by your agency in other cases of complexity and controversy, then your agency's existence will be a very difficult thing to justify, especially to the people of Ashe and Alleghany counties.

In July, the EPA announced it would make an independent review of the case and asked the Federal Power Commission to give them time to prepare a brief on the environmental aspects of the case.

I was happy to see that EPA was now at least in the same ball park with us, so I immediately urged the agency to convene an interstate enforcement conference on water quality control, with the aim of requiring full compliance with existing environmental guidelines by each of the industries operating on the Kanawha.

A short time later, EPA, together with the Attorney General of West Virginia and several environmental groups, raised some serious environmental objections to the project, and asked the Federal Power Commission to give EPA responsibility for resolving those objections, especially those related to "pollution-dilution," before the project went forward.

To help matters along, I proposed an amendment to the House water pollution control bill, which would specifically require EPA approval for any hydroelectric power project involving "pollution-dilution" and would also set strict limitations on the amount of water that could be stored for this purpose in the event it was approved.

That amendment was included in the House version of the water pollution bill, and it is now being considered in the House-Senate conference committee.

My argument in this Blue Ridge case is not with the Appalachian Power Co. so much as it is with the way the people of Ashe and Alleghany counties have been ignored and maligned and, I think, needlessly endangered by proponents of this project.

As I told the Federal Power Commission in testimony last September, protecting the rights of the citizens of Ashe and Alleghany counties is my principal concern.

Their rights, as I have mentioned earlier, have been neglected by almost every party to this controversy, and their traditional and future ways of life have been endangered in the course of that neglect.

With only the most begrudging exceptions, none of these parties has shown any concern whatsoever for the welfare or the wishes of these good people who, it should be noted, will receive absolutely no benefit from this project at all.

They are being made to bear the brunt of a mammoth rearrangement of their homeland, and still they are subjected to callous disregard.

After 4 years of struggling with a massive and insensitive bureaucracy, I have concluded that the only real way to protect the people and property of Ashe and Alleghany counties is to flatly prohibit construction of the Blue Ridge project.

That is the purpose of the legislation I introduce today.

The Federal Power Commission is expected to issue its decision on licensing the Blue Ridge project within a very short time.

Thus it is imperative that all appropriate steps be taken immediately to avert a natural and personal disaster that, if allowed in this instance, may set a precedent of destruction and governmental disregard that could imperil the entire Nation.

I urge immediate consideration of this legislation in the appropriate committee, and strongly request a vote on this measure at the earliest possible date.

SENATE—*Wednesday, September 13, 1972*

(Legislative day of Tuesday, September 12, 1972)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

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

Almighty God, in the morning and every hour we acknowledge that Thou art the ruler of men and of nations. As here the statutes of the Nation are formed and sent forth, help us to keep ever before us the divine statutes—"Love the Lord your God with all your heart, soul, and mind. This is the first and greatest commandment. The second most important is similar: Love your neighbor as much as you love yourself. All the other commandments and all the demands of the prophets stem from these two laws and are fulfilled if you obey them. Keep these and you will find you are obeying all the others." Thus may we believe and thus may we labor as a country which proclaims "Blessed is the nation whose God is the Lord." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 13, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, September 12, 1972, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services; the Committee on Commerce; the Committee on Interior and Insular Affairs; the Committee on Rules and Administration; the Subcommittee on Internal Security of the Committee on the Judiciary; the Subcommittee To Investigate Juvenile Delinquency of the Committee on the Judiciary; the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary; the Subcommittee on Compensation and Employment Benefits of the Committee on Post Office and Civil Service; the Subcommittee on Flood Control, Rivers and Harbors of the Committee on Public Works; and the Subcommittee on Labor of the Committee on Labor and Public Welfare may be authorized to meet during the session of the Senate today.

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

H.R. 13915—THE EDUCATION BILL

Mr. MANSFIELD. Mr. President, I am delighted that, as always, the distinguished Senator from Alabama (Mr. ALLEN) is in the Chamber. Rather than have him ask questions this time, I think that I will make a report, tentative though it may be, as to what the joint leadership has been attempting to do insofar as the education bill, H.R. 13915, is concerned.

