schools and then to continue the practice of letting the State agency determine the exact reimbursement to each school upon their evaluation of the relative needs.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The bill is open to further amendment.

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

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. 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. HUMPHREY. Mr. President, I call up my third amendment, on line 14, page 2.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. 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:

At the end of the bill add a new section as follows:

"SEC. 9. The Child Nutrition Act of 1966 is further amended by adding at the end thereof a new section as follows:

"'SPECIAL SUPPLEMENTAL FOOD PROGRAM

"'SEC. 17. (a) During each of the fiscal years ending June 30, 1973, and June 30, 1974, the Secretary shall make cash grants to the health department or comparable agency of each State for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State serving local health or welfare needs to enable such agencies to carry out a program under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income. Such program shall be operated for a two-year period and may be carried out in any area of the United States without regard to whether a food stamp program or a direct food distribution program is in effect in such area.

"'(b) In order to carry out the program provided for under subsection (a) of this section during the fiscal year ending June 30, 1973, the Secretary shall use $20,000,000 out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1974, there is authorized to be appropriated the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32

of the Act of August 24, 1935 (7 U.S.C. 612 (c)). Any funds expended from such section 32 to carry out the provisions of subsection (a) of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose of such section.

"'(c) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 10 per centum of the Federal funds provided under the authority of this section.

"'(d) The eligibility of persons to participate in the program provided for under subsection (a) of this section shall be determined by competent professional authority. Participants shall be residents of areas served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

"'(e) State or local agencies or groups carrying out any program under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary shall submit to the Congress no later than October 1, 1973, his recommendations regarding appropriations to be authorized for the continuation and expansion of the program provided under this section, including, but not limited to, his recommendation regarding a formula for allocating such funds among all the States of the United States.

"'(f) As used in this section—

"'(1) "Pregnant and lactating women" when used in connection with the term at "nutrition risk" includes mothers from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

"'(2) "Infants" when used in connection with the term "at nutritional risk" means children under four years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include (at the discretion of the Secretary) children under four years of age (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

"'(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any food product commercially formulated preparation specifically designed for infants.

"'(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians, or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.'."

Mr. HUMPHREY. Mr. President, this is the third amendment in a package of amendments that has been sponsored by a substantial number of Senators on both sides of the aisle. My amendment is cosponsored by Senators CASE, AIKEN, BROCK, BAYH, WILLIAMS, MONDALE, MATHIAS, BURDICK, JAVITS, CRANSTON, PACKWOOD, GRAVEL, HART, HARRIS, EAGLETON, HOLLINGS, KENNEDY, MCGOVERN, RIBICOFF, STEVENSON, NELSON, HUGHES, PASTORE, MCGEE, MUSKIE, MCINTYRE, TAFT, BEALL, MONTOYA, and MOSS.

The amendment relates to the substantial effort that has been made by Congress and our Government to abolish hunger in America. That campaign is now almost 6 years old. I suppose we could say that it is much older than that, since many of the programs of supplemental food assistance and the school lunch program started back in the late 1930's and the 1940's.

We have the school lunch program and have started a school breakfast program. The food stamp program has grown 10 times over. Earlier this year we authorized a food service program for the elderly. We have acted to improve nutritional welfare for every group with the voice and the ability to speak for its interests. But we have continued to ignore, regrettably, one group which cannot speak and which is the most vulnerable to malnutrition.

An infant from 6 months prior to birth and 6 months after birth can be permanently retarded both physically and mentally.

Mr. President, today I want the RECORD to indicate that there is unmistakable factual information to underscore what I have just said; namely, that an infant from 6 months prior to birth and 6 months after birth can be permanently retarded both physically and mentally if that infant is deprived of sound nutrition.

We have done very little to assist this group which is at greatest risk, except that the research completed over the past 6 years demonstrates the terrible price in physical health and mental incompetence which some Americans are being forced to pay because of mal- or sub-nutrition.

I cannot estimate here what the costs are in terms of care for those victims of malnutrition. Our institutions are filled with them. There are many people today who have been declared unemployable who are the product of malnutrition. Malnutrition contributes to disease. Its cost is beyond our calculation.

I have asked Members of this body to read the article published in the Commercial Appeal, Memphis, Tenn., which has been attached to a letter I have placed on each Senator's desk signed by myself and the Senator from New Jersey (Mr. CASE).

It tells the story of Lucy. Lucy is a young infant who, in her earliest months of life, lost her race against malnutrition.

If Senators will look at the placards now on the easel in the rear of the Chamber, they will see some photographs of Lucy, with the headline "Lucy Loses Race Before She Starts It." There is the photographic evidence from St. Jude's Hospital in Memphis, Tenn., which is conducting experiments in feeding programs, the kind of programs to which I am addressing myself now.

It tells of the crippling effect of malnutrition on her, the effects of which she will carry with her for the rest of her life. The story is published in the Commercial Appeal in Memphis, Tenn., December 27, 1970, with the headline "Lucy Loses Race Before She Starts It." It is a pathetic story in light of the abundance of the great American economy and the abundance of our production of food and fiber.

But, let us look at the "before" and "after" photographs of Lucy and another child shown on the placards. If Senators feel that the photographs are too harsh, too visibly a reality of the effects of malnutrition, just think of what could have been, or what should have been done to help these children.

Mr. President, I ask unanimous consent to have the letter, and Mr. Barney DuBois' article, "Lucy Loses Race Before She Starts It," plus the two tables revealing the close correlation between per capita income and infant mortality rates for a select number of States, printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., August 14, 1792.

DEAR SENATOR: Attached is a newspaper article from the Memphis Commercial Appeal. When you read it you will understand why we are asking your support for our "bloc" of 3 amendments as contained in amendment No. 1431 to H.R. 14896, the Child Nutrition legislation we will be voting on today.

The article describes the tragedy of infants brought to St. Jude hospital in Memphis suffering from malnutrition. The story can be, and is repeated in Baltimore, New York, Chicago, St. Louis, Detroit—in every State in our country every day.

One of the amendments which we are proposing in this "bloc" will establish a two-year pilot program to spread more widely the techniques for treating infant malnutrition with food. We believe it is time to begin halting the needless and sad loss of mental and physical potential among infants who are malnourished. Neither these children nor our nation can afford to let this problem go unresolved.

Another amendment in the "bloc" will strengthen the Agriculture Committee proposal by insuring that no school which last year provided children with a free or reduced price lunch will be forced by this legislation to take these meals away.

The final amendment would guarantee full Federal support to public and parochial schools which need help to begin food service programs. The 30 Senators who are co-sponsoring these amendments will be most grateful for your support.

Sincerely,

HUBERT H. HUMPHREY.
CLIFFORD P. CASE.

[From the Commercial Appeal, Dec. 27, 1970]

LUCY LOSES RACE BEFORE SHE STARTS IT

(By Barney DuBois)

Consider the case of Lucy, an infant.

She was born at John Gaston Hospital and was discharged with her mother after three days. Her weight was 6 pounds 4 ounces at birth.

For all purposes, she was a healthy, normal baby.

But five weeks later, Lucy's 19-year-old mother brought her to a Memphis and Shelby County Health Department neighborhood clinic. The child had gained less than a pound since birth.

A nurse at the clinic told Lucy's mother that the baby was ill and must see a physician.

But Lucy's mother was poor. A waitress, she worked 40 hours a week for $20 plus tips.

Doctors are a luxury when you're that poor. And a trip to City of Memphis Hospital for free treatment when you have no transportation is a stream of buses, transfer tickets, corridors, waits and referrals to other offices.

Lucy got sicker.

Three weeks later, a neighborhood aide for Memphis Area Project-South heard about the child, and a nurse was called from St. Jude Children's Research Hospital. On Lucy's record at St. Jude is the nurse's first impression:

"Marasmic appearing child. Thin, scrawny, with protuberant abdomen, loose skin. Is highly irritable."

Lucy was taken to St. Jude, where a pediatrician examined her. His diagnosis was that Lucy was a victim of malnutrition and on the verge of starvation.

"When someone has a disease, you give them medicine or a vaccination for it," says Dr. Donald Pinkel, medical director at St. Jude.

"Malnutrition is a disease. And food is the vaccine."

So the pediatrician prescribed food for Lucy. No exotic medicines or vaccines. Just food.

He instructed the mother to feed Lucy a prepared infant formula, such as Similac or Infamil, instead of an evaporated milk formula the mother had been using. The prepared formula was provided free by St. Jude.

In the beginning, Lucy's growth slowly increased. Then, she gained suddenly. She sprouted. Five pounds were gained in a few weeks. More than six inches in length in less than a month.

After six months, she was above the 50th percentile for both height and weight. She was healthy, robust and pleasant. Lucy appeared to be a bouncing, normal baby.

But she wasn't.

The story does not have a happy ending.

Despite her rapid growth and new strength, Lucy's head circumference remained small. To doctors, this means her brain had failed to fully develop.

According to startling new research into the nutrition of children at St. Jude, doctors have discovered that Lucy's brain will never fully develop.

She will be mentally retarded, or at least, a slow learner, the rest of her life. Nothing can be done to help her.

"It has been shown that by the end of the first six months of life, a child normally develops all of its brain cells," says Dr. Pinkel. "This is a critical period of growth for the brain and nervous system. If this growth is in some way impaired, it results in irreparable stunting for the rest of that child's life."

Lucy is a victim of poverty. There are thousands like her in Memphis. There are millions like her in the United States.

Lucy's growth was impaired for a brief two-month period, because her mother did not have enough money to buy the child's needed milk formula. To stretch out available milk, the mother watered down the formula, and Lucy was deprived of body-building food during the most critical growing period of her life.

In some cases, when malnourished infants are given food early in infancy, the brain's growth is stimulated and attains normal size by the sixth month, says Dr. Pinkel. But, in many cases, it doesn't. And if the malnourishment lasts several months during this critical six-month period, the results assuredly will be disastrous.

"It's like playing Russian roulette," says Dr. Pinkel. "It's like throwing your baby into the Mississippi River and then trying to save it. Sometimes, you might do it. But who wants to try?"

"Brain cells begin growth in the womb and continue to multiply after birth to about the sixth month of age," says Dr. Paulus Zee (pronounced Zay), head of St. Judge's revolutionary malnutrition research.

"Experiments with rats and animals—and unfortunately, experiments man has provided on himself with human poverty—have proven that when nutrition is missing during this growing period, in the womb or out, the brain size is never fully attained. And nothing will make it grow after the sixth month."

"The real horror of malnutrition is that it is not a rare disease," says Dr. Pinkel. "Malnutrition is a much bigger problem than is leukemia. If we could find ways to stop leukemia altogether in this age group, there would only be a small, or virtually no effect on the world's population. But if we found ways to stop malnutrition, it would have an almost immeasurable effect on the world."

In January, 1969, St. Jude and MAP-South instigated their now well-known food-by-prescription program using United States Department of Agriculture supplement foods, which are given free to families in which malnutrition is a reality. More than 200 tons of food are distributed each month.

With the USDA food as a base, and with medicine and other foods provided by St. Jude (for instance, 400 cases of baby food each month), the program has become a model of practical research. Other food-by-prescription programs, including a less sophisticated one by the Memphis and Shelby County Health Department for areas outside the St. Jude-MAP-South area, have been started because of it.

Despite the St. Jude effort, and additional food programs in Memphis and Shelby County, it is estimated that fewer than one-third of families in need of food are being reached. And only a fraction—the ones in St. Jude's area—are being meaningfully reached. There are no national programs like St. Jude's.

"We're a research center, and that's what we're here for," says Dr. Pinkel. "We can't treat every child in the United States for malnutrition. But we can show others how to do it with basic research and by going out and proving practical application."

Researchers have suspected links between poverty, malnutrition and brain development for a number of years. Dr. Myron Winick, associate professor of pediatrics at Cornell University's medical college, was a leader in proving the correlation.

Using clinical and animal data, Dr. Winick demonstrated that the earlier malnutrition occurs, the more severe and the more permanent are the effects on mental development.

"Indeed, the data strongly suggest that permanent effects will not occur at all if the malnutrition begins after a certain age," Dr. Winick said recently. "It would appear that after infancy, the brain is much more resistant to the effects of malnutrition."

It is the practical research at St. Jude, however, that is proving beyond reasonable doubt that these theories are true—that poor people are largely malnourished, that malnourishment in infancy causes irreparable damage to brain development and that this damage produces large numbers of adults who are slow learners or retardates, who wind up living lives of poverty and producing children to grow up in the same cycle.

"When most people think about malnutrition, they think about television and the kids they see in Vietnam or Biafra," says Dr. Zee.

"But you've got to remember something else. These kids in Biafra and Vietnam are malnourished, all right, but they live in agrarian systems. The most they are ever expected to do is farm, and plow, and do simple tasks like that.

"But in our culture, our children are expected to go much higher, from mechanics to scientists. If you want the optimal output of people, and society, you must meet optimal nutrition. We aren't a nation that pulls things in the fields and lifts stones. Malnourished people here are not equipped to aim at a higher level."

Of the preschool children studied in the MAP-South area where 4,500 of more than 6,000 children under 6 are being reached, St. Jude discovered in early 1969 that more than 70 per cent of children there had height and weight deficiencies.

In laymen's terms, these figures mean that young children in south Memphis are very small for their ages.

"About three per cent of any population is very small in size because of genetic reasons, because of small fathers and mothers if you will," says Dr. Zee. "When any study shows that 16 per cent of large population is very small, beneath the third percentile, you can trust there is something else at play beside genetics."

In general figures, the study has shown that 27 per cent of the children had bone ages which were less than 75 per cent of their chronological ages. Frequently, doctors found 6-year-old children smaller than an average 4-year-old.

Anemia was the most wide-spread ailment found among the children. By normal standards, 90 per cent of all children under 3 and 75 per cent of those older than 3 were anemic.

The most shocking statistics of all are saved for last.

About 15 per cent of the children studied had head circumferences below the second percentile, indicating strongly they would be mentally retarded.

And the infant mortality rates in the MAP-South are among the highest in the nation. In one census tract, No. 41 (bounded by Beale Street, Third, Calhoun and Danny Thomas), researchers found the mortality rate to be 84 deaths for every 1,000 births—higher than the rates in undeveloped nations such as Peru and India.

The research, of course, is to learn the precise relationship between prenatal and infant nutrition and to find ways to reduce the mortality rate.

Along with conclusions about the necessity of food during the first six months of life to encourage brain growth, Dr. Zee's team in recent months uncovered another disastrous effect of early malnutrition.

A random study of 1,000 families who had been on the MAP-South, St. Jude food supplement program for one year showed that one year means very little in correcting the damages caused by malnutrition.

"Anemia was still bad, bone age was about the same, and there was no change in vitamin A levels in the population at large," Dr. Zee says, referring to the new study which is yet to be published.

"The conclusion is that a basket of food for Christmas doesn't do the job. Feeding these children for one year doesn't do it, either. We must expect programs to take five years or longer to correct damage caused by sometimes brief periods of malnutrition."

Although infants respond quickly to food, Dr. Zee explains, older children do not, especially after the third year of life. By that time, he says, their bodies will have adjusted to an "austerity metabolism" so that they function on less food than a normal child.

"The bone age in these older children may increase by 15 months during a 12-month period, which would be a gain in size of three months during a year. But for a child who was more than a year behind to begin with, the three-month gain is not enough for him

to reach his normal size," the pediatrics researcher says.

Specifically, the problems of malnutrition of children in Memphis' poorest families, according to the St. Jude research, are as follows:

A child is born and sent home on an evaporated milk formula, which often is too complex and is a constant source of misuse or misinformation. If made too diluted, the child is malnourished. If too concentrated, the infant vomits it back up and also becomes malnourished. And finally, uneducated mothers often do not know to increase food as the child increases in weight and size.

Evaporated milk formulas do not contain iron or vitamin A.

By the end of the first year, children begin eating from the table—usually scraps of low-protein, low-vitamin food or imitation foods. Many walk around with milk bottles or water bottles, given by mother to keep them from crying, but killing appetites.

And lastly, the poorer a family, the less protein content in its diet. Poor people substitute plain foods, like beans and potatoes, for meat, milk and eggs, which are more expensive, but which are the principal sources of protein.

"It is very common in poor communities to see many, many short obese women. They are short because of stunted growth as infants. They are fat because of a lifetime of eating starches instead of proteins," says Dr. Zee.

"Obesity is a sign of poverty, make no mistake of it. It does not mean people are well-fed."

Both Dr. Pinkel and Dr. Zee are extremely critical about existing programs designed to provide food for the poor. The USDA food supplement program and the federal food stamp program both are inadequate, they say.

The two principal weaknesses of the food supplement program are that it does not provide food for children over 6 and that it has no existing programs to provide prepared formulas with adequate protein, mineral and vitamin content for infant feedings, Dr. Pinkel says.

"There is no way to guarantee that the food for kids under 6 will be used by them. In many families, older brothers and sisters quite naturally compete for the food brought into the household. For this reason, the program must be enlarged to include all children," he says.

"In the meantime, we try to get the older kids and the rest of the family on food stamps. We are certain, through follow-ups, that the infant food we provide is used by the infants, because there is no competition from older children for baby food."

The prepared formula used by children in the MAP-South area is provided by St. Jude with no government assistance.

"The federal government should show some interest in the area," says Dr. Zee. "I think perhaps a shift in priorities is needed. Our research shows that the early months are the most critical. It's only reasonable to expect government programs to adapt themselves to the area of greatest need."

Dr. Pinkel is harshly critical of the food stamp program, which enables a poor family to buy for a reduced sum a larger value of stamps which can be used to purchase food items.

His criticisms of the program are:

"Some families, with absolutely no income, do not have even enough money to buy food stamps.

"It is required that a full month's quota of food stamps be purchased. For a family whose budget is strained, it often is impossible to come up with enough money for a full month's supply. A solution would be to enable weekly food stamp allotments, so the purchase sums would be smaller.

"Food stamp allotments are determined by a report of all household income, including the pensions of the old. Say there is a grandfather in the family drawing a small sum each month. It is his right to do with this money as he wishes. But the children are punished, because the cost of stamps goes up proportionately with his money being brought into the household. In these cases, the presence of the grandfather actually punishes the children.

"The amount of the food for each member of the family is not enough. A family of seven, for instance, gets about $22 worth of stamps each month for each member of the family, or about 75 cents a day per person. I say only an official of the USDA could expect to feed a family properly on that amount."

Dr. Zee says it takes about $35 a month to feed a normal person adequately in Memphis today, and "the prices continue to go up."

Dr. Pinkel says the Nixon administration has been "cold and callous" to requests by nutritionists that the allotments be increased. He says when reasons are given for not increasing the allotments, the Federal budget difficulties are mentioned most frequently.

"I have only one general statement," says Dr. Zee.

"Our studies here have shown that the population at large in our study area is anemic and malnourished. There are some who are worse than others, and they must be hospitalized. But they're all affected.

"It's an iceberg phenomenon. If you find three cases of smallpox, you vaccinate everybody. If one person comes up with polio, you can pretty well expect the virus is with everybody.

"And you don't treat polio by building big clinics full of iron lungs. You treat polio by preventing it.

"I say that someday malnutrition must be faced by our people as any other medical problem. It is not a simple disease to cure, but it is easy to prevent.

"And you prevent malnutrition by feeding people."