The joint leadership had a number of meetings on yesterday, seeking to arrive at some agreement or accommodation on both the interim agreement on offensive weapons, which is the pending business, and the education bill which was passed by the House several weeks ago, was held at the door, and is now on the calendar.

Unfortunately, we were not able to reach any solution on either of these two legislative matters, with the result that, with great reluctance, the joint leadership filed a cloture motion on the interim agreement in an attempt to bring this matter to a head.

Our only desire is to see that the interim agreement, which has been before the Senate for well over a month, is decided one way or the other and, in that manner, give the Senate a chance to work its will.

So far as the education bill is concerned, we not only met among ourselves but also with various members of the Committee on Labor and Public Welfare.

We intend to meet again today, and every day, to see whether we cannot arrive at some agreement or some accommodation.

I want to thank the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), for

standing in for me on the past several evenings and answering questions. I want to commend him for the candor and the integrity with which he expressed the views of the majority leader when that matter was called up.

Thus, the purpose of making this statement at this time, may I say to the distinguished Senator from Alabama, is to report that we have been trying but, so far, we have not been able to achieve anything in the way of definitive progress.

Mr. ALLEN. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. ALLEN. I thank the distinguished majority leader for his statement, but the distinguished majority leader will recall that the junior Senator from Alabama has not questioned the leadership as to its intentions at this period preceding morning business——

Mr. MANSFIELD. Oh, no. That is understood.

Mr. ALLEN. It was at the close of the daily session when the junior Senator from Alabama observed that the custom is to inquire of the leadership as to the program. He does appreciate this report from the distinguished majority leader but he notes that there is nothing definite there and that, apparently, it is the plan of the leadership to call up from time to time a series of bills numbering some 10 or 12 for consideration by the Senate.

As the junior Senator from Alabama stated last evening, he is disappointed to find that the education bill is not on the list. I appreciate the majority leader's referring to the bill as the education bill because it is an education bill and provides an authorization of $500 million for educationally deprived schoolchildren, and it is very, very important. It also provides a method for the desegregation of the public schools in order that no child will be deprived of the equal protection of the laws guaranteed by the 14th amendment.

The junior Senator from Alabama is most anxious that the bill be scheduled for consideration. He appreciates very much the distinguished majority leader's conferring with various Senators in this regard. The junior Senator from Alabama is confident that the majority leader is seeking to work out some agreement for the consideration of these measures.

The junior Senator from Alabama would like to inquire, though, whether the distinguished majority leader contemplates obtaining a unanimous-consent agreement as to a time limit on the bill as a condition precedent to bringing the matter up for consideration by the Senate.

Mr. MANSFIELD. Well, first, let me answer a question which has not been raised except incidentally, as to why this was not in the list of legislative proposals to be considered by Congress before adjournment last evening.

The reason why it was not listed was that, even though it is on the calendar, we could not be as definitive about it as we could about the other items and because of the fact that the joint leadership was trying to see whether an agreement or an accommodation of some sort could not be achieved.

Now what was the question?

Mr. ALLEN. I asked whether it was going to be a condition precedent to the consideration of the bill that a unanimous-consent agreement would be reached.

Mr. MANSFIELD. That has not been reached as yet—well, I have raised the possibility of the matter being referred back to the committee and reported within a time certain. However, that, of course, would call for a unanimous-consent request. We have made no progress, or very little progress, in that regard.

Frankly, I feel that the joint leadership's hands are tied a little bit because of the difficult situation we find ourselves in as leaders. We are ready to do the best we can, and it is our intention to keep both sides informed of what progress we make, if any, as the days go on.

Mr. ALLEN. Mr. President, I thank the distinguished majority leader. Would the distinguished majority leader be willing to accommodate the junior Senator from Alabama in order to allow him to question the majority leader further in this regard?

Mr. MANSFIELD. Yes, indeed.

TRANSACTION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the conduct of morning business not to exceed 5 minutes.