INFANT MORTALITY RATES FOR SELECTED STATES HAVING HIGH PER CAPITA INCOMES

[Per thousand live births]

	Mortality rate [1]	Per capita income [2]
California	19.0	$10,642
Massachusetts	19.9	10,835
New York	20.9	11,201
New Jersey	21.2	11,407
Hawaii	18.2	11,554
Connecticut	19.0	11,811

[1] Taken from Vital Statistics, HEW, vol. 2, Mortality pt. B.
[2] Taken from 1970 census—General social and economic characteristics, table 47.

INFANT MORTALITY RATES FOR SELECTED STATES HAVING LOW PER CAPITA INCOMES

[Per thousand live births]

	Mortality rate [1]	Per capita income [2]
Mississippi	35.5	$6,607
Arkansas	23.2	6,273
Alabama	26.6	7,266
West Virginia	23.4	7,415
Kentucky	21.9	7,441
Tennessee	23.2	7,447
Louisiana	25.3	7,530
South Carolina	27.0	7,621
New Mexico	23.9	7,849
North Carolina	26.3	7,967
Georgia	25.4	8,167
Florida	24.1	8,267
National average	21.8	

[1] Taken from Vital Statistics, HEW, vol. 2, Mortality pt. B.
[2] Taken from 1970 Census—General social and economic characteristics, table 47.

Mr. HUMPHREY. Mr. President, the mortality rates are shocking in light of the distribution of the per capita income in this country.

For example, in Connecticut, where the per capita income is $11,811, the mortality rate per thousand live births is 19.

In Hawaii, where the per capita income is $11,554, the mortality rate per thousand live births is 18.2.

In Mississippi, where the per capita income is $6,607, the infant mortality rate per 1,000 live births is 35.5.

In New Mexico, where the per capita income is $7,849, the mortality rate per 1,000 live births is 23.9.

So we see that there is a direct correlation between income and for what we call the infant mortality rate.

Mr. MONDALE. Mr. President, will my colleague yield to me?

Mr. HUMPHREY. I am happy to yield to my colleague from Minnesota.

Mr. MONDALE. For some years it has been my privilege to serve on the Select Committee on Nutrition and to have listened to a great deal of testimony about the ravages of malnutrition and hunger on the capacity of a human being to learn and to have a sound body.

I do not think there is any one on that committee that doubts for one moment that the case has not been conclusively established that a child who suffers from malnutrition and severe hunger will, in all likelihood, be permanently damaged mentally as well as physically.

One of the witnesses whom I shall never forget, a magnificent lady, Dr. Van Dusen, a doctor with the U.S. Public Health Service working on a Navaho reservation, found several examples of infants who had kwashiorkor, a disease which we thought existed only in Africa and other less developed countries, kwashiorkor being an African word that means a disease that comes after the baby leaves the mother's milk. It was thought a disease like that did not exist in this country but these infants were so tragically malnutrient, they suffered from such extreme protein deficiencies, that death was the likely result.

Dr. Van Dusen kept records. She found one infant just before it was going to die and she heroically nursed it back to the best of health that was possible under the circumstances. She kept records, and she found that it took $800 a pound to nurse that child back to health because of diarrhea and other health problems that had set in. $800 a pound just to restore that child back to health. That is an enormous amount of money when one considers that for 10 cents a pound of decent food, that some child would have had a healthy life, a bright mind, and a full, hopeful future. Instead of that, there is no doubt that the child will be retarded mentally and physically, even in spite of the great cost, that it will probably be a welfare recipient for life, remaining unemployed and heir to all the other tragedies that go with that.

That is just one of the examples not only of the inhumanity of malnutrition but the utter, inexcusable, economic profligacy of permitting a decent human

being to suffer and be damaged in that way. I cannot think of any kind of waste that is worse than that.

I am a strong supporter of the Senator's amendment.

Mr. HUMPHREY. I thank my colleague from Minnesota.

Mr. AIKEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I am delighted to yield to the Senator from Vermont.

Mr. AIKEN. I am a strong supporter of the Senator's amendment. A little over 2 years ago, Vermont began a successful pilot program operating in the State and administered by its Department of Social Welfare at Montpelier, the State Capital.

As of 2 weeks ago, there were enrolled 171 adults and 97 children. The program would allow low-income, pregnant, lactating mothers, $5 a week for milk and milk products and a child from birth to the age of 1, $10 a week, including baby cereals. They are given food coupons which can be used only for the purpose of milk and milk products, including cereals. It is known as the Food Certificate Program. Those who qualify are all public assistance recipients and those people who are receiving food stamp assistance.

The reason I am supporting this amendment is that we have been trying it out in Vermont for the past 2 years, and it is considered to be very successful.

Mr. HUMPHREY. I am very grateful to the Senator from Vermont for his support and for the contribution he has made here in terms of supplying food in this program to make it worthwhile.

Mr. President, I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I thank the Senator from Minnesota.

Mr. President, this is a most important amendment. As a cosponsor of the amendment I want to second what has already been said.

Mr. President, at this time I have a report similar to that carried in many newspapers recently. It appeared in the Journal of American Medical Association, written by Dr. Albert Stunkard and several of his colleagues. It is entitled "Influence of Social Class on Obesity and Thinness in Children." It relates to early childhood nutrition. I think it is a very important study. And I ask unanimous consent that it be printed at this point in the RECORD.

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

[From Journal of the American Medical Association, Aug. 7, 1972]

INFLUENCE OF SOCIAL CLASS ON OBESITY AND THINNESS IN CHILDREN

(By Albert Stunkard, MD; Eugene d'Aquili, MD; Sonja Fox; and Ross D. L. Filion, PhD)

Several social factors have been closely linked to obesity and thinness in adults. This study, based on 3,344 measurements of triceps skin-fold thickness found similar relationships in white urban children. Obesity was far more prevalent in the lower-class girls than in those of the upper class—nine times as prevalent by age 6. Similar though less striking differences were found between boys of upper and lower socioeconomic status. The pattern of thinness among girls was similar to that previously reported in women, with significantly more thinness in the upper-class group. Among boys, as among men, there were no such differences. The remarkably early onset of class-linked differences in prevalence of obesity underlines the importance of attempts to prevent the disorder in childhood. These attempts should be directed particularly toward those at high risk because of their lower socioeconomic status.

This report continues our assessment of the influence of social factors on obesity in man. In earlier studies, carried out in New York City, we demonstrated a strong inverse relationship between socioeconomic status and obesity. Obesity was six times more prevalent among women of lower than among women of upper socioeconomic status. Correlation between parental socioeconomic status and prevalence of obesity was nearly as strong indicating that socioeconomic status was cause as well as correlate. We also demonstrated significant inverse relationships between social mobility and obesity, and between number of generations in this country and obesity. In addition, several ethnic and religious variables appeared related to the prevalence of obesity. Subsequently, we found similar results in a study in London. In all these investigations, the relationship between social factors and prevalence of obesity among men paralleled that in women, but in each instance was less marked.

The present study was designed to establish the age at which the influence of socioeconomic status on body weight becomes apparent. We also wanted to delineate the subsequent evolution of the relationship between socioeconomic status and obesity and thinness.

MATERIALS AND METHODS

To assess the prevalence of obesity we measured the skin-fold thicknesses of 3,344 white school children in three Eastern cities. The 11 schools in the study were chosen so as to provide a population of both upper- and lower-class children. The respondent's socioeconomic status was determined on the basis of the father's occupation, according to *Intermediate Occupational Classification for Males*, a 1950 publication of the Bureau of the Census. The respondents were 5 to 18 years old.

We decided on the use of the triceps skin-fold thickness as the best index of obesity for a large field study on the basis of Seltzer and Mayer's extensive work with this measure,[3-9] as well as the view of Dugdale et al.[10] that it is the best anthropometric measure of adiposity. Furthermore, Shepard et al.[11] have presented evidence that the triceps skin-fold provides an especially accurate assessment of obesity in children and adolescents. To avoid interobserver error, all measurements were made by the same observer (S.F.), using the Lange skin-fold calipers. Reliability coefficient of the measurements was 0.93.

Since there is no generally accepted criterion for obesity in children, we chose two criteria that had been utilized in other studies and that seemed reasonable. The first criterion was the values for skin-fold thickness reported by Seltzer and Mayer in their study of Boston school children. They defined as obese those children whose skin-fold thickness exceeded one standard deviation from the mean for their age and sex. Table 1 shows the minimum triceps skin-fold thickness indicating obesity according to Seltzer and Mayer.[7]

Malina has criticized the Seltzer-Mayer criterion as inapplicable to other populations[12] and, indeed, the standard deviation for some age groups in our population differed from that of Seltzer and Mayer. Accordingly, we subjected our data to a second criterion of obesity. We also defined as obese the 10% of each sex in the total population that had the thickest skin-folds; and we used the minimum skin-fold thickness of this group to define obesity within each age group. Hampton et al effectively used a similar percentile criterion to define obesity and leanness.[13] In fact, according to Dr. Joseph Brozek, the percentile criterion is favored by many physical anthropologists, in part, at least, because it has the advantage of showing that obesity increases with age, a trend that is obvious in the raw data. Furthermore, by using percentiles we were able to define thinness in children, for whom no such standard is now available. We defined as thin the 10% of each sex with the thinnest skin-folds and analyzed the data as for the obese group. These empirically derived values for obesity were 23 mm for girls and 18 mm for boys. For thinness they were girls, 8 mm, and boys, 6 mm.

In the course of studying the 3,344 white children we measured also the skin-fold thicknesses of 1,903 black and Puerto Rican children. Since blacks, Puerto Ricans, and whites have different distributions of skin-fold thickness, it was not possible to analyze all 5,247 respondents as a single population. Hampton et al had also found significant differences in anthropometric measurements among teen-agers of different racial origins and cautioned against using the same standards for different races. Furthermore, the small number of upper-class blacks and Puerto Ricans made it impossible to run separate analyses of blacks and Puerto Ricans relating to socioeconomic status to obesity. For these reasons the analysis reported here was confined to the 3,344 white respondents. Of these, 2,310 were classified in the upper socioeconomic status (occupational categories I and II by 1950 Bureau of Census listing); 857 were classified as of lower socioeconomic status (occupational categories III and IV); the remaining 167 could not be clearly classified. Table 2 shows the number of respondents at each age according to socioeconomic status and sex.

RESULTS

We found marked differences in the prevalence of obesity between the upper- and lower-class children. Moreover, these differences were apparent by age 6.

Obesity in Girls. At age 6, 29% of the lower-class girls were obese as compared with only 3% of the upper-class girls. This class-linked difference continued through age 18, but fell to a minimum at age 12, when 13% of lower-class and 9% of upper-class girls were obese. Table 3 shows the four-fold contingency table relating high and lower social class obesity or its absence.

When we applied the percentile criterion, we also demonstrated the marked difference in the prevalence of obesity between social classes ($X^2 = 70.838$, $P < 0.001$). At age 6, the lower socioeconomic group contained 8% obese girls, while the upper-class group had no obese girls at either age 6 or 7. This difference was maintained until age 18, as with the Seltzer-Mayer criterion. In addition the percentile criterion demonstrated an increase in the prevalence of obesity as a function of increasing age in both socioeconomic groups. Figure 3 shows further that the slopes for the upper and lower classes differ, with a greater yearly increment in the percentage of obese in the lower class. Obesity is not only more prevalent among poor girls, but this greater prevalence is established earlier and increases at a more rapid rate than among upper-class girls.

Obesity in Boys.—Lower-class boys showed a greater prevalence of obesity than did those of the upper class, although here the differences were not as striking as among the girls. At age 6, a marked difference between the two socioeconomic groups is already established, with 40% of the lower socioeconomic group classified as obese, compared

Footnotes at end of article.

with 25% of the upper-class group. Unlike the pattern among the girls, however, the difference between the boys is not continuous to age 18. Note the reversal at age 12, when the upper-class group has a greater percentage of obese. But by age 14 the lower-class group again shows a greater prevalence of obesity, and this difference is maintained until age 18. These data are summarized in Table 4.

Our earlier studies had shown a positive correlation between socioeconomic status and prevalence of thinness among women. We found four times as many thin women among those of high status as among those of low status. In the present study, applying the percentile criterion, we found a similar pattern among girls. Figure 6 shows that there was more leanness among girls of upper socioeconomic status. At age 6, 15% of the upper-class girls were thin as compared to only 4% of the lower-class. This difference continued until age 12, at which point the two groups converged and showed decreasing prevalences of thinness. Table 5 shows the relationship between high and low socioeconomic status and leanness or its absence.

Thinness in Boys.—Our earlier studies had shown no association between socioeconomic status and leanness among men. About 10% of each group was lean. The data on boys similarly failed to show such an association.

COMMENT

During the past ten years, we have learned a great deal about obesity in the United States, and the results have been a surprise. Our conception of the nature of obesity, based in large part of the results of treating members of the upper and middle classes, has been shaken by the discovery that obesity is largely a problem of the lower classes. It now appears that socioeconomic status and related social factors have more to do with determining whether a person will be obese than does individual psychopathology.[14] The implications of these findings are far reaching. For one, they suggest that we need not be constrained by current psychodynamic formulations of obesity and their pessimistic outlook for treatment, when dealing with the group most afflicted with the disorder.

Instead, an educational approach that recognizes the importance of social factors and is designed to influence the values and lifestyles of large groups, may be more appropriate and more effective than conventional psychotherapeutic techniques.

The study reported here extends previous work and defines a discrete and particularly vulnerable group within the high-risk population—the children of the poor. Not only is childhood obesity a major problem in its own right, but the prognosis for the obese child magnifies the over-all problem for obese children become obese adults. The most authoritative estimate is that 85% of obese children follow this course.[15] Furthermore, the odds against an obese child becoming a normal-weight adult, which are more than 4:1 at age 12, rise to 28:1 if weight has not been reduced by the end of adolescence.[16]

Recent research into juvenile-onset obesity in laboratory animals adds to these actuarial cautions a possible explanation and a cause for further concern. In rats, the cellularity of adipose tissue, and consequently its lipid storage capacity, is determined very early—probably during the first three weeks of life—and primarily by the animal's level of food intake.[17] Overnutrition during this critical period leads to marked increase in the cellularity of adipose tissue, increased body size, and obesity; undernutrition has the opposite effect. Nor do changes in diet after infancy have any effect on the number of adipose cells. Caloric restriction reduces weight solely by reducing the lipid content of these cells, often to an abnormally low level. The depleted cells then remain ready to return to their initial levels of adiposity whenever sufficient lipids are available. By contrast, adult-onset obesity is produced by cellular hypertrophy, and weight loss returns the adipose tissue cells to a more normal size.

Although data of comparable precision for man are lacking, available information strongly suggests a similar pattern.[18-19] And the mechanism described offers a convincing biologic explanation for the remarkable tendency of juvenile-onset obesity to persist into adult life. We still do not know precisely what period in human development corresponds to the critical first three weeks in the rat's life.

However, the fact that such a large percentage of lower-class children is obese by age 6 suggests that hypercellular adipose tissue accounts for at least part of this increased incidence of obesity.

While we know that childhood obesity tends to persist into adulthood, we do not know what proportion of obese adults has juvenile-onset obesity. Even if the contribution is not greater than the one third that has been suggested, however, juvenile-onset obesity remains a serious problem. For all the pathologic correlates and sequelae of obesity are more prevalent and more severe in adults with juvenile-onset obesity, from diabetes and atherosclerosis to emotional disturbance. Furthermore, the juvenile-onset obese have special problems. Any psychopathology is likely to be related to obesity, and fully half of persons with juvenile-onset obesity suffer from body-image disturbances. In persons with adult-onset obesity, on the other hand, psychopathology is usually coincidental and disturbance in body image rare.

One aspect of these findings deserves special note. The prevalence of thinness among the lower-class children was very low despite the poverty in which they lived. This finding surprised us, coming as it did in the midst of reports of widespread hunger among the poor, and its significance is unclear. Perhaps skin-fold calipers failed to detect evidence of undernutrition. However, they have proved adequate to the task of assessment of the undernutrition of anorexia nervosa. Perhaps the level of poverty associated with frank undernutrition is lower than that of the children we studied. But we sought out the children with the lowest level of socioeconomic status that could be found in New York, Philadelphia, and Wilmington. It may be that white children, at least, in these cities do not suffer from undernutrition.

Conclusion.—Before we can institute effective measures to prevent or treat a disorder, it is helpful to define the population at high risk. This all-important step has now been taken for obesity. The lower socioeconomic class is the one with by far the greatest prevalence of obesity. Some of the preventive and therapeutic measures that this finding suggests have already been described.[1]

We have now taken a second step and pinpointed a discrete population at particularly high risk—the children of the poor. As early as age 6, the prevalence of obesity is far higher among the lower classes, particularly among girls, than it is among those of higher socioeconomic status. Furthermore, application of the percentile criterion demonstrates that obesity is not only more prevalent in poor girls, but this prevalence is established earlier and increases at a more rapid rate than among upper-class girls.

These findings help define our task, and they should encourage us in the fight against obesity. For the remarkably early age at which obesity begins among so many of the poor be-speaks faulty nutritional practices by parents. We do not yet know to what extent these faulty nutritional practices result from lack of information or from lack of appropriate food. An effective program of obesity control among poor children requires that we distinguish between these two causes. Research that will enable us to determine more precisely what causes poor nutrition among the poor—nutritional misinformation or economc deprivation—is sorely needed. We have recently embarked upon such a project. One final note—Despite the poverty in which our lower-class children lived, they were no more likely to be thin than were the upper-class children.

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FOOTNOTES

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TABLE 1.—OBESITY STANDARDS IN WHITE AMERICANS ACCORDING TO SELTZER AND MAYER

Age (years)	Minimum tricept skin-fold thickness indicating obesity (mm.)	
	Males	Females
5	12	14
6	12	15
7	13	16
8	14	17
9	15	18
10	16	20
11	17	21
12	18	22
13	18	23
14	17	23
15	16	24
16	15	25
17	14	26
18	15	27
19	15	27
20	16	28

TABLE 2.—NUMBER OF RESPONDENTS IN EACH AGE GROUP BY SOCIOECONOMIC STATUS (SES) AND SEX

Age (year)	Upper SES		Lower SES	
	Boys	Girls	Boys	Girls
5	47	5	21	25
6	67	34	27	24
7	71	40	17	16
8	79	56	24	32
9	80	54	16	17
10	90	52	26	32
11	107	56	31	21
12	74	77	33	32
13	84	76	38	31
14	103	66	44	44
15	167	84	42	53
16	216	80	48	55
17	206	80	29	43
18	114	33	19	15

TABLE 3.—DISTRIBUTION OF OBESITY BY SOCIOECONOMIC STATUS (SES) (GIRLS) *

	Upper SES	Lower SES
Obese	41	93
Nonobese	747	332

* $X^2=81.367$, $P<0.001$.

TABLE 4.—DISTRIBUTION OF OBESITY BY SOCIOECONOMIC STATUS (SES) (BOYS)*

	Upper SES	Lower SES
Obese	187	100
Nonobese	1,269	294

*$X^2=37.210$, $P<0.001$.

TABLE 5.—DISTRIBUTION OF THINNESS BY SOCIOECONOMIC (SES) STATUS*

	Upper SES	Lower SES
Thin	88	28
Nonthin	700	387

*$X^2=6.078$, $P<0.02$.

Mr. EAGLETON. Mr. President, I am pleased to be a cosponsor of the amendment offered by the Senator from Minnesota (Mr. HUMPHREY) to H.R. 14896 which would, for the first time, provide a specific authorization for a supplemental food program for nutritionally needy pregnant women, new mothers, and infants.

The Department of Agriculture now operates a supplemental food program under its general authority to donate agricultural commodities to needy persons. Through this program local sponsors are provided special food packages for women and children found to be at nutritional risk. Administrative costs must be provided locally. The principal source of funds for this purpose has been OEO's emergency food and medical services program.

The inadequacy of the present program has been vividly illustrated this summer in the two major urban areas of my State.

The supplemental food program in the city of St. Louis and St. Louis County is operated and funded by the Human Development Corporation, the local community action agency. The continuation of this program, which serves over 11,000 women and children each month, was put in jeopardy this summer by the administration's decision to terminate the emergency food and medical services program. With the Human Development Corporation's EFMS contract expiring in June, a community fund-raising effort was launched to obtain funds to continue the supplemental food program. At last report, some $65,000 had been raised.

I ask unanimous consent that an article from the St. Louis Globe-Democrat of May 22, 1972, describing the St. Louis program and the crisis it has faced, be printed at this point in my remarks.

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

[From the St. Louis Globe-Democrat, May 22, 1972]

THE LITTLEST ST. LOUISANS ARE IN TROUBLE

(By Walter E. Orthwein)

Did you know that—until recently—more babies per thousand died in St. Louis each year than in some of the world's underdeveloped countries?

Did you know that for years—until recently—St. Louis tied for top place with Washington, D.C., for the highest infant mortality rate in this richest nation on earth?

Chief factors in the sorry picture were a simple lack of adequate food and medical care for mothers and infants of the city's poor.

What you may not know is that St. Louis is in imminent danger of reverting to its former unenviable status, as a result of a cut-off of federal funds effective June 1.

Four years ago, the U.S. Department of Agriculture began its nationwide supplemental food program, free for the asking to any community on a come-and-get-it basis.

Simultaneously, the Office of Economic Opportunity (OES) began a program of annual grants to finance distribution of the food.

But, in the wake of federal budget cuts all along the line, the OEC grants will not be renewed after this month—and that includes the current $136,000 allotment to St. Louis.

Which puts the matter squarely in the lap of the people of St. Louis.

The food is there. A donation of $1.50 to cover distribution costs will feed a mother and child for a month.

There are 12,000 mothers and babies in the city and county eligible for the food. Infants are the main recipients, and 80 per cent of them live in the city.

To keep the food going to them for another year will cost $170,000.

"There are many hard-to-solve problems confronting the world, but this isn't one of them," said Harold Antoine, general manager here of the Human Development Corp., which is mounting a campaign to raise the $170,000.

"Feeding these mothers and babies with food already at hand is a comparatively simple problem, well within our power to solve."

"Hunger amid plenty is an abomination in the eyes of all thinking and feeling people," begins a proclamation by Mayor Alfonso J. Cervantes, declaring the week that began Sunday as "Feed-the-Babies Week."

Noting that the unborn risk permanent physical and mental damage from pre-natal malnutrition and lack of medical care, Antoine said:

"The brain, the central nervous system, the bone development and the general constitutional strength—all can be damaged by absence of proper nutrition in the mother's and child's food intake.

"Almost needless to say, the child's mind can be impaired. There are records of mental retardation that go with poor diet during the vital formative months.

"The taxpayer subsequently shares in this problem."

HDT has collaborated, Antoine said, with public health officials in a plan whereby the food, in addition to easing human hunger, is also the medium for solving the problem of medical care.

Dispensed on prescription by a physician to mothers-to-be and mothers of small children, it brings them to the clinic doctors for examination, diagnosis, treatment and other needed care.

"All public health institutions in the metropolitan area, plus some private physicians who see a lot of poor patients, agreed to the plan—and it has worked," Antoine said.

"It has worked—beyond our dreams, and far beyond the success records of other cities. The word spread, the mothers came.

"To serve them, we established a system whereby a variety of food is packaged, depending on the individual need, and distributed through 17 locations where poor people are concentrated—principally the HDC Gateway Centers.

"In the course of this program, St. Louis lost its status as one of the nation's infant death capitals.

"When you reach 12,000 a month—infants, children up to age 6, and their mothers—with an adequate diet they wouldn't otherwise have, you just can't help but make an impact.

"But—if this magnificant program is to continue—it must be the local will that makes it possible. Federal funds for it are ending next month."

"I call for your help, your compassion and your many capabilities as public-spirited citizens who care about what happens to the littlest St. Louisans in our great city."

Feed-the-Babies Week opened with special collections in churches throughout the city and county Sunday. There will be a Feed-the-Babies Cardinal baseball game Wednesday, for which HDC is selling 5,000 tickets donated by August A. Busch Jr.

A benefit talent show will be held at 7:30 p.m. Friday at Beaumont High School, an area-wide baby contest will raise additional funds, and volunteers will man "toll-road" stations in the city and county during the week.

Contributions may be mailed to the Human Development Corp., 1321 Clark ave., St. Louis, Mo. 63103, and are tax deductible. For more information, call CH 1-7500.

Teamster leader Harold Gibbons is campaign chairman and Benjamin Goins, city license collector, is co-chairman.

Mr. EAGLETON. Mr. President, now with the administration's belated decision to use $20 million in EFMS funds appropriated in fiscal 1972, there is some hope that additional Federal funds will be made available to the supplemental food program in St. Louis.

Kansas City's supplemental food program was begun in December 1971 as a joint effort of the Kansas City Health Department and the Human Resources Corporation. As in St. Louis, administrative funds have been provided through the emergency food and medical services program.

When Kansas City made application for the supplemental food program they were informed by the Department of Agriculture that the ground rules had been changed so that in new program areas supplemental foods would be provided for children only to the age of 1 year rather than to age 6 as in St. Louis and other areas already in the program.

In May of this year local sponsors in Kansas City were notified that because Jackson County was transferring from the food distribution program to the food stamp program their supplemental food program would be terminated. The ground rules had been changed once again so that areas implementing the supplemental food program after a certain date would not be permitted to continue it concurrently with the food stamp program.

Following inquiries by the area's congressional delegation and the Department's review of the situation, the decision to terminate the program in Jackson County was reversed on the ground that the program also serves two nonfood stamp counties in the Kansas City metropolitan area.

Today, therefore, it appears that the supplemental food programs in both St. Louis and Kansas City have new leases on life. But for how long? Perhaps until the Office of Management and Budget again decides to withhold appropriated funds or until the Department of Agriculture again decides to change the ground rules.

It has occurred to me, and I would hope to others, that this is not the way to run a war on hunger.

The Humphrey amendment would authorize a 2-year pilot program to supplement the diets of pregnant or lactating women and of infants up to 4 years of age who are at nutritional risk because of low income and inadequate diet.

Funds would be distributed through State health agencies to neighborhood clinics and other facilities which deliver medical services in low-income areas. Iron enriched formula for infants would be provided in addition to other supplemental foods made available by the Department of Agriculture. Up to 10 percent of the funds provided would be available for administrative costs.

It is estimated that this program, funded at $20 million annually, would reach 400,000 infants and children who might otherwise be irreversibly damaged, physically and mentally, by inadequate nutrition.

If all of our pronouncements about ending hunger in America are to be anything more than empty words we can do no less to prevent malnutrition among this most vulnerable age group.

I urge the adoption of the Humphrey amendment.

EQUAL OPPORTUNITY NOT POSSIBLE FOR NUTRITIONALLY DEPRIVED INFANT

Mr. SYMINGTON. Mr. President, I support the amendment offered by Senator HUMPHREY to establish a 2-year pilot program to provide supplemental nutritional assistance for mothers and infants during prenatal and postnatal months.

The effects of inadequate nutrition in the last 6 months of pregnancy and the first 6 months of life are tragic. Stunted growth, low weight, small head circumference, and other deformities can lead to intellectual and behavioral impairment which too often cannot be corrected, even if improved nutrition is provided at a later age.

Thus, a nutritionally deprived infant begins life at a severe disadvantage, and almost from the start, has long any chance for an equal opportunity.

The present supplemental food program has provided nutritionally-enriched commodities to low-income women and infants; however, the Department of Agriculture has begun to phase out this program on the grounds that it is inefficient and benefits more people than those falling within this particularly needy group which it is intended to reach.

At the present time, the supplemental food program services thousands of Missourians in 54 areas throughout the State. Many Missourians have written me to explain the serious hardship which could result if some kind of special assistance is not continued for new born babies and their mothers.

St. Louis has operated the most extensive supplemental food stamp program, providing 8,000 to 11,000 people per month with assistance. Benefits have been made readily available with a minimum of redtape, enabling the lowest income mothers and their babies to be helped.

Two years ago when the supplemental food program began operation in St. Louis and St. Louis County, the area had one of the three highest infant mortality rates in the country. The currently dropping rate is being attributed by many to the supplemental food program which not only has improved the nutritional value of food for needy women and their babies, but has also provided an incentive for pregnant women to seek prenatal care.

With such positive results it would be unthinkable to permit a lapse in the nutritional gains for these needy St. Louisians. Because of the success of the past 2 years, we hope that St. Louis can be one of the first areas to benefit from the infant feeding program which would be authorized by this amendment.

Insuring adequate nutrition during prenatal and postnatal months is crucial if we are truly to end hunger in America. This program proposed by Senator HUMPHREY would be workable and could eliminate some of the problems under the current supplemental food program. It would benefit those Americans who have the greatest need for nutritional assistance. I urge the Senate to pass this amendment.

Mr. HOLLINGS. Mr. President, I am pleased to join my colleagues in support of the amendment to set up a special supplemental feeding program for pregnant and lactating mothers and infants.

There is a program in several counties of my State which has proved to be one of the most successful antimalnutrition efforts launched in the United States. Unfortunately, this program is being stifled by the Nixon administration which has refused to allow its expansion. This is the program we have referred to as "prescription feeding." Through it, we have identified and treated women and children of high nutritional risk. We have been able to obtain medical treatment for persons who otherwise would never see a doctor. We have been able to obtain milk and other specially formulated foods for children who are in a critical stage of their development. We have been able to save literally thousands of children from the threat of brain-crippling malnutrition.

I commend the Senator from Minnesota for his leadership on this issue. We have shown beyond doubt in South Carolina that it is better to feed the child than jail the man. Money spent to give a poor child a nourishing breakfast and a good school lunch are worth literally millions of dollars in savings to the American taxpayer. A child who can be launched into life with a healthy body and healthy mind can be a life-long contributing member to society. A child whose body and brain have been stunted by malnutrition will be a constant reminder to society of its unfulfilled obligations.

This pilot program—admittedly only a trial program—will, I am certain, prove to the scientists, as well as the social planners, that the best way to eliminate malnutrition is at the level of pregnancy and early childhood.

The national nutrition survey, launched by the Congress nearly 5 years ago, has definitely proved that malnutrition still exists in this land of plenty. We have the facts. Now we need to act. This is the kind of program which can get at the heart of our problems and save millions of children from the threat of malnutrition. We have been asked before to save our children and we have provided only half-hearted response. On this issue, we cannot afford to take halfway action.

Additionally, I am pleased to cosponsor amendments protecting the security of children now participating in the free or reduced prices in school lunch programs. If there is any one thing this Congress can take pride in, it is the establishment of our school lunch program for millions of needy children throughout this Nation. This amendment simply makes certain that those children who took part in the program last year will not be denied participation in the future. A third amendment provides that poor school districts will no longer have to contribute funds to build lunch room facilities. These amendments recognize an established fact—a hungry child

cannot learn. Providing an adequate diet for a school child feeds both the body and the mind.

Mr. HUMPHREY. Mr. President, of all the programs important to have healthy American people, this is it.

The first few years of life are critical. Educators and doctors now tell us that a child's brain capacity and learning capacity is pretty much determined in his earliest years of infancy.

We see here in one of these photographs what happens to the brain casing itself. The early months are most critical. This child was malnourished, her brain casing enclosed. With the right food nutrients her brain began to grow. However, she will still be retarded because the problem was not caught early enough. There is demonstrable evidence that with proper food, particularly with proper vitamins and protein, a child can be rescued in part from malnutrition. Surely with proper food, during the prenatal and postnatal periods, a child has a chance for a normal life.

I want to say to the Senate that I have had a long interest in this matter, and my wife likewise. We are deeply concerned about the problem of handicapped children.

In the President's Committee on Mental Retardation, started by President Kennedy, and continued by President Johnson and President Nixon, there is demonstrable and unequivocal evidence that proper feeding, both during the prenatal and postnatal periods, is possibly the most important thing we can do to relieve or to prevent so-called mental retardation, at least in some forms.

I am hopeful that the Senate will adopt the amendment. It is not an extravagant one. We are proposing here for fiscal year 1973 and 1974, $20 million for each of those years, with the first year's funding to come out of section 32 funds, to be reimbursed from supplemental appropriations.

I believe it is time to take action to end this tragic cost of malnutrition and subnutrition among the young.

As I have said, medical research has established clearly that nutritional dedeficiencies can reduce the physical and mental damage to an individual, especially when it occurs during the later months of pregnancy and the first 6 to 12 months following birth.

We have had a number of projects underway to help the estimated 400,000 children who would otherwise suffer from physical and mental retardation such as we have seen in the case of Lucy. There are programs at the St. Jude's Hospital in Memphis; the Johns Hopkins Hospital in Baltimore; the Ford Hospital in Detroit; and one of the general hospitals in St. Louis, each of which has been of unlimited assistance in regard to stressing the importance of this program.

In fact, most of the witnesses who appeared before the committee, concentrated their testimony on this particular program. I have put in the RECORD these past few weeks a number of scientific articles that show the value of this program.

So, when there is an argument made that we have not any evidence, may I say that the medical journals are filled with this evidence. Likewise the records of the Subcommittee on Nutrition of the Senate is filled with evidence in support of this program. There is no lack of evidence, only a lack of action.

What we are proposing here is that we be able to take up and deal with some of the needs that have already been demonstrated. For example, we know that there are some 400,000 children who would profit from this program. All we are saying is that we would like to have programs which could be established such this amendment proposes and such as we have already have in operating a number of hospitals.

I might add that this program will be operated under the jurisdiction of a health agency working with established institutions of health so that it will not be mismanaged in terms of some of the other programs. It will be a health project carried out to take care of the health needs of people.

What is the average cost for 6 months? The average cost per child for 6 months is $40 for this special feeding program. That is what we are talking about; $40 for 6 months. That is not very much. That is about $7 a month to save a life and it really means just that, saving a life or at least making life worth living.

I would hope that the Senate would not cut back this program. I have offered a modest program, $20 million to undertake pilot programs in States that today do not have them and to help some of those programs that are now underway which are supported by private donations.

And the testimony indicates that a great effort has been made under private auspices. I think it is time now that we start to move cautiously and prudently and with measured steps, under proper medical guidance, to get the program underway.

Mr. CURTIS. Mr. President, I offer an amendment to the amendment.

The PRESIDING OFFICER. All time has not expired.

Mr. MILLER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Alabama has 20 minutes on the amendment. The Senator from Iowa has 38 minutes on the bill.

Mr. ALLEN. Mr. President, I yield 5 minutes to the Senator from Iowa.

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

Mr. MILLER. Mr. President, as has been stated previously, the Committee on Agriculture and Forestry rejected the special supplemental food program proposed in this amendment.

The committee rejected the amendment—not because it was opposed to proper nutrition for pregnant women and infants but because the committee wished to hear more testimony on the subject.

The Department of Agriculture has been conducting a pilot food certificate program in Chicago; Bibb County, Ga.; Brazos County, Tex.; Yakima County, Wash.; and the northern portion of Vermont.

Cornell University under contract with the Food and Nutrition Service of the U.S. Department of Agriculture has prepared an evaluation and pilot food certificate program. Under the program, food certificates for purchase of fluid milk for adults, and iron fortified formula and baby cereals have been furnished families with pregnant and lactating women and infants.

An independent evaluation of this program by Cornell University has resulted in the conclusion that the program did not significantly increase milk and formula intake by infants; there was no consistent increase of milk intake of either pregnant women or mothers; there was no appreciable substitution of commercially-prepared infant formula, and thus it did not contribute to the intake of iron by infants.

This was prepared by Dr. Robert Wunderlee and Dr. Call of the graduate school of Cornell University. On page 7 of the report we find these observations:

THE PILOT FOOD CERTIFCATE PROGRAM

1. The rates of participation in the two pilot areas indicate that the program successfully reached the target population.

2. The program successfully reached segments of the low income population which did not receive Food Stamps and/or public assistance.

3. The pilot program was well accepted by the recipients, with few problems reported about the use of the certificates.

4. The amount of the food certificate stipend was reported to be adequate by a majority of recipients.

5. The conduct of the Pilot Food Certificate Program was compatible with the normal operations of both health clinics and retail food stores.

6. The pilot program did not significantly increase either the quantity of milk and/or formula intakes of infants age 1 through 5 months, nor did it increase their nutrient intakes.

I particularly invite the attention of the Senator from Minnesota to this item:

7. The pilot program did not significantly increase the quantity of milk and formula intakes of infants 6 through 12 months of age, nor did it increase their nutrient intakes. Since the Certificate Program did not successfully encourage substitution of infant formula for whole milk in this age group, the problem continues. Caloric intakes in this age group are actually excessive in Georgia and the program could be contributing to problems of overnutrition.

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

Mr. MILLER. I yield.

Mr. HUMPHREY. I am not talking about whether we increase consumption, but what it does to the basic health of the individual. There is not a scintilla of doubt that the proper nutrients, which my amendment provides, make a decided change in the physical and mental capacity.

The study reported by the Senator from Iowa depended on 24-hour "recall" of what the mothers fed their children. Many mothers do not remember with perfect accuracy, and others will report what makes them sound like good

mothers. Nutritionists and doctors rely on "recall" only when it is complemented by biochemical tests and physical exams. The study referred to by the Senator used neither. Therefore, it is not regarded as a reliable measure and is not good cause for rejecting the program.

Mr. MILLER. Yes. There is no question that the increased nutrient value of the food will have that result, but that is not the question before the Senate.

The question is whether this type program has done it and the conclusion is as follows:

The pilot program did not significantly increase the quantity of milk and formula intakes of infants 6 through 12 months of age, nor did it increase their nutrient intakes.

That is the critical question that the Senator from Minnesota must meet in connection with his amendment.

The paragraph states:

7. The pilot program did not significantly increase the quantity of milk and formula intakes of infants 6 through 12 months of age, nor did it increase their nutrient intakes. Since the Certificate Program did not successfully encourage substitution of infant formula for whole milk in this age group, the problem continues. Caloric intakes in this age group are actually excessive in Georgia and the program could be contributing to problems of overnutrition.

Another conclusion is:

8. The program did not successfully increase the milk intakes of either pregnant women or mothers of infants in a consistent fashion.

9. By implication, the income elasticity for program foods of the target families is very small, i.e., near zero.

The report goes on to state:

The Food Certificate Program did not effectively increase the quantity or quality of the diets of the participants relative to the control groups. Its failure to enhance the diets of infants 1 through 5 months of age can be explained largely as a function of the relatively adequate diets of infants in the control groups. The program's failure to increase mother milk consumption and the substitution of commercially prepared formulas milk in the diets of infants 6 through 12 months cannot be explained in terms of consumption characteristics of the control groups. Since the Pilot Program was widely accepted by the target population and because it did not significantly influence either the qualitative or quantitative aspects of the diets, the program performs the function of an income maintenance program.

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

Mr. ALLEN. I yield 1 additional minute to the Senator.