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

THE SITUATION ON THE EDUCATION BILL

Mr. ALLEN. Mr. President, I would like to suggest to the distinguished majority leader that this bill is so important that it is going to have a very definite effect, in the judgment of the junior Senator from Alabama, on the composition of the U.S. Senate for the 93d Congress.

The President has castigated Congress for not enacting the legislation which he has recommended to Congress. The House has passed a bill on equal educational opportunity, the educational bill referred to by the distinguished majority leader. The legislation which was passed as part of the Higher Education Act has, in effect, been nullified by the action of Supreme Court Justices, Mr. Justice Powell in an Augusta, Ga., case, and Mr. Justice Douglas in the Las Vegas case as reported in this morning's paper.

It is absolutely essential that this legislation be enacted or that the Senate have an opportunity to work its will on the bill. The failure of the Democratic controlled Senate to consider this matter prior to adjournment and prior to the general election, in the judgment of the junior Senator from Alabama, will have an adverse effect on the chances of several Democratic senatorial candidates in the next election.

The junior Senator from Alabama is most anxious for that reason, for he would like to see a Democratic Senate and a Democratic House during the next Congress. However, he thinks that unless this bill is considered by the Senate, there is a strong possibility that that will not be the case.

Mr. MANSFIELD. Mr. President, of course, as the Senator knows, in politics anything can happen. And it can happen to Republicans as well as Democrats. I only wish to assure the Senator that the joint leadership will continue to do everything in its power to bring about an agreement or accommodation so that the distinguished Senator from Alabama and those who are associated with him in this endeavor will be given every consideration.

I am, indeed, sorry not to be able to report progress. However, I did want the Senate to know that the joint leadership has been making all possible efforts, and will continue to try to do so, to bring this matter to a head.

Mr. ALLEN. Mr. President, I thank the distinguished majority leader. I think the distinguished majority leader has been most kind.

ORDER FOR RECOGNITION OF SENATOR BELLMON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders, the junior Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECESS TO 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:45 tomorrow morning.

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

(Later in the day this order was changed to provide for the Senate to meet at 8:15 a.m. tomorrow.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED OIL POLLUTION COMPENSATION ACT OF 1972

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to implement the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

ORDER FOR JOINT REFERENCE OF A COMMUNICATION FROM THE STATE DEPARTMENT WITH REFERENCE TO THE INTERNATIONAL CONVENTIONS ON OIL POLLUTION

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous con-

sent that a communication from the State Department to implement the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage be jointly referred to the Committee on Commerce and the Committee on Foreign Relations.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

REPORT ON FINAL DETERMINATION OF CLAIMS OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination relating to Docket Nos. 282–A through L, the Eastern Band of Cherokee Indians, plaintiff, against the United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT OF OVEROBLIGATION OF AN APPROPRIATION

A letter from the Secretary of Agriculture, reporting, pursuant to law, on the overobligation of an appropriation to the Forest Service; to the Committee on Appropriations.

MARITIME PROGRAMS AUTHORIZATIONS, 1973

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce (with accompanying papers); to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes (Rept. No. 92–1112).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with an amendment:

H.J. Res. 1257. A joint resolution to authorize an appropriation for the annual contributions by the United States for the support of the International Agency for Research on Cancer (Rept. No. 92–1113).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

H.R. 11948. An act to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law (Rept. No. 92–1114);

H.J. Res. 984. Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property (Rept. No. 92–1115); and

H.J. Res. 1211. Joint resolution to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission (Rept. No. 92–1116).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 92. Concurrent resolution authorizing the printing of additional copies of the hearing before the Subcommittee on Children and Youth relating to the sudden infant death syndrome (Rept. No. 92–1117); and

S. Res. 359. Resolution relating to the printing and distribution, as a Senate document, of legislative proceedings with respect to the death of former Senator Hickenlooper (Rept. No. 92–1118).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Res. 360. Resolution authorizing supplemental expenditures by the Committee on Veterans' Affairs for inquiries and investigations (Rept. No. 92–1119); and

H.R. 10243. An act to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes (Rept. No. 92–1123).