Mr. MILLER. May I say that I think every member of the Committee on Agriculture and Forestry, and in fact every Member of the Senate recognizes the relationship between malnutrition and some of the undesirable effects which the Senator from Minnesota has very eloquently called to our attention. But that is not the point. The point is whether we should move into this program, a new program, in addition to other ongoing programs before we have the necessary scientific evaluation of present programs which will enable us to be sure we are going to have an effective program.

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

Mr. CURTIS. Mr. President, I offer an amendment to the amendment of the distinguished Senator from Minnesota.

The PRESIDING OFFICER. Does the Senator from Alabama yield back the remainder of his time?

Mr. ALLEN. No.

The PRESIDING OFFICER. The Senator's amendment is not in order until then.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Is it necessary for the time to be yielded back before the amendment is offered?

The PRESIDING OFFICER. It is necessary for the time to be consumed or all yielded back.

Mr. CURTIS. I withdraw my amendment.

Mr. ALLEN. Mr. President, I yield myself 12 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I am in full support of the humanitarian objectives of the distinguished junior Senator from Minnesota. No one could be more interested than I in raising the nutritional standards of infants from poor families, or for any families for that matter.

However, I must oppose the pending amendment because I have serious questions about its impact. This amendment has already been rejected by the Committee on Agriculture and Forestry because it did not have an opportunity to carefully consider this proposed new program for infants and mothers. The committee had no opportunity to find out how this proposed new program would differ from existing programs now being conducted by the U.S. Department of Agriculture. It had no opportunity to give this proposal the kind of careful consideration that is necessary to establish a workable program. The author of this amendment introduced it as a part of a separate bill. He introduced it on June 8, 1972, as a separate bill. The committee has not had an opportunity to hold hearings on it. The committee has not had an opportunity to consider it, and the committee has not had an opportunity to consider the framework set up by this amendment in relation to the other programs.

Already there are nine programs, to which I have alluded in my discussion today of nutrition programs for children, conducted by the Department of Agriculture, and others conducted by OEO and HEW. This would set up an entirely new program paralleling and overlapping in many instances the existing program. Nothing has been said about the supplemental food program which parallels almost completely the scope of the Senator's present amendment, and I assume the Senator has no knowledge of this program because he did not discuss it. It is the supplemental food program now being administered by the Department of Agriculture for the benefits of pregnant and lactating women, infants, and children through 5 years of age. It is exactly what the Senator seeks to do but going exactly a different route, setting up more administrative costs, more machinery, and more bureaucracy for doing the same thing now being done by the supplemental food program for the Department of Agriculture.

This program currently offers selected, nutritious foods to persons in low-income groups considered especially vulnerable to malnutrition—specifically, women durign pregnancy and for 12 months postpartum, infants under 12 months, and children through 5 years of age, which I believe is exactly the scope of the amendment of the Senator, but he would provide an entirely different set of machinery, more overhead, more Federal payroll, and more Federal bureaucracy.

Medical authorities prescribe these foods, which include evaporated milk, canned meats and vegetables, peanut butter, scrambled egg mix, corn syrup, fruit juices, and iron-fortified farina and instant rice cereal, to eligible women, infants, and children.

The Department donates the foods and pays for the cost of delivery to points designated by the State distributing agency. Thereafter, State and local agencies are responsible for storage, handling, and distribution of the foods.

For fiscal year 1972, $15.1 million was budgeted for food costs for the supplemental food program. The latest complete figures, May 1972, show 264 project areas participating with a total caseload of 164,298 recipients.

If the distinguished Senator from Minnesota wants to do something in this area—and I think it very fine that he do so—I think it ought to be subjected to hearings to see just how it would fit into an existing program. Why not add this to the existing efforts of the Department of Agriculture, and not set up new money to be sent down to the various departments of health under no schedule whatsoever, under no framework stipulated as to how the money is going to be distributed, what is going to become of it after a grant is made, but after a department has carried on a program of this kind—and I assume he would be interested in some other information about this program——

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

Mr. ALLEN. I yield.

Mr. HUMPHREY. I am very much aware of the program, and it is to be commended. It is a good program, but there is a great deal of difference. Much of that program relates to surplus commodities. What I am talking about is a supplemental feeding program that is vitamin enriched, that is mineral enriched, for children that are medically determined as being at nutritional risk. This other program does not apply to medically determined nutritional risks.

Mr. ALLEN. I think the Senator is mistaken, because I have information from the Department showing medical authorities prescribe these foods.

Mr. HUMPHREY. Yes.

Mr. ALLEN. It comes from medical authorities.

Mr. HUMPHREY. The type of program we are talking about involves infants, prenatal and postnatal. The State of Maryland applied for assistance for hospitalization in low-income areas for chil-

dren who were adjudged by the medical profession to be at nutritional risk, and the Department of Agriculture turned it down, saying they did not have the means to take care of such a request.

This is a program that relates to the kind of food children and babies should receive, prepared food, food supplements, mineral supplements, chemical supplements, vitamin supplements, that are in mixed formula that we see in stores, particularly in pharmacies, that mothers can purchase for their children, some under doctors' prescription.

Mr. ALLEN. Mr. President, under the existing program $15.1 million was budgeted for food costs and supplemental food programs. The latest complete figures for May 1972 show there were 154,000 recipients. It would occur to the Senator from Alabama that if a denial was made to the people in Maryland applying for this program, it might well be that some money could be pumped into this program, rather than set up an entirely new program, adding to the Federal bureaucracy, having more red tape, with this Department still operating a supplemental food program of $15.1 million.

I believe the Senator is suggesting an authority of $20 million. The overhead would come out of that $20 million. Under this program there is $15.1 million for these fortified foods, plus the amount of the overhead. So there would be more moneys going into food under the present program of the Department than would go under the Senator's proposal.

That is in addition to the program mentioned by the distinguished Senator from Vermont (Mr. AIKEN), the food certificate program, which is a pilot program. Under that pilot program the money was not sent through the Department of Health, Education, and Welfare. It is a program set up in the Department of Agriculture, and food certificates are issued under the pilot program. Yet the Senator would set up an entirely different approach, just adding layer on layer to the Federal bureaucracy.

What we are seeking is that the Senator give the committee a little time to hold hearings and see how this program the Senator envisions can be worked into the existing programs and the existing machinery. It might be that a consolidation could result. But the Senator just comes in here and offers on the floor of the Senate a separate plan to the school lunch bill, something we are trying to get passed before the start of the school year.

The Senator from Iowa said there was a likelihood that the House, if the Senate passed the Senate Agriculture Committee version of that bill, would take the bill as amended here in the Senate.

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

Mr. ALLEN. I want to complete my thought. I fear that if a new program, separate and apart from the school lunch program, is added to the bill, then it would very definitely have to go to conference and we would not get it out until after the start of the school year.

Mr. HUMPHREY. I have conversed with the distinguished chairman of the House committee——

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Minnesota has no time remaining. The Senator from Alabama has 2 minutes remaining. The 12 minutes he yielded himself has expired.

Mr. ALLEN. I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. I wanted to correct the Senator's impression. The distinguished chairman of the House Committee on Education and Labor, Representative PERKINS, not only indicated to me, but said to me—in fact, it was right here in this body a short time ago—that he was fully in support of this proposal, that it would be readily acceptable, because he felt it was definitely needed and he would cooperate right down the line.

Mr. ALLEN. I appreciate the information given by the distinguished Senator, but that is one Member and I understood it would take unanimous consent of the House in order to approve the measure without going to conference, so I do not believe, under the rule, that would be permitted.

Mr. HUMPHREY. I am not familiar with all the procedures in the House, I may say, but I understand that because this is an amendment to existing legislation, it is not a new program but is a supplement to the existing program.

Mr. ALLEN. I appreciate the Senator's discussion of the House rules.

I yield back my time and ask that the amendment be rejected.

Mr. CURTIS. Mr. President, I have an amendment at the desk which I ask to be read.

Mr. MILLER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. MILLER. Has all time been yielded back on the pending amendment?

The PRESIDING OFFICER. All time has been yielded back or has expired on the pending amendment.

The Clerk will state the amendment of the Senator from Nebraska to the amendment.

The legislative clerk read the amendment to the amendment as follows:

On page 4, line 21 of Amendment No. 1431 strike everything after "The Secretary" through page 5, line 2 and insert in lieu thereof: "and Comptroller General of the United States shall submit preliminary evaluation reports to the Congress not later than October 1, 1973; and not later than March 30, 1974, submit reports containing an evaluation of the program provided under this section and making recommendations with regard to its continuation."

Mr. CURTIS. Mr. President, it would be my hope——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. CURTIS. How much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. CURTIS. I yield myself 5 minutes. It would be my hope that the distinguished author of this amendment might accept my amendment. I will explain what it does.

The amendment of the Senator as now written provides that the Secretary shall submit to Congress no later than October 1, 1973, his recommendations regarding appropriations to be authorized for the continuation and expansion of the program under this section.

Mr. President, keep in mind that this is a pilot program. The committee has held no hearings on it and the amendment as written would require the Secretary to make recommendations for the authorization of appropriations for the continuation and expansion of the program. That is the pilot program.

Now, what my amendment would add to that would provide this:

The Secretary and the Comptroller General shall submit preliminary evaluation reports to the Congress not later than October 1, 1973; and not later than March 30, 1974, submit reports containing an evaluation of the program provided under this section and making recommendations with regard to its continuation.

Again, Mr. President, I point out that here we are not asked to authorize, at a cost of $40 million, a pilot project, and direct that at the end of that time the Secretary shall recommend authorization of legislation for its continuance, but my amendment says that the Secretary and the Comptroller General shall submit a preliminary evaluation report by October 1 next year and by not later than March 30, 1974, submit reports containing an evaluation of the program and making recommendations with regard to its continuance.

I believe the amendment that I have offered speaks for itself. I think it represents a sounder legislative process. It will give Congress information and an evaluation that should be of material help if Congress decides to continue this program, and I believe that if the amendment of the Senator from Minnesota is advanced and accepted by the Senate, this amendment ought to be in it.

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

Mr. CURTIS. I yield.

Mr. HUMPHREY. I think the proposal of the Senator from Nebraska, who is one of the most able members of our committee, is sound. I think it represents the kind of prudent approach we ought to take. I am perfectly willing to support the Senator's amendment, and I hope it will be adopted as an amendment to the amendment I have offered on behalf of myself and other Senators.

Mr. CURTIS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. CURTIS. I yield.

Mr. ALLEN. Did I correctly understand the Senator to say that in 1973 the Secretary and the Comptroller General will make a report, and then in 1974 make another report?

Mr. CURTIS. In 1973 they will make a preliminary evaluation report, and then, not later than March 30, 1974, submit a reevaluation of the program and make recommendations regarding its continuance.

Mr. ALLEN. Does the Senator feel, in the first place, that there would be a chance that the Comptroller General and the Secretary, no matter how misman-

aged the program was, and no matter how much it might overlap the work of other bureaus and departments, would recommend its discontinuance? And even if they did, does the Senator feel that Congress would pay any attention to them?

Mr. CURTIS. I would hope so, and that Congress would use that information. The alternative is the language already in the amendment of the distinguished Senator from Minnesota, which is that the Secretary shall submit to Congress no later than October 1 of 1973—in just a little over a year—his recommendation regarding appropriations to be authorized for the continuance and expansion of the program under this section.

In other words, the Secretary is directed, under the language of the amendment as it now stands, to make his recommendations for an authorization. My proposal would have the two agencies evaluate the program and give us a preliminary report, and then a final report, together with their recommendations.

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

Mr. CURTIS. I yield.

Mr. HUMPHREY. I think the Senator from Nebraska has given us a constructive proposal. I do not see us jamming the program down anyone's throat. I think the evaluation is necessary, and very well taken. We would get separate types of evaluation from the two sources, and I hope the evaluations would recommend to us the kinds of things we might do to either approve the program or, if it does not prove out—but I am sure it will—make recommendations for its conclusion.

Mr. ALLEN. Would the Senator consider rewording his amendment to the effect that the program would expire at the time he suggests unless the Secretary and the Comptroller General made that certification, and not put that duty and responsibility upon Congress, to enact legislation bringing it to a close?

Mr. CURTIS. It is my understanding that this is a 2-year program, anyway.

Mr. HUMPHREY. A 2-year program.

Mr. CURTIS. And does expire.

Mr. ALLEN. But would there be any objection to wording it the other way?

Mr. CURTIS. I do not believe it is necessary.

Mr. ALLEN. Well, if the Senator does not believe it is necessary, would it hurt to put it in that way?

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

Mr. CURTIS. I yield.

Mr. HUMPHREY. This is a 2-year authorization that would automatically expire unless reauthorized, and therefore, within the time frame of the 2 years, the amendment of the Senator from Nebraska would follow. So there is no continuity. I say respectfully to the Senator from Alabama; we would have to come back and reevaluate, no matter what, before extending its authorization.

Mr. ALLEN. We have to do that with every department and agency. We have to do it every year.

Mr. HUMPHREY. Not every year. Many times programs are authorized for 4 or 5 years. I happen to believe in shorter authorizations. That has been my general principle.

Mr. ALLEN. But we have 13 or 14 appropriation bills every year, and that many authorization bills. Of course, there are some programs that are for a longer period, where the authorization is for 2 years. But naturally, it is going to be for some period; it is not going to be a permanent authorization. It has to end sometime.

Mr. HUMPHREY. I respectfully suggest that the bill before us is a 3-year authorization, and this is an amendment to that bill which provides but a 2-year authorization, so we have cut back, and I believe this is a time frame in which we can do justice to it.

Mr. CURTIS. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Alabama yield back the remainder of his time?

Mr. ALLEN. Mr. President, I do not have any time on this amendment. This is an amendment of the Senator from Nebraska to the amendment of the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER (Mr. BEALL). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the third amendment of the Senator from Minnesota, as amended.

The PRESIDING OFFICER. There is not a sufficient second.

The yeas and nays were not ordered.

Several Senators addressed the Chair.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Upon what vote were the yeas and nays requested?

The PRESIDING OFFICER. The request for the yeas and nays is being made on the amendment of the Senator from Minnesota as amended by the amendment of the Senator from Nebraska.

Mr. MILLER. Mr. President, will the Senator withhold his request for the yeas and nays?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I have no time.

Mr. ALLEN. There is no time remaining on the amendment.

Mr. MILLER. Mr. President, I yield myself 2 minutes on the bill.

I would like to address an inquiry to the distinguished Senator from Minnesota. One thing that troubles me is the possibility of duplicating and overlapping programs. As I have already pointed out, there are several pilot programs, which an independent study by the nutrition department of Cornell University had indicated were getting the job done.

I ask the Senator from Minnesota whether it would be feasible to provide in his amendment that this special supplemental food program, which I understand is the essence of the amendment, would supplant and replace other programs of this type being administered by the Department of Agriculture. In other words, as I understand it, some of these other programs, pilot programs, are going on which are not getting the job done. I am sure the Senator does not want to duplicate those. Why not just phase them out and replace them with this? I would think that that would be a much more effective way than to allow the others to continue.

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

Mr. MILLER. I yield.

Mr. HUMPHREY. First of all, may I say that this program is supplementary to what already goes on. It does not displace and it does not duplicate. It is not a duplication program.

The U.S. Department of Agriculture supplemental food program now serves infants only up to 1 year. My amendment goes beyond that. It did at one time serve them beyond 1 year, but no longer. The program we presently have relies primarily on commodities, in large measure, that that are reserve commodities or surplus commodities. It does not include infant formula.

Also, we found out from the pilot programs conducted elsewhere that there were a number of new models that could be much more serviceable if the type of program I am asking for were made available.

Mr. MILLER. Those programs—the food commodity program, for example—are not pilot programs, are they?

Mr. HUMPHREY. No; but some of these surplus foods have been used in the pilot programs we have been discussing here today.

Mr. MILLER. I understand.

Mr. HUMPHREY. These are enriched supplemental foods for child nutrition.

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

Mr. MILLER. I yield myself 3 additional minutes.

The Senator's program, by this amendment, is a pilot program; is it not?

Mr. HUMPHREY. It is to authorize funds to assist in pilot programs for infant feeding, for prenatal and postnatal pregnant women, and for lactating mothers.

Mr. MILLER. My point is that there are other pilot programs, such as those to which the Cornell University study was directed. Why could not the Senator have his amendment modified to provide that this special supplemental food program will supplant and replace any other pilot programs administered by the Department of Agriculture?

Mr. HUMPHREY. I have enough faith, even in the man I did not vote for, the Secretary of Agriculture, to see that we do not have duplicating programs for the same purpose going to the same hospital or the same agency.

All this amendment really is trying to do is to take care of a need that is not taken care of today, and that is for mothers, pregnant women, and children

in those early years immediately after birth who need special food supplements beyond what presently exists. The need for it has been established. The testimony in our committee was there. Most of the witnesses testified to the need for this program.

A recent conference on the supplemental food program, held in Detroit, came out in support of the very thing I am talking about here. The Supplemental Food Conference, in which the Department of Agriculture participated, asked for this improved type of nutritional aid. This is not the result of some harebrained scheme that the Senator from Minnesota concocted. This program is the result of a request by a conference on this subject in which the Department of Agriculture participated.

I would hope that we would do something about it here in a modest way, particularly with the Curtis amendment, which gives it the evaluation to which I have agreed.

If there is any duplication, we have people in the Department of Agriculture, and in the Senate committee who will be reviewing all these programs next year who will note such duplication if any exists. We have asked the General Accounting Office to review the program. We have asked the Secretary to review, evaluate and make recommendations regarding the continuation of the program. I think that should be adequate.

Mr. MILLER. It seems to me that the Senator would not want to have any of these other pilot programs going on, especially if they are not getting the job done. I cannot understand why he would object to a provision in his amendment which would make it clear that the program he proposes to authorize by the amendment will replace and supplant any other pilot program in this area. I think it would be very helpful to fold in all types of other programs, under this one.

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

Mr. HUMPHREY. Mr. President, will the Senator yield me a half minute?

Mr. MILLER. I yield.

Mr. HUMPHREY. I respectfully say that, so far as the Senator from Minnesota is concerned, he wants no duplication. The purpose of this is not duplication. The purpose is what the amendment says—supplemental.

Mr. MILLER. Mr. President, if that is the purpose, what would be the objection to putting a provision at the end of the amendment to so state?

Mr. HUMPHREY. Because we do not have enough information about all these programs at this minute to make that kind of assertion.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as amended.

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

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Alaska (Mr. GRAVEL), are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. GAMBRELL) and the Senator from Wyoming (Mr. MCGEE), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Illinois (Mr. PERCY) is absent to attend the funeral of former Senator Ralph T. Smith.

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

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER), would each vote "yea."

The result was announced—yeas 67, nays 16, as follows:

[No. 380 Leg.]

YEAS—67

Aiken	Fong	Moss
Anderson	Fulbright	Muskie
Baker	Goldwater	Nelson
Bayh	Griffin	Packwood
Beall	Gurney	Pastore
Bellmon	Hart	Pearson
Bentsen	Hartke	Proxmire
Bible	Hatfield	Ribicoff
Brooke	Hollings	Roth
Burdick	Hughes	Saxbe
Byrd, Robert C.	Humphrey	Schweiker
Cannon	Inouye	Scott
Case	Jackson	Smith
Chiles	Jordan, Idaho	Spong
Church	Kennedy	Stafford
Cook	Long	Stevens
Cooper	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Taft
Dominick	McIntyre	Tunney
Eagleton	Metcalf	Williams
Edwards	Mondale	
Fannin	Montoya	

NAYS—16

Allen	Eastland	Sparkman
Bennett	Ervin	Stennis
Buckley	Hansen	Talmadge
Byrd,	Jordan, N.C.	Thurmond
Harry F., Jr.	McClellan	Young
Curtis	Miller	

NOT VOTING—17

Allott	Harris	Pell
Boggs	Hruska	Percy
Brock	Javits	Randolph
Dole	McGee	Tower
Gambrell	McGovern	Weicker
Gravel	Mundt	

So Mr. HUMPHREY's third amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENTSEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 16 after line 22, insert a new section to read as follows:

"Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by inserting the words 'for the preceding fiscal year' after the phrase 'per centum of the matching requirement' each time such phrase appears in such section."

Mr. BENTSEN. Mr. President, I rise to offer an amendment to the bill under consideration, H.R. 14896. My amendment would allow States to avoid a potential problem caused by the increase in matching Federal funds provided under this legislation, and also correct a flaw in the original act that has frustrated both the responsible governing State agency for this program and State legislatures alike.

Section 4 of H.R. 14896 provides an average rate of Federal reimbursement of 8 cents for each lunch served under the national school lunch program of which the State pays 12 percent. This is an increase of 2 cents above the 6-cent rate in fiscal year 1972, and 2 cents per lunch above the amount budgeted for the school lunch program in the recently passed Agriculture Appropriations Act.

Passage of H.R. 14896 will automatically and immediately increase the amount of funds which States will be required to appropriate in order to match Federal funds. This will be the case since present law requires States to match on the basis of the Federal funds received in the current fiscal year.

This new funding formula would create critical problems in the program for many States. For example, in my own State of Texas, the Texas Education Agency which is responsible for administering the school lunch program had already planned to match Federal funds on the basis of the 6-cent rate contained in the administration's budget and had successfully gone to the State legislature and received the correct appropriation. However, because of the increased rate that will be caused by this legislation, the State money already approved will be insufficient matching under the new formula. This will require a special session to be held, or else deplete an emergency contingency fund which could be utilized elsewhere. Mr. President, that would be a very undesirable result of the passage of this legislation. We are all interested in achieving a more coordinated not a less coordinated program.

In additional, the present language of section 7 of the School Lunch Act, as amended, has created hardship both for the responsible State agency and the State legislature. It requires an estimate by the agency prior to the end of the fiscal year, at a time when the full

amount of Federal funds to be received by the State are not known.

My amendment, therefore, proposes to relate State matching requirements to the preceding fiscal year rather than the current year. This would allow the State agency responsible for this program to present an accurate budget request to the legislature as represented by the actual cost of the preceding year's program, instead of guessing what the Congress might do.

I am confident that my fellow colleagues will realize the importance of this amendment to good fiscal and program responsibility. I am sure it will allow this very valuable program to function more efficiently and smoothly.

A problem has arisen in this situation when the Federal Government raises the price from 6 to 8 cents per meal. In the State of Texas and in some other State legislatures they have already met and provided their matching funds based upon the preceding year's formula. We are now raising it an extra 2 cents. This requires the States to come up with an additional amount of money.

This would mean that the State legislature of the State of Texas would have to go back into special session—and this would be true in the case of some other States, as well—and would have to do this same thing over again. What I have done, in effect, in this amendment is to put in a grandfather clause so that we could use last year's apportionments in this case to take care of the increase. The States would be acting in each instance on the basis of the preceding year. So if the legislature met, they would have an exact fix on the amount of funds required.

Mr. President, I have taken this matter up with the distinguished Senator from Alabama. And I would appreciate any comments that he might have to make on the matter.

Mr. ALLEN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. ALLEN. Mr. President, the amendment offered by the distinguished Senator from Texas (Mr. BENTSEN) will give a year's leadtime in meeting the matching requirements under section 4 of the School Lunch Act and allow the States to use the matching requirement of the preceding fiscal year in appropriating funds to meet the matching requirement.

We have taken this matter up with the Department of Agriculture and they agree with the soundness of the amendment. On behalf of the committee, I am willing to accept the amendment and recommend its passage.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Alabama. Based upon his statement, I yield back the remainder of my time.

Mr. ALLEN. 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 Texas.

The amendment was agreed to.

Mr. CASE. Mr. President, I call up my amendment No. 1433, as modified.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with; that the amendment be printed in the RECORD; and that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of this amendment.

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

The amendment is as follows:

On page 15 strike out all after line 22, over to and including line 13 on page 16.

On page 16, line 14, strike "SEC. 8" and insert SEC. 7.

Mr. CASE. Mr. President, the amendment is offered also by the Senator from Minnesota (Mr. HUMPHREY), whose name unfortunately was omitted by mistake in the printing of the amendment. It is also offered by myself, as well as by Senators AIKEN, BENNETT, TUNNEY, BURDICK, MOSS, MAGNUSON, MCGOVERN, JACKSON, MUSKIE, and HART. If other Senators would like to have their names added to the amendment, they may ask me and it will automatically be done.

Mr. President, this amendment, cosponsored by Senators AIKEN, HUMPHREY, BENNETT, TUNNEY, BURDICK, MOSS, MAGNUSON, MCGOVERN, JACKSON, MUSKIE, and HART will strike the language reported in the Senate version of H.R. 14896. At the present time vending machines are permitted in school cafeterias if they are part of the school lunch program, but vending machines are not permitted for the distribution of competitive food items. However, vending machines are permitted outside the cafeteria for distribution of items such as soft drinks, if the school so permits.

I ask this amendment be accepted without any desire to cut off entirely the use of vending machine devices. These are in wide use now and my amendment would have no effect at all on their continued use. Indeed, the fact that this legislation authorizes $40 million for school equipment, some of which will be spent on vending devices, makes clear there is no effort to discontinue their present use.

The purpose of this amendment is to retain the integrity of the existing school lunch program, and nothing more.

Mr. President, under current law the Secretary of Agriculture has authority to regulate competitive food services. The Senate version of H.R. 14896 would remove this authority from the Secretary and, in effect, leave the question of competitive food services up to the States and local school districts. School lunch directors are fearful they would be forced to allow vending machines in school cafeterias. Certainly this would weaken their effort to provide balanced and nutritious meals for all children.

The House version of H.R. 14896 would allow competitive food services to offer the sale of "nutritious food through vending machines—where the proceeds of such sales will inure to the benefit of the schools or of organizations of parents approved by the schools and (where) such sales will not substantially interfere with the (school lunch) programs so authorized."

Unfortunately, there is no workable definition of "nutritious foods" which could well mean "empty calories" and there would be substantial pressure not only to install such machines but, also, to use them to the advantage of fundraising organizations.

In my view we should retain the existing system while continuing to improve the quality of meals offered in the national school lunch program.

Returning to the original language of the School Lunch Act does not foreclose the option in the hands of the Secretary of Agriculture to allow certain exceptions. For example, senior high school students may desire soft drink machines in school cafeterias and if, in the Secretary's opinion, there is no sound reason to prohibit soft drink machines, the authority exists for him to take action.

Now, however, I think it is best to proceed as we have in the past and safeguard as well as we can the school lunch program. I urge the adoption of my amendment.

Mr. President, I cite my friend, the Senator from Vermont (Mr. AIKEN) on this, and he will back me up, I am sure. They want the Secretary to have the exercise of this authority.

Mr. AIKEN. Mr. President, probably in some sections school authorities would come under considerable pressure to install vending machines.

Mr. CASE. Mr. President, I thank the Senator from Vermont. Whenever one finds that he is on the same side as the Senator from Vermont, he usually finds himself to be quite comfortable. I am quite comfortable in this instance.

This is not an antivending machine amendment at all. It is quite possible to have vending machines. The Secretary has permitted them in numerous instances under the existing law. And that would still stand if my amendment were to be adopted.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the American Dental Association in support of my amendment.

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

AMERICAN DENTAL ASSOCIATION,
Washington, D.C., August 14, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: Enclosed is a partial bibliography of sources and explanatory material on the relation between sugar-rich foods and dental decay to document the statements in our letter to you of August 8, 1972. We hope this material is of use in restoring proper regulatory authority over competing food services and vending machines in this country's school systems.

Sincerely,

CARL A. LAUGHLIN, D.D.S.,
President, American Dental Association.
EDDIE G. SMITH, D.D.S.,
President, National Dental Association.

PARTIAL BIBLIOGRAPHY

The relationship between sugar-rich foods and dental decay was positively established and recorded in the Journal of the American Dental Association, in a well documented

study published in 1953 by the Council on Dental Health and the Council on Dental Therapeutics of the American Dental Association.

Because of the Associations' responsibility for safeguarding the dental health of the American public, the Councils were charged to document the known or potential hazards to dental health resulting from the frequent consumption of sweetened beverages and other sugar-containing substances. The Councils concluded:

"From the health point of view, it is desirable especially to have restriction of such use of sugar as is represented by the consumption of sweetened carbonated beverages and forms of candy which are of low nutritional value. The Council believes it would be in the interest of the public health for all practical means to be taken to limit the consumption of sugar in any form in which it fails to be combined with significant proportions of other foods of high nutritive value."

The report may be found in the October, 1953 issue of the Journal of the American Dental Association, p. 387.

Since that report, several independent studies have added to and amplified the conclusions reached by the Associations Councils. A partial listing of the most recent studies follows:

William Davis, D.D.S., Lincoln, Nebraska: *The Physical Character of Food as a Dietary Factor in Dental Caries Control;* The Chronicle of the Omaha District Dental Society, Volume 33: Feb., 1969, Pages 179–180.

Eleanor J. Edmonds: *Diet and Dental Health;* Texas Dental Journal, Volume 88: May, 1970, Pages 21–22.

T. H. Grenby, BSC, Ph.D.: *Some Aspects of Food and Dental Caries;* Chemistry and Industry, Volume 28: September, 1968, Pages 1266–1270.

R. L. Hartles, Ph.D., DSC: *Dietary Modification as a Means of the Control of Dental Caries;* Dental Health, Volume 10; Autumn, 1971, Pages 47–51.

P. B. V. Hunter, BDS: *Sugar and Dental Decay;* School Dental Service Gazette, Volume 30: October 1970, Pages 59–60.

William H. Keeler, MD, MPH and John E. Higgins, D.D.S., Roanoke, Virginia; *The Indiscriminate Distribution of Sweets to Children as Favors or Captive Purchases;* Journal of American Dental Association, Volume 75: October, 1967, Pages 903–907.

Ernest Newbrun, D.M.D., Ph.D.: *Sucrose, The Arch Criminal of Dental Caries;* Journal of Dentistry for Children, Volume: 36, July-August, 1969, Pages 239–248.

Abraham E. Nizel, D.M.D., MSD: *Dental Caries: Protein? Fats and Carbohydrates;* A Literature Review, New York Dental Journal, Volume 35: February, 1969, Pages 71–81.

J. D. Palmer, BDS, LDS: *Dietary Habits at Bedtime in Relation to Dental Caries in Children, British Dental Journal,* Volume 13: April 6, 1971, Pages 288–293.

Solomon N. Rosenstein, D.D.S.: *Systemic and Environmental Factors in Rampant Caries;* New York State Dental Journal, Volume 32: November, 1966, Pages 400–406.

Gordon Stevenson, MS: *Present Status of Programs to Control Dental Caries by Combining Lactobacillus Counts and Dietary Restriction of Carbohydrates;* Journal of Dental Education, Volume 35: June, 1971, Pages 41–42.

G. B. Winter, MB, BDS, FDS, DCH: *Sucrose and Cariogenesis;* British Dental Journal, Volume 124: May 7, 1968, Pages 407–411.

USE OF VENDING MACHINES IN SCHOOL LUNCH CAFETERIAS

Mr. HUMPHREY. Mr. President, I rise in support of the Senator from New Jersey's amendment. I joined as a cosponsor in offering this amendment because total removal of the Department of Agriculture's authority to regulate competitive food services in schools where school lunches are offered is not the answer. The committee amendment would totally remove the current authority of the Department of Agriculture to issue such regulations. The amendment which Senator CASE is offering would restore—or maintain—existing law on the matter, which for the present, is what I believe should be done.

Many of us recognize the desire on the part of high school students and some local school officials to further the use of vending machines in schools. However, we also recognize that unless such a move is carefully handled, the entire school lunch program can be easily subverted.

As Senator CASE has indicated, vending machines are now permitted in schools, in a limited fashion. They are permitted in offering certain school lunch items and are also permitted outside school cafeterias as it relates to soft drinks and the like.

Removal of the Department's existing authority to regulate this matter would likely subject local school officials to an onslaught of pressure by local vending machine owners to invade school lunchrooms with food items containing "empty calories" and other items which contribute little or nothing to meeting the daily dietary needs of students.

I have received close to 300 telegrams and letters from school food service officials in opposition to the Senate Committee amendment.

The House passed version of this bill contains a provision to permit the use of vending machines in offering "nutritious" foods, with the proceeds from such sales going to student organizations or the schools themselves. The House language also requires that such sales will not substantially interfere with the school lunch programs. In that the terms "nutritious food," and "substantially interfere with" are not defined in the House bill, I am concerned about altering existing law with that language as well.

It would seem to me that the Secretary of Agriculture has all the authority he currently requires to either restrict or permit the use of these machines in schools without making any changes in the law, including permission to use such machines to offer "nutritious" foods—the specific criteria for which he should determine, not Congress.

I believe the Senate should support the amendment being offered by Senator CASE and keep existing law intact on this matter. The Secretary should then be urged to examine this matter carefully to determine to what extent, if any, current regulations concerning the use of these machines should be liberalized in keeping with the basic dietary objectives of the school lunch program.

Mr. President, I want to point out that in the State of Minnesota, while we do permit vending machines, they are only permitted during what they call the school lunch hour because of the concern of school authorities over the lack of what we call nonnutritional food items. An effort has been made to keep the school lunch program a real nutritional program.

Mr. CASE. Mr. President, I thank the Senator from Minnesota.

Mr. ALLEN. Mr. President, among other things section 10 of the Child Nutrition Act of 1966 requires the Secretary of Agriculture to prescribe such regulations as he may deem necessary relating to the service of food in participating schools and service institutions in competition with the programs authorized under that act and the National School Lunch Act.

As a result of the statutory language and the legislative history as contained in Senate Report 91–641, the regulations promulgated by the Secretary of Agriculture effectively prohibit the operation for profit of food services or vending machines, in competition with the nonprofit school lunch program.

Section 7 of H.R. 14896, as approved by the House of Representatives, amends section 10 of the Child Nutrition Act of 1966 to provide that regulations governing school food programs permit the sale of nutritious foods through vending machines where the proceeds of such sales will inure to the benefit of the school and such sales will not substantially interfere with the programs authorized.

In its consideration of the bill now before the Senate the Senate Committee on Agriculture and Forestry adopted a subcommittee recommendation to rescind the statutory authority of the USDA to regulate the sale of food items in competition with programs authorized under the Child Nutrition Act and the National School Lunch Act.

In so rescinding this authority, the committee intends to leave the regulatory authority regarding competitive food services up to the States and local governments.

In its report the committee indicated that it did not wish to imply that it disapproved of the regulations issued by the USDA pursuant to their statutory authority. However, the committee did feel that the wide range of conditions which prevail around the country can best be taken into account by State and local authorities.

Under no circumstances is it the intent of the committee to expressely authorize competitive food services being served in competition with the school lunch and school breakfast programs.

Under the committee language, each State and local jurisdiction has the full right to adopt whatever regulations it deems appropriate under those local conditions which exist. Further, each State and local jurisdiction may continue the existing prohibition with respect to competitive food services. The committee is entirely silent in this area.

In essence, under the amendment adopted by the Committee on Agriculture and Forestry, each State or local jurisdiction is free to act in its own best interest and in the best interest of the children who participate in the school lunch and school breakfast programs.

Mr. President, the amendment now before the Senate would, in effect, continue the authority for the Federal Government to control from that level such food services which are complementary, sup-

plementary or even in competition with the regular lunch and breakfast programs.

Although proper nutrition is the primary purpose of the programs the Committee on Agriculture feels that this can best be accomplished at the local level.

I hope the amendment will be defeated.

In other words, the committee bill would allow that decision to be made by the local school authority. The local school authority would decide whether peanuts, candy, or other food items could be sold in the school building.

As it is now, the Secretary promulgates rules that withdraw from the States and local governments the authority to decide this question.

So the committee recommended and the bill reported by the Committee on Agriculture and Forestry would leave that authority in the hands of the local authority. It does not require that other items be sold over the counter or through vending machines, but it does permit the local school board to decide the question, to prescribe the rules, and set the conditions as to the items that may be sold.

It occurred to me it would be a whole lot better for a child to be able to purchase an apple, a bar of candy, or peanuts, or other food items in the school cafeteria, rather than to spend it on cigarettes or worse items which he might do if he wanted to spend his money somewhere else for something other than the school lunch program.

Possibly many children would not want to participate in the lunch program but would prefer to bring a sandwich from home and might want a soft drink or a bar of candy to go with the food that is brought from home.

Under the present regulations, the Secretary sets rules that forbid local governments, local school boards having their own regulations. Many of these counter sales or vending machine sales inure to the benefit of an athletic association or a student organization. Many of them inure to the benefit of a band. If the local school people want to permit the sale of nutritious school items there in the school for whatever purpose they want to have it, let the local people decide. Let the local people decide how they are going to run the program, without specific directives from Washington.

I understand the chairman of the committee, the Senator from Georgia (Mr. TALMADGE) received a number of communications from high school students saying they need the funds from these operations to carry an extracurricular activities at the schools, and we hear a lot of talk about letting the students in our high schools and colleges have some little say, some little part of the action, some little right to decide some of these questions.

Here we cut them off, here we cut off the taxpayers and the school boards and the students, if the amendment of the distinguished Senator from New Jersey is agreed to. Local authorities would have no control over whatever, except upon leave of the Secretary of Agriculture, whether nutritious food items outside the school lunch program may be sold in the schools. That does not sound like fair play to me. Leave these local matters to local control and local decision. The amendment of the Committee on Agriculture and Forestry merely leaves this question for decision by the local authority and takes that out of the hands of the Federal Government.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. COTTON. I understand the Senator makes plain the authority involved, but has the Secretary of Agriculture or has any Secretary of Agriculture tried to keep these vending machines out of the schools?

Mr. ALLEN. Yes, sir.

Mr. COTTON. In other words, in this present year are there schools not permitted to have them?

Mr. ALLEN. The Senator is correct. That is my understanding.

Mr. COTTON. On what ground would it be? Would it be that the profit is made by someone who should not make the profit?

Mr. ALLEN. No; I have not seen the grounds, but I assume the grounds would be that if the child had a candy bar he might not go in and eat a school lunch. I assume that is the reason.

Mr. COTTON. I thank the Senator.

Mr. CASE. Mr. President, I yield myself such time as I may require, and I yield to the Senator from New Hampshire for a question.

Mr. COTTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. I find myself still a little confused. It would be my own feeling that it is a good thing to have people have access to peanut bars and candy, for the reason suggested; it is better than marihuana or something else. But it is not clear to me whether the exercise of the authority of the Secretary has been to keep them out or to forbid private profit to be made, or what the Secretary has heretofore done that my friend from New Jersey wants to change.

Mr. CASE. I would be happy to give the reasons, as far as my experience and knowledge go. We are talking about an experience that has existed. My amendment would retain the present situation and present authority of the Secretary of Agriculture. As far as I know that authority has never been exercised capriciously or to the disadvantage of any school or any school district.