Mr. JORDAN of North Carolina. Mr. President, at its meeting on September 13, 1972, the Commitee on Rules and Administration unanimously approved H.R. 10243, the Technology Assessment Act of 1972. On behalf of the committee I am pleased to report this important act to the Senate. As reported, the measure is in the form of an amendment in the nature of a substitute. It is my hope that the Senate will have the opportunity to act on this important measure in time for approval by the House before adjournment. A brief summary of the salient features of the act is as follows:

The bill extends the congressional information-gathering function with an Office of Technology Assessment (OTA) in the legislative branch. The Office would be composed of a policymaking body called the Technology Assessment Board and an operational unit to be headed by a Director. The Board's functions would be limited to the formulation and promulgation of policy; the Director would be responsible for the day-to-day operations of the Office. In addition, there would be a Technology Assessment Advisory Council to advise the Board.

The basic responsibilities and duties of the Office would be to provide an early appraisal of the probable impacts, positive and negative, of the applications of technology and to develop other coordinate information which may assist the Congress in exercising its legislative tasks.

In carrying out these functions the Office would: (1) identify existing or probable impacts of technology or technological programs; (2) where possible establish cause-and-effect relationships; (3) identify alternative technological methods of implementing specific programs; (4) identify alternative programs for achieving requisite goals; (5) make estimates and comparisons of the impacts of alternative methods and programs; (6) present findings of completed analyses to the appropriate legislative authorities; (7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described, and (8) undertake such additional associated tasks as the appropriate authorities may direct.

It is emphasized that these are informational functions—not functions of control or recommendation. They are designed to supplement existing systems of acquiring information, such as the hearing system.

The Board would be comprised of 13 members, six from the House, six from the Senate, three majority members and three minority members, from each of the two Houses, with the OTA Director serving as a nonvoting member. The Proposed Modified Senate Committee Version being reported would establish a Technology Assessment Advisory Council composed of 12 members. Ten of these members would be private citizens appointed for fixed terms by the Board; the remaining two, the Director of the Congressional Research Service and the Comptroller General, would serve as ex officio members.

The usual powers and authorities of a functioning agency of Government are provided for the Office of Technology Assessment, including those of promulgating rules and regulations, making contracts, hiring personnel, and fixing compensation. The Office would also be authorized to sit and act wherever and whenever necessary. The Office would itself be prohibited from operating laboratories, pilot plants, or test facilities in the pursuit of its mission.

Assessments could be initiated by the chairman of any committee of the Congress, for himself or on request of the ranking minority member or a majority of committee members, by the Technology Assessment Board or by the Director, in consultation with the Board. All results would be freely available to the public except in cases involving national security, or where public information statutes would prohibit it.

The Congress has not provided itself with an adequate capability for the independent collection, correlation and analysis of information on the many complex issues which confront all of us every day. The establishment of an Office of Technology Assessment would provide this critically needed service to the Congress.

The need for such an Office is underscored by the rapid pace of scientific and technological developments and the increasingly critical environmental, social, and economic problems confronting our Nation.

In this regard, one of the most pressing needs for Congress under today's conditions is to be better informed concerning the vital issues for which we must create legislation and upon which we must make decisions.

The time is long past when we can afford to forego the benefits of modern techniques in the areas of information and policy analysis. If we are to be the handful of men to make vital decisions, we must have the advantage of the best data available. And I consider the establishment of the Office of Technology Assessment to be a significant step toward providing Congress with the best information that is available.

It is worth noting that the Office of Technology Assessment would be the first office the Congress has established for itself since the establishment of the GAO in 1921, and the first entirely new information organization since the establishment of the Legislative Reference Service of the Library of Congress in 1914.

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 353. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the O'Neill unit, Missouri River

Basin project, Nebraska, and for other purposes (Rept. No. 92–1121); and

S. 2350. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the North Loup division, Missouri River Basin project, Nebraska, and for other purposes (Rept. No. 92–1122).