The matter of the kinds of things that are permitted has been decided by the Secretary under broad guidelines, and I think well, insofar as it is possible for school children to buy things in the hall right outside that are not permitted to be bought in the cafeteria. But to permit the purchase of things that are not a part of the school lunch program by permitting them to be sold in vending machines in a school cafeteria seems to be unwise. As the Senator from Vermont sagely commented before, school districts in his State and school districts in my State are very happy to have it handled by the Secretary of Agriculture so they are immune from the kinds of pressure from profit-making institutions that are not in the interest of the children.

Mr. COTTON. I gather, then, that these vending machines have been allowed in the building, but not in the lunchroom?

Mr. CASE. That is exactly right.

Mr. President, if I have any more time, I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from Alabama makes a persuasive case for local rights and also the right to let children make their choice. Nevertheless, I support the amendment of the Senator from New Jersey for this reason: We have worked with the school lunch program and also the school breakfast program. Their purpose is to prevent hunger and, beyond that, to provide nutrition for them. I know the experience of the town I live in, and I am sure it is true of others, and the wonderfully nutritious food that has been provided there. It is human nature for children to like candy bars, and to bypass a nutritious lunch and buy a candy bar. If we had no school lunch program, I would not object to that, but it seems to me we are compromising the effort of this Nation to provide nutritious food for children by providing competition for the food served in the lunchroom. If they want to, they can still buy it out in the hall.

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

Mr. COOPER. I yield.

Mr. TALMADGE. Most of these schools are located in areas where they are in close proximity to drugstores, filling stations, various selling enterprises of all kinds. If these foods are not available for them in the schoolhouse, all they have to do is walk across the street, off the schoolground, and buy them across the street. They then run into the problem of the risk of being hit by an automobile and also being proselytized by the peddler of drugs. It seems to me that if they want to buy these commodities, which are legal and legitimate, that right ought to be placed in the authority of the local people. They ought not to be left the choice of having to buy them across the street, and run the risk of being hit by automobiles when they leave the schoolhouse grounds and the possibility of being proselytized by purveyors of drugs.

Mr. COOPER. I still say we should not have that competition.

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

Mr. CASE. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I would say that in areas with populations less than 20,000 new schools are not generally located across the street from the drug store. They are located a considerable distance out of town. This adds to the cost of transportation, of course, but in my State, at least, the majority of new schools are not located in the vicinity of drugstores.

The amendment of the Senator from New Jersey does not prevent a vending machine where the vending machine is

found to be desirable by the Secretary of Agriculture.

Mr. CASE. I appreciate the contribution of the Senator from Vermont and also the contribution of the Senator from Kentucky. I think that is in accord with the experience over the country as a whole.

I want to make one point finally. Of course, we are not against vending machines. If vending machines are to be used, they can be used, under the act, for the purveying of the school lunch itself, so this is not an antivending machine amendment at all.

Mr. AIKEN. May I add that in my Vermont they seem to be almost solidly in favor of letting the Federal Government decide whether vending machines shall be located there, because it is very hard to resist them when vending machine companies are willing to make substantial contributions toward buying basketballs or something else that the school needs.

Mr. CASE. Mr. President, I can think of no better support than that from the Senator from Vermont. When he supports me, I think of Damon and Pythias.

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

Mr. ALLEN. I yield to the Senator from Maryland.

Mr. BEALL. I thank the Senator. I ask for the attention of the Senator from New Jersey and the Senator from Alabama because I want to be sure I understand the amendment. As I understand the amendment, it does not apply just to vending machines; it applies to any discretionary authority local schools may have with regard to the selection of the food items that are going to be served in the various schools. As I understand the bill as it is written, the local school authorities may, if they choose, add certain items to those already prescribed by the Secretary of Agriculture to be served in school cafeterias or on school premises.

Let me give Senators an example, if I may. In suburban Maryland we have two very large school districts in Prince Georges County and Montgomery County. Those two school superintendents, as well as those in the three larger school districts in my State, have come to my office and asked if we could do something about the authority that the Secretary of Agriculture exercises over their school lunch programs. It has been pointed out to me that in the largest county in our State in the year 1969–70 the school system lost $239,000 from the school lunch program mainly because the students were not buying the food prescribed. They were leaving the school or were not buying at all because they did not like the menu being offered. The next year the school authorities allowed the students to have an a la carte menu in addition to the lunch prescribed, so a student had a choice of two menus. He could buy the lunch prescribed by the Department of Agriculture or could go through the a la carte line and buy a hamburger or hotdog and a Pepsi-cola or whatever else he had in mind.

As I understand the amendment offered by the Senator from New Jersey, it would allow the Secretary of Agriculture, as he has already done, to prohibit these school districts from offering an a la carte menu.

Mr. CASE. It would leave the same authority he has now in the Secretary of Agriculture.

Mr. BEALL. The point is the Secretary of Agriculture has prohibited these school districts from having this choice.

When we talk about high school students, we are talking about sophisticated young people who have achieved an age to make a choice as to what they are going to eat. All we are asking is that the school officials have a choice of offering a menu that students would like rather than that prescribed by the Secretary of Agriculture.

School officials who have come to me have indicated the Secretary has created a very serious problem because he prohibited them from allowing the students to make a choice. As a result, the students either are not buying lunch in the school or they are going outside to buy food. Therefore, the school is not realizing the financial benefits from operating the a la carte line.

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

Mr. BEALL. I yield.

Mr. CASE. The Senator from New Jersey has no desire to abolish any reasonable control. How would the Senator feel about an amendment which left to the local school districts in the case of high schools that choice but took it away from the grade schools?

Mr. BEALL. I am concerned with the high schools.

Mr. CASE. I think that is not unreasonable.

Mr. BEALL. I think that amendment would satisfy my objection.

Mr. CASE. If I may, and if there is no objection, Mr. President, I would like to amend my amendment so that it applies only to schools below high school.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. CASE. I so move.

The PRESIDING OFFICER. Would the Senator send his modification to the desk?

Mr. CASE. Yes; if we may have a couple of minutes to write it up.

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. 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. CASE. Mr. President, I have sent a modified amendment to the desk which we have worked out to meet the points according to the understanding we tentatively had with the Senator from Maryland (Mr. BEALL).

Mr. ALLEN. Mr. President, will the Chair have the modification read?

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 15, strike out all after line 22, over to and including line 13 on page 16, and insert: "Such regulations shall not prohibit the sale of competitive foods in senior high school level food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods are deposited into the account of the food service programs under this Act and the National School Lunch Act."

On page 16, line 14, strike "SEC. 8" and insert "SEC. 7."

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I hope that the distinguished Senator from New Jersey will explain the effect of his modification, and then I shall make some comments.

Mr. CASE. I shall be happy to.

Mr. President, the effect of the amendment as it now stands would be to restore to the Secretary of Agriculture, or to retain in the Secretary of Agriculture, authority in regard to the school lunch food and competitive items of food in all but senior high schools. It would retain, in effect, the committee language, insofar as the senior high schools are concerned. That is the substance of it.

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

I do not feel that the modification removes the objection to the amendment. What it does is to withdraw from the Secretary the right to make regulations as to sale of food items outside the school lunch program in junior high schools and grade schools, leaving him forbidden from making such regulations for high schools.

I do not believe that the Secretary should have any such split authority. Either give him authority to make regulations or give the local governments the right to make the regulations.

If the local governments want to permit sale of nonlunchroom items in high schools, let them do it. If they want to permit such sales in grammar schools and junior high schools, let them do it. If they want to forbid sales in all schools, let them do it. Do not just give either side half a loaf.

That is exactly what would happen here. We would have split authority and always be wondering just what the Secretary was going to do with the grade schools, and then he would have no authority over the high schools. There we would give the local governments authority, over the high schools, but not give them authority over the grade schools. If we are going to entrust the local governments with authority over high schools, we should give them authority over the grade schools as well.

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

Mr. ALLEN. I yield.

Mr. TALMADGE. Is it not true that in some places in this country we have grade schools and high schools in the same building?

Mr. ALLEN. Yes, that is true.

Mr. TALMADGE. Is it not also true that there, under such a provision as the Senator from New Jersey has sug-

gested, we would have local authority over the grade schools and grammar schools, and Federal authority over the high schools, all in the same building?

Mr. ALLEN. Just the other way around.

Mr. TALMADGE. The other way around?

Mr. ALLEN. Yes.

Mr. TALMADGE. Will the Senator from Alabama tell me how it would be possible to enforce such a regulation? Would it not be necessary to place a guard at a certain door in the school building to tell the seventh grader, "You cannot go through this portal, because the Secretary of Agriculture has authority there," and would it not be necessary to place a guard at another door to tell the high school student, "You cannot go through that portal, because it comes under the regulations of the local authority?"

Mr. ALLEN. That would seem to be the situation.

Mr. TALMADGE. Does not the Senator feel that that would be a preposterous situation?

Mr. ALLEN. That is the feeling of the Senator from Alabama.

Mr. TALMADGE. It is the feeling of the Senator from Georgia also.

Mr. ALLEN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. The chairman of the committee is a most loquacious debater. He presents a situation which is a verbal monstrosity, but a very practical thing. It is perfectly possible to have a line for high school students in a mixed cafeteria, if you want to. It is not very difficult to separate high school children from other children. I do not know what the experience is in the Senators State, but I do not think armed guards are needed to maintain this kind of thing.

I think the Senator's colorful language and enthusiastic support of the committee in this regard is great, but I do not think it is terribly persuasive to those of us who are trying to solve a problem. The problem is simply that we do not want this money wasted; and, even more important, we do not want the health of children to be undermined by the kinds of things that are likely to happen, especially with smaller children, when they are given money to buy food and cannot be guided in their choice of nutritious food. This is the whole business.

I know that the Secretary has not misused or abused his authority here. It is my hope that the Senate will support a continuation of the present authority, with the modification in respect of high school cafeterias which I have been happy to make at the suggestion of the Senator from Maryland.

I ask unanimous consent to have the names of the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) added as cosponsors of the modified amendment.

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

Mr. TUNNEY. Mr. President, I am pleased to join today with my distinguished colleague from New Jersey and other distinguished Senators in offering Amendment No. 1433 to H.R. 12896, the National School Lunch Act.

This amendment, which has received strong support from the American Dental Association and the National Dental Association, would continue the authority of the Secretary of Agriculture to regulate the use of vending machines in school cafeterias.

Dietitians, nurses, teachers, parents, and other concerned adults are eager to insure that their children receive nourishing, balanced lunches at school. Obviously, parents cannot always be at school to supervise the food their children choose to eat. The purpose of this amendment is to assure that children receive that balanced meal—and are not enticed to spend their money on "filler" foods or on sweets, which alone cannot substitute for a nutritionally balanced meal.

I have two concerns, Mr. President. First, I desire that our children be provided meals which are high in nutritional content. Many families cannot afford to give their children balanced meals every day, and thus the school becomes the place where a child may obtain such a balanced meal. To tempt that child with the novelty of purchasing food from a vending machine would destroy his incentive to purchase the regular, balanced meal offered in the school cafeteria.

My second concern is with regard to the effect on children's health which a diet of sweets from a vending machine would surely affect. School age children are so often tempted by sodas and candy bars, which do have their place in a child's diet as snacks, that I fear they will become a steady replacement for what is considered a balanced lunchtime meal. Products rich in sugar can supplement but cannot substitute for a meal which includes foods from the basic nutritional categories. The hazards to sound oral health are especially great at the age of schoolchildren, and we must take care to see that we do not inadvertently encourage overconsumption of sweets and sugar-rich snacks in place of well-balanced lunches.

As we strive to improve the quality of the existing national school lunch program, we should be careful to insure that we do not undermine the efforts already underway to keep the meals now being provided at the highest possible level of nutrition. I believe our schoolchildren deserve nothing less.

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

The PRESIDING OFFICER. The Senator has no time remaining on the amendment.

Mr. CASE. I yield back the remainder of my time.

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

Those who favor the amendment will say "aye;" opposed, "no."

The Chair is in doubt.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

I further announce the Senator from Georgia (Mr. GAMBRELL) would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Nebraska (Mr. HRUSKA), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Illinois (Mr. PERCY) is absent to attend the funeral of former Senator Ralph T. Smith.

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

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 46, nays 39, as follows:

[No. 381 Leg.]

YEAS—46

Aiken	Hollings	Nelson
Anderson	Hughes	Pastore
Bayh	Humphrey	Proxmire
Beall	Inouye	Randolph
Brooke	Jackson	Ribicoff
Burdick	Javits	Roth
Case	Kennedy	Schweiker
Church	Magnuson	Scott
Cooper	Mansfield	Smith
Cranston	Mathias	Stafford
Eagleton	McIntyre	Symington
Fong	Metcalf	Tunney
Fulbright	Mondale	Williams
Griffin	Montoya	Young
Hart	Moss	
Hartke	Muskie	

NAYS—39

Allen	Curtis	Miller
Baker	Dominick	Packwood
Bellmon	Eastland	Pearson
Bennett	Edwards	Saxbe
Bentsen	Ervin	Sparkman
Bible	Fannin	Spong
Buckley	Goldwater	Stennis
Byrd, Harry F., Jr.	Gurney	Stevens
Byrd, Robert C.	Hansen	Stevenson
Cannon	Hatfield	Taft
Chiles	Jordan, N.C.	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	Long	
	McClellan	

NOT VOTING—15

Allott	Gravel	Mundt
Boggs	Harris	Pell
Brock	Hruska	Percy
Dole	McGee	Tower
Gambrell	McGovern	Weicker

So Mr. CASE's amendment was agreed to.

Mr. CASE. Mr. President, I move that the vote by which the amendment was agreed to 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. JAVITS. I have an amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. MONTOYA). The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 8, strike out "service institutions," and insert in lieu therof the following: "service institutions. The term 'service institutions' shall include licensed family day care sites."

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this amendment which was called to my attention by the New York City Agency for Child Development, would make licensed family day care sites eligible for the breakfast program.

The only source of funds for the day care breakfast program is section 13—special food service programs—in the National School Lunch Act. Although the act states day care, Headstart, and other nonschool programs shall be eligible for money appropriated for this program, the regulations promulgated under this act exclude family day care sites from participation.

The welfare reform bill already passed by the House and proposed by the Senate Finance Committee, and HEW plans for implementing the provisions of this legislation indicate that about 80 percent of welfare mothers will be referred to family day care sites to enable them to work. Furthermore New York City is just completing a demonstration program funded by an OEO grant that not only developed the capability for but proved the feasibility of family day care breakfast programs. If we are calling for increased usage of family day care sites we must begin to make available to these sites avenues of funding to feed breakfast to these children.

I would like to emphasize the point that this amendment would cover only licensed family day care sites. An OEO funded survey done by Westinghouse Learning Corp., in 1971, entitled "A Day Care Survey," indicates that—

Less than 2% of the estimated 450,000 family day care homes are licensed, as compared with 90% of the day care centers.

Thus, we are only talking about approximately 9,000 sites which would be brought in under this amendment.

This study also indicates that an average of 1.8 children attend the family day care sites. The usual maximum permissible number is six, although in New York the average attending each site is three; therefore, the extrapolated national average is 3. Figures on the cost per child, a cost of $60 per child per year for breakfast is achieved. In terms of cost for the entire country under this amendment, if every eligible site applied for this program, the cost would be no more than $1.5 million. If only average participation by these sites is evidenced, the anticipated cost would be less than $1 million.

Thus, for a relatively small amount of money needy children in the family day care setting could be served a nutritious breakfast for which I believe they are eligible under the act already.

Another matter of great concern to me which I think appropriate to note at this point also is the fiscal year 1973 funding for special food service programs. In New York City alone there will be 15,000 children newly eligible under the section 13 breakfast program who will not be fed unless the intended full funding is carried out.

Because the fiscal year 1973 appropriation for the special food service program provides only enough funds to continue at the current level of enrollment, Senator HUMPHREY, on July 27, 1972, introduced an amendment to the appropriations bill to increase the child nutrition program appropriations from $526 to $782 million; of this amount approximately $50 million would have been provided for nonschool food programs. After an agreement with Senator McGEE, Senator HUMPHREY withdrew his amendment—on the assurance from Senator McGEE that "there are sufficient funds in the bill to take care of the present—funding levels—and that a review can be made when the new legislation becomes a reality."

The new legislation to which he was referring was H.R. 14896, the bill before us now. As my colleagues are aware this legislation would extend special—nonschool—food assistance through June 30, 1975, and increase the appropriation to "such sums as are necessary." The understanding in this particular authorization item is that all institutions making application for such assistance, which agree to carry out the program in accordance with the act, will receive such financial assistance. To cover the children already eligible but not receiving breakfast for lack of funds and to cover anticipated eligibility—that is, those children New York State expects to enroll in preschool programs during the fiscal year—my own State of New York would need $3 million over and above what they can expect to receive from the recently passed legislation.

I point this out to the Members of the Senate in an effort to assure that this promised funding will be available, and to suggest that the members should read the congressional intent to mean more money than appeared in the President's budget request for special food service programs. I urge also that supplemental fund adequate to carry out this program be appropriated by the Congress at the earliest possible time.

With reference again to the particular amendment which I have called up I think we should assume that something in the area of 25,000 children would be protected under this particular provision. In terms of the cost, if every eligible site applied, the cost would be no more than $1.5 million as I have mentioned. If only the average number participated, that would be two-thirds, it is then anticipated that the cost would be less than $1 million.

My reason for offering the amendment is because we do have such a tremendously low ratio of such day care centers as compared with the total number. My estimate, and I think it is rather general, is that it is not very much in excess of 15 percent, if it is that high. It is probably closer to 10 percent.

Under these circumstances, encouragement should be given to those operations which give promise to relieving this strain without an enormous cost on the day care center.

That is why the family day care idea is such a good one. And we would be proceeding fairly cautiously and conservatively in view of the fact that the amendment is only confined to the licensed slopchutes.

That is why I emphasize the comparatively small number which are licensed. If the number increases, it will be helpful rather than harmful to the country if the program is enlarged.

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

Mr. JAVITS. I yield.

Mr. AIKEN. Mr. President, when the Senator refers to day care centers licensed by Government agencies, is he referring to Federal, State, or local agencies?

Mr. JAVITS. Yes, I am. In our case it is the State which does the licensing. It would depend upon State law. However, in our case it is the State which does the licensing.

Mr. AIKEN. Mr. President, normally I would probably support the Senator. However, school begins pretty soon. If this bill goes to conference, the probability is that it will not get passed very soon. I have not the slightest idea whether the House will accept it or not.

Mr. JAVITS. I think the House will accept it. I do not think they will bridle at this particular amendment. It is not such a big deal. It does try to deal with the problem I have described.

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

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

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

Mr. JAVITS. Mr. President, it is worthy of encouragement. I would hope very much that the manager of the bill—in view of the fact that it does not involve a great deal of money and that it does represent an excellent incentive and that it is not dreamed up out of my head, but is asked for by a very representative agency—might consider possibly taking the amendment to conference along with the rest of the bill and see if it can be worked out with the House so as to contain this amendment in the bill.

Mr. President, I reserve the remainder of my time.

Mr. ALLEN. Mr. President, would the Senator yield on my time?

Mr. JAVITS. Of course.

Mr. ALLEN. Mr. President, I understood the Senator to say that this would make family day care centers eligible for breakfast programs. Did he mean also lunch programs?

Mr. JAVITS. No, just breakfast, for which they are licensed.

Mr. ALLEN. A family day care center,

which as the Senator says is licensed, is a profitmaking concern, is it not, where a family would take in children and care for them during the day for compensation either from public agencies or from the parents of the children involved?

Mr. JAVITS. Mr. President, if the Senator will allow me to say so, I do not think that it is fair to characterize them as profitmaking any more than one necessarily makes a profit out of taking in boarders.

Mr. ALLEN. They are not like a school lunch program.

Mr. JAVITS. That is true. However, even for the school lunch program, the student pays something. I think it is in that respect in a somewhat twilight zone. The Government entity pays compensation to the family for maintaining that child instead of the child going to a day care center.

I think it is straining the question somewhat, because of the small numbers involved, to say that this is any kind of a profitmaking operation.

Mr. ALLEN. Mr. President, I believe the Senator said that there are some 9,000 such entities.

Mr. JAVITS. Yes; I stated that it is only 2 percent of the aggregate number.

I said that, because of the amendment I have offered, we might get more to apply for a license. There are about 450,000 such day care centers in the United States. However, less than 2 percent of them are licensed. Indeed, what I am suggesting might be a useful way to get them to apply for a license, which I think would be a very highly desirable thing.

Mr. ALLEN. Mr. President, the financial assistance then would be to this family or day care center operated, I assume, by a husband and wife team having between two and three children in the center. How would the Senator determine, with all of them eating there as a family, which was Government assistance and which portion of the meal was paid for by the parent?

Mr. JAVITS. This is all under State supervision. The State pays for the maintenance of the child. And the relationship of the free meal would be to what the State is paying. If the State is paying for three children, the three children would be the only ones available for the free breakfast.

Mr. ALLEN. Mr. President, do these family day care centers qualify under the social programs that the States are now submitting to the Federal Government under the social services program of the HEW?

Mr. JAVITS. I would imagine that some States may seek to do that. I do not think that we could at this stage proceed specifically to ascertain that in all cases, what part of the family day care home is being treated by the State as an expenditure. As to the social services program—on which the Finance Committee under the Senator from Louisiana (Mr. LONG) is considering a ceiling—right now I am sure there is a relation. However, I do not think I could give that in order to give a finite estimate of its relation.

Mr. ALLEN. Mr. President, would they qualify under the day care centers contained in legislation recently passed by the Senate?

Mr. JAVITS. I would think they would, where licensed. I would think it is an effective licensed activity. And the argument made under this amendment would be the same as the argument made for the day care centers generally. In other words, there is no reason why, because they are in a home where the State has supervision and is paying for them, they should be excluded from the opportunity to have breakfast.

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

Mr. ALLEN. Mr. President, I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I wonder if the Senator would mind modifying his amendment so that it would read "shall include licensed nonprofit family day care sites."

Mr. JAVITS. That is all right. I will accept that.

Mr. MILLER. Although the Senator pointed out that the line between profit and nonprofit can be rather tenuous, I do believe that the enforcement powers of the State would probably be a little stronger if this were done, and it would diminish the opportunities for abuse.

I would like to suggest to the Senator from Alabama (Mr. ALLEN) that with that modification, including the word "nonprofit" before the word "family" in line 2 of the amendment, that we take the amendment and it will at least give us a chance to review it a little more in conference.

Mr. ALLEN. Very well. That would be satisfactory if the Senator would modify the amendment.

The PRESIDING OFFICER. Does the Senator so modify his amendment?

Mr. JAVITS. I modify my amendment accordingly. I am very grateful to the Senator from Iowa and the Senator from Alabama.

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Has the amendment been agreed to?

The PRESIDING OFFICER. The modification is now before the Senate. The clerk will report the amendment as modified.

The amendment, as modified, was read as follows:

On page 3, line 8, strike out "service institutions." and insert in lieu thereof the following: "service institutions. The term 'service institutions' shall include licensed non-profit family day care sites."

The PRESIDING OFFICER. Does the Senator so modify his amendment?

Mr. JAVITS. I so modify my amendment.

Mr. President, I yield back the remainder of my time.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York as modified.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my support for H.R. 14896, the Child Nutrition Act of 1972, which was reported by the Senate Committee on Agriculture and Forestry on August 8, 1972, and to express my admiration and appreciation to the chairman of the subcommittee (Mr. ALLEN) and other members of the subcommittee for developing and reporting this legislation.

This bill was developed to insure that adequate funds will be available for the conduct of the summer food service programs for children located in poor economic areas, and in areas which have a high concentration of working mothers. It also updates existing legislation and expands and strengthens the various nutritional programs currently in operation. It was deservedly handled by the Senate Agriculture Committee on an "emergency basis" because these changes are needed to clear up existing uncertainties in the school lunch program, prior to the forthcoming 1972–73 school year. The improvements contained in H.R. 14896 will:

Extend the special food assistance program and the school breakfast program and increase the appropriations authorization for these two programs to "such sums as are necessary."

Authorize the use of $25 million of section 32 funds for the special food assistance program during the period of May 15, 1972, to September 15, 1972, and require the use of section 32 funds "in the amounts necessary" to carry out the regular section 4 operations of the school lunch program.

Provide for an average reimbursement rate of not less than 8 cents per meal in each State in fiscal 1973.

Provide that free lunches will be served to every child whose family income does not exceed a guideline fixed by the State educational agency.

Increase the nonfood assistance—equipment—appropriations authorization to $40 million for each of fiscal years 1973, 1974, and 1975, and $20 million for each succeeding fiscal year thereafter.

Provide for advance payments to the States for the regular school lunch program as well as for the school breakfast program.

Ever since my election to Congress, I have supported the school lunch program and the various changes to improve and strengthen the program which have been enacted into law. I have always believed that we should do all possible to improve the educational opportunities available to the children of this Nation, and by passing this bill we are not only providing nutritious meals for the children of this Nation, but we are also improving their education capacities. Poor nutrition or malnutrition not only arrests the physical development of children, but also impedes their ability to learn.

Mr. President, this program has been in operation for over 26 years, ever since it was started by the late and respected Senator Richard B. Russell of Georgia. I am pleased to note that Senator TALMADGE, who is chairman of the Agriculture Committee, is continuing to improve the child nutrition program. I believe the pending measure is a welcome and needy addition to existing legislation and that it will go far toward making good nutri-

tional programs available to all needy children.

I urge passage of this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

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

The bill (H.R. 14896) was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time on the bill?

Mr. ALLEN. Mr. President, I would like to commend the distinguished Senator from Georgia (Mr. TALMADGE) and the distinguished Senator from Iowa (Mr. MILLER), the distinguished Senator from Vermont (Mr. AIKEN), and the distinguished Senator from Minnesota (Mr. HUMPHREY) for their contribution toward the passage of this bill. The bill marks a great milestone in the school lunch program and the whole field of child nutrition. I think it is a great bill that is now ready for passage by the Senate, and it has taken the cooperation of all parties. It is a nonpartisan, bipartisan approach and I feel that the Senate has an excellent bill. I hope the House will accept the bill.

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

Mr. ALLEN. I yield.

Mr. TALMADGE. Mr. President, as I stated earlier, I have the highest regard for the distinguished Senator from Alabama, who is chairman of the subcommittee that held hearings and acted so expeditiously on this matter. He has carried a very heavy load in the Committee on Agriculture and Forestry this year. No burden assigned to him has been too onerous. He has been punctual and he has heard a host of witnesses. I commend the distinguished Senator from Alabama, the floor manager of the bill, and also the ranking minority member, the Senator from Iowa (Mr. MILLER), and all the other members of the committee who contributed to the bill. They are entitled to the highest plaudits of the people of this country and particularly the schoolchildren who will benefit by this program.

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

Mr. ALLEN. I yield.

Mr. MILLER. Mr. President, I echo the sentiments made by the distinguished Senator from Alabama and the distinguished Senator from Georgia. I particularly commend the chairman of the Committee on Agriculture and Forestry and the chairman of the subcommittee for conducting all proceedings related to this legislation in a completely bipartisan fashion. Never once to my knowledge was there anything to indicate any other motive than to do the best we could for the improvement of nutrition in the diets of the schoolchildren of this country. It has been a pleasure to work with and to collaborate with my colleagues on this very important piece of legislation.

Mr. ALLEN. I thank the distinguished Senator. I wish to express appreciation to Michael McLeod, a member of the staff, for his diligent and able work and for his assistance to the committee and to me as manager of the bill. Without his assistance we would not have been able to bring the bill to the Senate at this time. I also express appreciation of the committee as well as my personal appreciation of the committee as well as my personal appreciation to Mr. McLeod.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. MILLER. I yield back the remainder of my time.

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

The yeas and nays were ordered.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Wisconsin (Mr. NELSON) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Illinois (Mr. PERCY) is absent to attend the funeral of former Senator Ralph T. Smith.

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

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Delaware (Mr. BOGGS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 382 Leg.]

YEAS—82

Aiken	Bible	Chiles
Allen	Brooke	Church
Anderson	Buckley	Cook
Baker	Burdick	Cooper
Bayh	Byrd, Harry F., Jr.	Cotton
Beall	Byrd, Robert C.	Cranston
Bellmon	Cannon	Curtis
Bennett	Case	Dominick
Bentsen	Eastland	Eagleton
Edwards	Kennedy	Roth
Ervin	Long	Saxbe
Fannin	Magnuson	Schweiker
Fong	Mansfield	Scott
Fulbright	Mathias	Smith
Gurney	McClellan	Sparkman
Hansen	McIntyre	Spong
Hart	Metcalf	Stafford
Hartke	Miller	Stennis
Hatfield	Mondale	Stevens
Hollings	Montoya	Stevenson
Hughes	Moss	Symington
Humphrey	Muskie	Taft
Inouye	Packwood	Talmadge
Jackson	Pastore	Thurmond
Javits	Pearson	Tunney
Jordan, N.C.	Proxmire	Williams
Jordan, Idaho	Randolph	Young
	Ribicoff	

NAYS—0

NOT VOTING—18

Allott	Gravel	Mundt
Boggs	Griffin	Nelson
Brock	Harris	Pell
Dole	Hruska	Percy
Gambrell	McGee	Tower
Goldwater	McGovern	Weicker

So the bill (H.R. 14896) was passed.

Mr. ALLEN. Mr. President, I move that the Senate insist on its amendments to H.R. 14896, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to name conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. ALLEN, Mr. HUMPHREY, Mr. MILLER, and Mr. AIKEN conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, it is with the greatest pleasure that I rise to commend the distinguished Senator from Alabama (Mr. ALLEN). The outstanding manner in which he steered this measure to such overwhelming success was truly exemplary. Its unanimous acceptance is tribute enough.

I must say that the distinguished Senator from Georgia (Mr. TALMADGE) and the distinguished Senator from Minnesota (Mr. HUMPHREY) also deserve praise. First, as the chairman of the Committee on Agriculture, Senator TALMADGE paved the way for the efficient handling accorded to this proposal. The contribution of Senator HUMPHREY is equally notable. That he was successful in urging his views was due mainly to his strong and compelling advocacy.

Other Senators deserve similar commendation. The distinguished Senator from New Jersey (Mr. CASE) was successful in making his case and as always, his views were most welcome. The same may be said for the contribution of the Senator from Maryland (Mr. BEALL) and the other Senators who joined to provide this overwhelming achievement in behalf of the Nation's schoolchildren.

THE JACKSON RESERVATIONS

Mr. TUNNEY. Mr. President, I am deeply troubled by the proposed reservations to the SALT agreements. Those reservations stem from two erroneous premises: First, that the United States struck a bad deal in Moscow, that the agreement somehow puts the United States at a disadvantage with regard to the Soviet Union. Second, that a policy which is predicated upon equality of weapons is preferable to a policy which is predicated upon sufficiency of weapons.

Neither of these assumptions is accurate. As to the first, the United States struck a good deal in Moscow, one which enhances the security of both sides and which assures that the United States will maintain a credible deterrent. As to the second, nothing could be more disastrous than predicating our defense policy upon equality of weapons systems and ignoring efficiency. American sufficiency remains so vastly superior to its needs that it strikes me as fanciful to talk in terms of "inferiority" in terms of weapons. We have many times the capacity necessary to cripple and destroy the Soviet Union. To argue under those circumstances that we need more weapons, or that we should measure the number of our weapons rather than their impact, is counterproductive.

Furthermore, Mr. President, it appears to me that the Senator from Washington is anxious to restrict American negotiators in the second round of SALT talks. He wishes to restrict them in needless ways, with language which is predicated upon the two misplaced assumptions I have just mentioned. I believe that such restrictions would be a mistake. They would needlessly complicate future negotiations and they would be likely to impair our ability to conclude meaningful arms control agreements in the future.

I have already set forth in some detail my views on the executive agreements which were concluded in Moscow. They are excellent examples of constructive arms control negotiations. They are a testimony to the solid work of the Nixon administration in the arms control area. They enhance American security.

I cannot, therefore, support reservations which will operate to undermine the agreements which were made in Moscow between the United States and the Soviet Union. These reservations are an attempt by one country, unilaterally and without consultation with the other country, to change the terms of the agreement which was negotiated and accepted by both countries. Elementary standards of Anglo-American jurisprudence indicate that once a bargain is struck, it cannot be altered without the consent of both parties to it. We should not attempt to undermine that principle. Such reservations will serve to inhibit rather than to enhance arms control efforts which are so vital to the needs of this Nation.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, August 16, 1972, he presented to the President of the United States the following enrolled bills:

S. 559. An act for the relief of Albina Lucio Manlucu;

S. 889. An act to restore the postal service seniority of Elmer Erickson; and

S. 2704. An act for the relief of Rita Rosella Vallerini.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, I rise to inquire of the distinguished majority leader as to what is the order of business for tonight and thereafter.

Mr. MANSFIELD. Mr. President, in reply to the distinguished Republican leader, the Senate will shortly take up the disaster relief appropriation bill, which was reported by the Appropriations Committee this morning.

It had been contemplated that following that we would take up the continuing resolution, but at the request of the distinguished chairman of the committee, that will be the first order of business tomorrow morning.

Mr. JAVITS. Mr. President, will the Senator answer a question on that point?

Mr. MANSFIELD. Yes.

Mr. JAVITS. When can we get a copy of that continuing resolution? Apparently there are some serious questions which will depend on the text.

Mr. MANSFIELD. It will be the first order of business tomorrow.

Mr. JAVITS. I mean when can we get what the committee reported?

Mr. MANSFIELD. I have to yield to the distinguished chairman of the committee for an answer to that question.

Mr. McCLELLAN. Mr. President, I understand we have copies. It has not been printed. But we will supply them, anyway.

The PRESIDING OFFICER. Copies will be distributed.

Mr. JAVITS. I thank the Senator.

Mr. MANSFIELD. Following that, and I am sure the distinguished Senator from New York as well as the distinguished Senator from Massachusetts will be interested, we will take up S. 32, the National Science Foundation bill; and following that, we will either return to the interim agreement or lay before the Senate the revenue sharing bill. I do not think it will be possible to complete either of those before the Senate recesses in deference to the Republican Convention beginning on Monday next, as the Senate recessed in deference to the Democratic Convention previously. Both of those measures will require a good deal of discussion, and I am sure there will be some votes; but when the votes will occur I am unable to say at this time.

Mr. SCOTT. I might say that I have heard from various Governors, and I am sure the mayors also are very much interested, as to when we can consider revenue sharing. I hope we will find a way to lay it down, along with the interim agreement, before we recess, or that we can give assurances that it will be, with the interim agreement, one of the two tracks we will pursue upon our return, so that Governors who are busy with their budget preparations may be able to do some contingency planning. I know it would reassure them very much if we could make it clear that the Senate does not intend to adjourn without disposing of revenue sharing.

Mr. MANSFIELD. The Senator is correct, and I can assure him that at the very least the revenue sharing bill will be made the second track business, along with the interim agreement, which is still the pending business.

I have been informed that there may well be rollcall votes on the Hurricane Agnes bill tonight.

Mr. SCOTT. Let me put that in the form of a question. Does the distinguished majority leader expect there will be rollcall votes on the Hurricane Agnes relief measure?

Mr. MANSFIELD. Making a 180-degree turn, is there any possibility that there will be rollcall votes on that bill tonight, either on amendments or on passage?

Mr. McCLELLAN. Mr. President, I have no information. No one has suggested to me that he intends to offer any amendment to that bill. If no amendments are offered, I think it can be disposed of rather quickly; and I do not know whether it is the wish of any Senator to have a rollcall vote on passage. I do not know that it will be necessary, but I would like to ascertain now if there is anyone who desires a rollcall vote, so that we can all be apprised of that fact and be governed accordingly. If there is no demand for it, I see no need for it, unless it is asked for.

Mr. MANSFIELD. That is fair enough. The joint leadership has no desire to ask for a yea-and-nay vote. It is late enough, and will be later when we get to the question of passage.

There is no indication that there will be amendments at all. This is a most important bill.

Mr. McCLELLAN. Will the majority leader yield?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. Of course, if there are amendments offered, and if amendments should be agreed to, it may be advisable to have a rollcall vote; but assuming no amendments are agreed to, I see no need for a rollcall.

Mr. SCOTT. I thank the majority leader.

Mr. CANNON. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. CANNON. Is there a time limitation on the disaster relief bill?

Mr. MANSFIELD. No.

SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the disaster relief bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 16254) making supplemental appropriations for disaster relief for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. McCLELLAN. Mr. President, the pending bill, the Disaster Relief Supplemental Appropriations Act, 1973, provides funds to aid hundreds of thousands of Americans who are struggling to rebuild their lives after the destruction wrought by tropical storm Agnes, the worst natural disaster in American history in terms of property damage and the territory affected in the following seven States:

Florida, Virginia, West Virginia, Maryland, Ohio, Pennsylvania, and New York.

In addition, the pending bill contains funds applicable to the recent destruc-

tive flood which devastated Rapid City, S. Dak.

As stated in the report of the committee:

> In a disaster of this magnitude, the full impact on thousands of persons affected cannot be measured solely in dollar amounts or estimates of damage to real and personal property. Individual losses must also be considered in terms of loss of loved ones, loss of jobs, disruption of families, personal privation and anxiety about the future.

Mr. President, the pending bill recommends new obligational authority in the amount of $1,587,300,000, the same as approved by the House. This sum is an increase of $17,500,000 over the amounts requested in House Document 92–325, totaling $1,569,800,000. Also, the bill provides for transfer authority in the amount of $20,000,000 for the Small Business Administration which also has been approved by the House.

In addition to the $1,587,300,000 recommended by the committee, it is also proposed to provide $50,000,000 for the relief of flood victims by the reprogramming of funds already available to the Department of Commerce for repair of public works, by the Department of Labor to hire workers for cleanup and restoration, and by the Department of Housing and Urban Development to assist communities in planning their reconstruction efforts.

Chapter I relates to the Department of Agriculture, Farmers Home Administration. For this agency, the sum of $1,800,000 is recommended to provide additional funding for administrative expenses which will be incurred in meeting the increased workload. The Farmers Home Administration estimates that, although $120,000,000 will be required to make housing loans in recently declared disaster areas, such loans can be made from presently available loan authority.

Chapter II of the bill relates to the Department of the Army, Corps of Engineers, for which the committee recommends a total of $29,500,000, which sum is $17,500,000 over the supplemental request of $12,000,000 contained in House Document 92–325. The first item under this chapter provides $3,500,000 to accelerate land acquisition from hardship cases resulting from tropical storm Agnes, as well as highway relocation in connection with two flood control projects which are integral units of the comprehensive flood control plan for the North Branch Susquehanna River Basin.