By Mr. McCLELLAN (for Mr. KENNEDY), from the Committee on the Judiciary, with amendments:

S. 33. A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers (Rept. No. 92–1124).

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

S. 2318. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes.

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. HARTKE:

S. 3981. A bill to amend the Federal Aviation Act of 1958 in order to prevent aircraft piracy by requiring the use of detection devices to inspect all passengers and baggage boarding commercial aircraft within the United States. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 3982. A bill for the relief of Miss Yukie Suzuki. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE:

S. 3981. A bill to amend the Federal Aviation Act of 1958 in order to prevent aircraft piracy by requiring the use of detection devices to inspect all passengers and baggage boarding commercial aircraft within the United States. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, I am today introducing legislation which would require that all airlines boarding passengers in the United States make use of either X-ray or metal electronics sensing devices to detect concealed weapons carried by passengers or in luggage. My proposal requires that these devices be installed by December 31, 1972, and it imposes fines up to $25,000 per violation for any airline that fails to install them or fails to use them in scanning boarding passengers and luggage.

Already this year there have been 28 hijackings and four deaths as against 27 skyjackings and four deaths in the full 12 months of 1971. Only five of the 36 U.S. airlines have installed enough devices to cover all departures. In fact, six of the 11 largest airlines have installed no devices whatsoever as of August 1 of this year.

One reason for the delay by the airlines in the installation of surveillance equipment has been the hope that Congress will foot all or part of the bill for these devices which are estimated to cost $4 million for the relatively unsophisticated equipment now advocated by the Federal Aviation Administration. The type of equipment contemplated by the FAA, however, is inadequate. The legislation I am introducing today requires the airlines to install more sophisticated and sensitive equipment.

The device now in use—the magnetometer—is by no means adequate. Because of the way it operates, it is capable of detecting about 25 percent of the weapons now manufactured. There is more sophisticated equipment. Metal detectors and X-ray devices that would detect all such weapons and my bill requires that these be used in place of the magnetometer. The cost of the magnetometer is between $1,500 and $2,000 as against $2,500 to $3,000 for metal detectors for example. The cost of providing 2,000 metal detectors—the number required to protect the 2,800 gateways of the Nation's 530 airports is approximately $6 million. This breaks down to slightly more than 4 cents for each commercial passenger carried.

Mr. President, this is a cost we can afford. It is a cost we can ill-afford not to bear.

The people who use this Nation's airways have a right to protection. They have the right to be free from the fear of skyjacking. They have a right to expect that Congress will see that effective action is taken to assure that protection. The legislation which I have proposed today will accomplish that goal.

Mr. President, I ask unanimous consent that the text of my 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. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1421) is amended by inserting at the end thereof the following new subsection:

"(e) Screening of passengers and baggage.

"(1) After December 31, 1972, no air carrier or foreign air carrier shall operate an aircraft in air transportation unless all passengers boarding that aircraft in the United States, and all such pasengers' baggage brought aboard the aircraft wherever stowed, shall have been inspected by means of a metal detection device capable of detecting all metal objects or by means of an X-ray device immediately prior to boarding and have not been found to carry or contain an unauthorized explosive device or weapon of any kind.

"(2) The Administrator shall, as soon as practicable, prescribe such rules and regulations as may be necessary and appropriate to implement the provisions of paragraph (1).

"(3) Notwithstanding any other provision of law, any person who—

"(A) violates the provisions of this subsection shall be subject to a civil penalty of not exceeding $25,000 for each violation thereof;

"(B) knowingly and willfully violates the provisions of this subsection shall, upon conviction, in addition to the penalty provided in subparagraph (A), be subject to a fine not exceeding $25,000 or to imprisonment not exceeding two years, or to both, for each violation thereof."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3846

At the request of Mr. COOK, the Senator from Nevada (Mr. BIBLE), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. MOSS), the Senator from Texas (Mr. TOWER), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3846, to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs.

S. 3880

At the request of Mr. SCHWEIKER, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 3880, to amend the Public Health Service Act to provide for education with regard to and detection of diabetes mellitus.

S. 3971

At the request of Mr. SCOTT, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 3971, to amend the Internal Revenue Code of 1954 so as to exclude from gross income amounts of disaster relief loans canceled pursuant to laws of the United States.