For the second item in this chapter, "Flood Control and Coastal Emergencies," the committee recommends a total of $26,000,000. Of this sum, $19,000,000 is to take care of emergencies arising from tropical storm Agnes, and $7,000,000 is to replenish the emergency fund for future disasters which might occur in fiscal 1973.

For the Appalachian regional development programs, Executive Office of the President, the last item in chapter II, the committee recommends a total of $16 million. Of this sum, $11 million is for subsurface restabilization of anthracite mine areas in Pennsylvania; $1,500,000 is for housing site grants to assist displaced families; and $3,500,000 is for research, new town studies, and additional area planning support to minimize future subsidence damage to structures resulting from destructive floods.

Chapter III relates to the Department of Commerce and the Small Business Administration. For the Economic Development Administration, a total of $40 million is recommended for the three appropriation accounts, as follows:

For development facilities, the committee recommends $30 million, of which $10 million is to finance public works and development facilities projects, and $20 million is for the public works impact program to provide immediate useful work to unemployed and underemployed of the local areas affected by the tropical storm. To permit all of the funds provided to be used exclusively in such local areas, the committee has included a proviso in the bill to exempt these funds from the provisions of section 401(a)(6) of the Public Works and Economic Development Act of 1965, as amended.

The second appropriation account is for planning, technical assistance, and research, for which the committee has provided $9,100,000. This sum will be used in those areas devastated by tropical storm Agnes.

Third, to provide for additional operating and administrative expenses incurred by the Economic Development Administration relative to tropical storm Agnes, the committee recommends $900,000.

For additional capital for the disaster loan fund of the Small Business Administration, the committee recommends a total of $1,300,000,000. This additional sum, together with available balances and the additional funding originally requested for fiscal 1973, will enable the Small Business Administration to provide assistance on favorable terms to victims of tropical storm Agnes and the flood in Rapid City, S. Dak.

Also approved is authority to transfer $20,000,000 from the disaster loan fund to the "Salaries and Expenses" appropriation to cover the increased costs incident to the enlarged disaster program.

During the hearings on this supplemental request, the committee again questioned the officials of the Small Business Administration on the policies and procedures that are now being and will be utilized in making loans to the victims of these two recent disasters, both to insure the legitimacy of the damage claimed and to insure that the loan proceeds are utilized solely to repair or restore damaged property. The committee is still not satisfied that the loan and followup procedures being used by the Small Business Administration are sufficient to minimize to the fullest possible extent, fraudulent applications, and the misuse of loan proceeds.

Accordingly, the committee has requested the Comptroller General to immediately undertake a careful monitoring of this program in the field, and to first, keep the committee advised on a continuing basis of the manner in which the Small Business Administration is carrying out its responsibilities with respect to the disaster loan program, and second, make recommendations as quickly as possible as to the policies and procedures that will be most effective and which can be instituted administratively by the Small Business Administration. Further comments on this matter are contained in the committee's report in chapter III.

Chapter IV relates to funds appropriated to the President for disaster relief, which are expended by the Office of Emergency Preparedness. For this agency, the committee has provided the sum of $200,000,000, which is in addition to the $200,000,000 contained in Public Law 92–337, approved July 1, 1972, and the $92.5 million provided in the regular appropriation bill for fiscal year 1973.

In the seven States for which the President has declared disasters as a result of tropical storm Agnes, as well as in South Dakota, it is estimated that a total of $400,000,000 will be required in fiscal 1973.

Mr. President, the need for these disaster relief funds is immediate and of the greatest urgency. I sincerely hope that there will be no floor amendments so that this bill can be enacted into law without delay.

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

Mr. McCLELLAN. I am glad to yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I wish to associate myself with the comments made by the distinguished Senator from Arkansas (Mr. McCLELLAN).

All of the funds contained in this bill are for disaster relief and are badly needed. Probably the two most severe storms we have had in recent years were at Rapid City, S. Dak., and in the Hurricane Agnes area of the United States.

I see no reason for any long discussion. All the provisions of the bill were considered very carefully by the Committee on Appropriations and were approved unanimously. I hope the Senate will do the same.

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

Mr. McCLELLAN. I yield. The Senator may have the floor in his own right.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I commend the committee and the chairman of the committee for acting so promptly on this bill.

First of all, the President very quickly sent a message to Congress suggesting legislation for funding the flood disaster in the various States affected.

Second, the Senate acted within a day after the House acted, which I think sets some kind of record. It certainly shows that Congress and the Government are responding very quickly and no doubt set many records in passing this amount of money this fast for a natural disaster. I believe that this will go down in history as the quickest response Congress has made to any disaster. Considering that Hurricane Agnes ravaged Pennsylvania and the other States only

a few short weeks ago, I think it is a real tribute to the legislative process that this vast amount of money and the comprehensive program that this supplemental flood disaster appropriation covers could come through the legislative process of this Government. This puts plenty of money in the pipeline now for the agencies, the departments, and for the people on the spot in Wilkes-Barre, Harrisburg, and other places, in order to proceed with the authorizing of legislation that we had earlier passed. So that there are no delays or tieups from the legislative end bringing equity and relief to flood disaster victims.

I particularly commend the Appropriations Committee for including two very critical flood projects, Tioga-Hammond Lakes project, and the Cowanesque Lake project. These are vital to the Susquehanna River basin. They play an important role in the Susquehanna situation. I am glad to see them included.

I urge immediate adoption of this supplemental appropriation and, once again, commend the chairman and the ranking Republican member for their prompt action and sensitive response to a great and urgent need.

Mr. HUMPHREY. Mr. President, I want to take just a couple of minutes for two reasons; first, to commend the Committee on Appropriations and its distinguished chairman and the ranking member for the supplementals on this appropriation and the response they have given to this incredibly difficult and painful tragedy that has befallen vast parts of the country because of Hurricane Agnes, and the flood conditions which occurred in Rapid City, S. Dak., and other parts of the country, as well as in my own State of Minnesota.

I am grateful for the work that the committee and its chairman have done and want to express on behalf of the people of Minnesota, as well as for myself and that of my colleague (Mr. MONDALE), our thanks.

Now what else I wanted to say is that yesterday some of our colleagues spoke a word of tribute to the distinguished Senator from Arkansas (Mr. McCLELLAN) for his remarkable work as chairman of the Committee on Government Operations.

I was not here at the time, so I am going to take this moment to say that I have never served with a finer chairman, a man who always gave every one of us on the committee the opportunity to do our job as we saw fit, respecting our points of view, and giving us committee assignments that permitted us full use of whatever talents we had.

I have put this down on paper and written about it, that I look on Senator McCLELLAN as "my" chairman. He is "my" kind of chairman. I want to compliment him for his work not only on this bill, which is so important, but also over the many years that I have had the privilege of serving with him.

Mr. President, it is my great privilege to join in paying high tribute to Senator JOHN L. McCLELLAN for his outstanding service to the Senate and to the Nation as chairman of the Senate Committee on Government Operations.

The resolution adopted yesterday by the Senate, expressing warm affection and deep appreciation to my distinguished colleague from the State of Arkansas, and honoring his great ability, initiative, and statesmanship, fully expresses the deep respect which I hold for this great American. Documenting the major governmental reorganizations and reforms accomplished during Senator McCLELLAN's chairmanship of over 21 years of the Senate Committee on Government Operations, the resolution also takes proper note of his role as a vigorous and effective investigator to strengthen the hand of law enforcement against organized crime, to combat corruption, and to substantially improve fiscal accountability in the Federal Government.

It was my privilege to have been appointed to the Senate Committee on Government Operations on the same day in 1949 that Senator McCLELLAN initially assumed the chairmanship, and I count it a distinct honor to have served with him on this vital legislative arm almost continuously during my prior service in the Senate through 1964. As I have said publicly many times, Senator McCLELLAN is one of the finest committee chairmen under whom any Senator could be privileged to serve. And I can testify from direct experience that he gave his subcommittee chairmen full opportunity to dig deeply into any subject of importance to the Nation on which they had an immediate concern.

Last year marked the 50th anniversary of the creation of the Senate Committee on Expenditures in the Executive Departments, which ultimately become the Committee on Government Operations. Serving the longest term of any of the 11 distinguished chairmen of this committee, Senator McCLELLAN fully met the challenge of the committee's far-reaching authority by setting the highest standards for workmanship and responsibility in committee proceedings, and he truly merits a reputation for impartiality and fairness. I know all members of the committee welcome his continued participation in the work of this committee, and applaud his appointment as chairman of the Senate Committee on Appropriations.

Mr. McCLELLAN. Mr. President, I want to thank my distinguished friend and colleague from Minnesota. Frankly, I am a little embarrassed. It did not come to my attention until about 30 minutes ago that this action had taken place on the floor of the Senate yesterday.

I did know that the committee had passed such a resolution a few days ago, but I did not know it had been printed in the RECORD until a little while ago when the distinguished Senator from North Carolina (Mr. ERVIN), who placed it in the RECORD, called it to my attention.

Mr. President, I am grateful to the Senator from Minnesota for his very kind expressions of confidence, of good will, and of approbation of my humble services as chairman of the Government Operations Committee for many years.

It was a delight, indeed, to have him serve on that committee with me, and the other Senators, too, who served with me on that committee during that period. It has been a joy to work with them. Hopefully, I have tried to be fair. I can say that in almost all of our deliberations on that committee, particularly on the full committee, I cannot recall a single moment of unpleasantness during the time I have served as chairman. There have been disagreements and differences of opinion but always with due respect to those who may have differed with us. The efforts of the committee, with the fine membership that we have had serving on it, have always been constructive, with dedication and seriousness of purpose to accomplish worthwhile legislation and to meet the responsibilities that are incumbent on the committee in the legislative process. I certainly am grateful to each one.

This tribute is something unexpected for me. I can only say, in all humility, that I am grateful. I know that under the chairmanship of the distinguished Senator from North Carolina (Mr. ERVIN) who succeeded me as chairman, I will be followed by a very distinguished Senator who is a very able Senator and will make a great chairman of that committee.

I am going to remain on the committee, not any longer as its chairman, because I chose to take the chairmanship of the Committee on Appropriations by reason of a vacancy that occurred there under circumstances with which we are all acquainted. But I still have a great love and a consuming interest for the work of the Government Operations Committee. I am glad that I am privileged to remain on it and to continue to serve, not as its chairman but to serve with my colleagues on that committee as a member thereof.

Again, I am most grateful to all who signed the resolution—I believe every member of the committee signed it—which was placed in the RECORD yesterday. I am grateful to each one of them. This is an unexpected tribute and I am very happy about it. Thank you very much.

The PRESIDING OFFICER (Mr. TUNNEY). The bill is open to amendment. If there be no amendment to be proposed, the question is on third reading of the bill.

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

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. SCHWEIKER and Mr. ROBERT C. BYRD moved to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR CHILES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Oklahoma (Mr. BELLMON), the distinguished 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 HARRY F. BYRD, JR., ON FRIDAY, AUGUST 18, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, August 18, 1972, following the remarks of the two leaders under the standing order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.,) be recognized for not to exceed 15 minutes.

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

AUTHORIZATION FOR CERTAIN PRINTING FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 988, House Concurrent Resolution 553.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

H. Con. Res. 553, authorizing certain printing for the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Indiana (Mr. HARTKE) I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the concurrent resolution, add the following new section:

SEC. 2. After the conclusion of the second session of the Ninety-second Congress there shall be printed for the use of the Committee on Veterans' Affairs of the United States Senate twenty thousand copies of a publication similar to that authorized by the first section of this concurrent resolution, but with emphasis upon matters relating to veterans' affairs considered by the Senate or by the Committee on Veterans' Affairs of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I have called up this resolution at this time at the request of the Senator from North Carolina (Mr. JORDAN), the chairman of the Committee on Rules and Administration. The Hartke amendment meets with the approval of the Senator from North Carolina, and it also meets with the approval of the other side. The resolution and the amendment have both been cleared with the other side, as I understand it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Without objection, the concurrent resolution (H. Con. Res. 553) as amended is agreed to.

The title was amended so as to read: Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs."

ORDER FOR RECOGNITION OF SENATOR TUNNEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Florida (Mr. CHILES) on tomorrow, the distinguished Senator from California (Mr. TUNNEY) be recognized for not to exceed 15 minutes.

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

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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SENATOR JACKSON—NEWS ARTICLE BY HOLMES ALEXANDER

Mr. HARRY F. BYRD, JR. Mr. President, the nationally syndicated columnist, Holmes Alexander, has written a very interesting column on our colleague, the Senator from Washington (Mr. JACKSON).

Mr. Alexander points out the very prominent role which the Senator from Washington is playing in the Senate, especially in connection with the interim agreement signed by President Nixon and Chairman Brezhnev in Moscow recently. The Senator from Washington, as we in the Senate know, is a man of outstanding ability and a man who has a wide experience and wide knowledge in the military field.

Mr. President, I ask unanimous consent that the article by Holmes Alexander, published in the Harrisonburg, Va., Daily News Record of August 14, 1972, be printed in the RECORD.

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

JACKSON'S PRESENCE FELT

(By Holmes Alexander)

WASHINGTON.—When he comes to write his further Memoirs, President Nixon may tell us why he didn't include a couple of U.S. senators when he went to Moscow last spring to sign the Disarmament Accords.

The warnings of history would have told him to do so. President Woodrow Wilson made that colossal error at the end of World War I. He went to Paris to put over the League of Nations, turned his back on Sen. Lodge and other powerful members of the upper body, and the results were heard round the world.

The treaty that would have brought us into the League was defeated. Wilson was so shocked that he suffered a stroke. The country so much agreed with Lodge in mistrusting Europe that it elected Republican Presidents Harding, Coolidge and Hoover in succession.

NIXON WILL GET ACCORDS

Nothing so drastic impends today. Mr. Nixon is craftier than Wilson and not nearly so egocentric and vain. He is going to get his accords. The first section, the ABM Treaty, passed the Senate with brief debate and dissenting votes only from Allen of Alabama and Buckley of New York. The second section, a five-year Interim Agreement on offensive weapons, will earn the Senate's consent in all likelihood, but not quite in the way that Mr. Nixon originated it. He still has to treat with Sen. Jackson, who distrusts Communists as much as the late Sen. Lodge distrusted Europeans.

Scoop Jackson (D-Wash.), a Senate powerhouse on defense matters, would not have been an easy rider on the Presidential trip to Moscow. He likes to describe Soviet Russia as a "hotel burglar" who tries every door on the corridor until he finds one unlocked.

Jackson was the author of "safeguard" amendments to the Test Ban Treaty of '63, and no doubt would have made similar demands in Moscow. This would have slowed the Moscow schedule, marred the slick scenario that called for well-timed toasts in champagne, but it would have accomplished earlier what Jackson was sure to do later.

SENATE FLOOR FIGHT

Jackson still demands "safeguards," and has opened his fight on the Senate floor. His three-point amendment says that the five-year Interim Agreement will be interrupted and canceled whenever Soviet weapons-deployment "have the effect of endangering the survival of our strategic deterrent."

Jackson's purpose is not, like that of Lodge, the overthrow of a President. He clearly prefers the Nixon military programs to those of Candidate McGovern, and it is not inconceivable that he may be the President's choice for Secretary of Defense next year, as he was in 1969.

Jackson has several related intentions in mind. One is to put a rude end to the build-up of national euphoria, to the mistaken belief that the Moscow Accords spell peace-in-our-time.

Jackson also intends to fire a warning shot across the bows of the Soviet state. The Interim Agreement permits Russia to "modernize" existing weapons, but the senator wants to prevent the abuse of this right. Jackson is looking toward next month's renewal of disarmament talks, SALT II, and wants to head off Soviet pressure for American concessions.

There are two ways in which Jackson expects to apply psychological counterpressure. One, by amending the Interim Agreement with this threat of cancellation. Two, by holding the Senate vote of approval to the closest possible margin.

SUBTLE AGREEMENT

Rather than directly oppose Jackson, the President has chosen to encourage Republican co-sponsorship in the Senate of the Jackson Amendment. It is a subtle way of agreeing with Jackson on the danger of national euphoria.

Finally, it is an indication that, while Jackson was not invited to make the Moscow trip, the President did not wholly leave him behind, as Wilson did Lodge. Mr. Nixon had the shadowy presence of Senator Jackson with him at the Kremlin, and was never altogether deaf to the Senator's advice.

QUORUM CALL

Mr. HARRY F. BYRD, JR. 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 HARRY F. BYRD, JR., TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the distinguished junior Senator from California (Mr. TUNNEY) on tomorrow, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators on tomorrow there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 3 minutes.

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

ORDER FOR CONSIDERATION TOMORROW OF HOUSE JOINT RESOLUTION 1278, CONTINUING RESOLUTION—1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the routine morning business tomorrow the Senate proceed to the consideration of House Joint Resolution 1278, a continuing resolution for 1973, and that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until the disposition of the continuing resolution or until the close of business, whichever is earlier.

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

ORDER FOR CONSIDERATION OF S. 32—NATIONAL SCIENCES POLICY AND PRIORITIES ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of House Joint Resolution 1278 on tomorrow, the Senate proceed to the consideration of S. 32, a bill to authorize the National Science Foundation to conduct research, education and assistance programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities and for other purposes; and that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until the close of business tomorrow or until the disposition of S. 32, whichever is the earlier.

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 ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate adjourns today it stand in adjournment until 9 a.m. tomorrow.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. After the two leaders have been recognized, the following Senators will be recognized in the order stated, and each for not to exceed the time stated: Mr. BELLMON, 15 minutes; Mr. CHILES, 15 minutes; Mr. TUNNEY, 15 minutes, Mr. HARRY F. BYRD, JR., 15 minutes; after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

At the conclusion thereof the Senate will proceed to the consideration of House Joint Resolution 1278, the continuing resolution for 1973.

Upon the disposition of the continuing resolution the Senate will proceed to the consideration of S. 32, a bill to authorize the National Science Foundation to conduct research, education and assistance programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes.

The unfinished business, Senate Joint Resolution 241, with respect to an interim agreement, will be laid aside temporarily tomorrow and remain in a temporarily laid aside status until the Senate has disposed of the continuing resolution and the National Science Foundation bill.

There is an agreement on the National Science Foundation bill of 2 hours on the bill, 1 hour on any amendment in the first degree, one-half hour on any amendment in the second degree, debatable motion, or appeal.

Yea-and-nay votes may occur on the continuing resolution, and it is anticipated that yea and nay votes will occur on the National Science Foundation bill.

The revenue sharing bill will be laid down at the close of business tomorrow.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 6:21 p.m. the Senate adjourned until tomorrow, Thursday, August 17, 1972, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 16, 1972:

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be general

Gen. Jack G. Merrell, [redacted] (major general, Regular Air Force) U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, United States Code:

Lieut. Gen. George B. Simler, [redacted] (major general, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lieutenant General *Donald Vivian Bennett*, [redacted] Army of the United States (major general, United States Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lieut. Gen. Alexander Day Surles, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officer for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

MEDICAL CORPS

Brigadier General George Joseph Hayes, [redacted] Army of the United States (colonel, Medical Corps, United States Army).

U.S. 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.

U.S. MARINE CORPS

The following-named officers of the Marine Corps for temporary appointments to the grade of major general:

Samuel Jaskilka
Edward S. Fris
Thomas H. Miller, Jr.
Robert H. Barrow
Herbert L. Beckington

The following-named officers of the Marine Corps for temporary appointments to the grade of brigadier general:

Clarence H. Schmid
Edward A. Wilcox
William L. Smith
Arthur J. Poillon
Kenneth McLennan
Joseph Koler, Jr.
George R. Brier