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS—AMENDMENTS

AMENDMENT NO. 1513

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

Mr. FULBRIGHT (for himself, Mr. MANSFIELD, Mr. CHURCH, Mr. SYMINGTON, Mr. MUSKIE, Mr. CRANSTON, Mr. AIKEN, Mr. CASE, Mr. COOPER, and Mr. JAVITS) submitted an amendment, intended to be proposed by them, jointly, 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.

AMENDMENT NO. 1514

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

Mr. FULBRIGHT (for himself, Mr. MANSFIELD, Mr. CHURCH, Mr. SYMINGTON, Mr. MUSKIE, Mr. CRANSTON, Mr. AIKEN, Mr. CASE, Mr. COOPER, and Mr. JAVITS) submitted an amendment, in the nature of a substitute, intended to be proposed by them, jointly, to amendment No. 1406, intended to be proposed by Mr. JACKSON (for himself and other Senators) jointly, to Senate Joint Resolution 241, supra.

FREE ENTRY OF A CARILLON FOR MARQUETTE UNIVERSITY, MILWAUKEE, WIS.—AMENDMENT

AMENDMENT NO. 1515

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

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis.

LAND AND RESOURCES PLANNING ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1519

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

Mr. HANSEN (for himself, Mr. JORDAN of Idaho, Mr. FANNIN, Mr. BUCKLEY, and Mr. COOPER) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 632) to amend the

Water Resources Planning Act (79 Stat. 244) to include provision for a national land-use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land-use planning.

AMENDMENT NO. 1520

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

Mr. HANSEN (for himself, Mr. JORDAN of Idaho, Mr. FANNIN, and Mr. COOPER) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 632, supra.

AMENDMENTS NOS. 1521, 1522, 1523, 1524 AND 1525

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

Mr. MUSKIE. Mr. President, I am submitting five amendments to S. 632, the Land Use Policy and Planning Assistance Act of 1972. These amendments are ones I believe necessary to address some of the concerns about S. 632 which I addressed in my floor statement of August 16.

My first amendment, which is cosponsored by the Senator from Delaware (Mr. BOGGS) and the Senator from California (Mr. TUNNEY) would shift responsibility for the program from the Interior Department to the Executive Office of the President.

Second. This amendment would make major changes in section 303.

First, the amendment would do away with the requirements that States assume "determinative State authority" over areas of critical environmental concern, key facilities, and other large scale developments. In its place, the amendment requires a finding that land use development of such facilities is not inconsistent with any State land use program. This shift in emphasis leaves considerably more authority at the local level and is designed to limit, somewhat, the absolute State authority which the phrase "determinative State authority" implies.

Second, the amendment would abolish the requirement in subsection (b) (1) (c) that a State assume authority to override any local restrictions on major developments.

Third, the amendment would assure that air and water pollution laws will not be violated by specifically preserving the requirements of the Clean Air Act and the Federal Water Pollution Control Act and requiring States to continue to pursue vigorous enforcement activities.

Fourth, States would be required, as part of their State land use program, to take action to prevent disruption of local tax base or, where disruption occurs, to assume responsibility for providing adequate local services and for other losses which may occur as a result of the State land use control activity.

Fifth, the amendment would remove support for the "maximum beneficial use" concept as relates to development of large scale subdivisions.

Sixth, the required methods of implementation for the State land-use program would be revised to give States the option of adopting any implementation alternatives necessary to achieve their objectives. As proposed S. 632 requires either direct State land-use planning or full powers of the State to approve or disapprove local action. This would require a huge bureaucracy and, at a minimum, State involvement in every local action relating to land use.

Third. This amendment would provide national land use policy guidelines to assure adequate State land-use programs.

Fourth. This amendment would add further assurance that local finance structures, services, and debt obligations will not be obstructed by any State land-use planning activity.

Fifth. This amendment is designed to assure that provisions of other Federal laws and Federal policies are not superceded by this act.

This latter amendment also will assure that State efforts to implement the standards, criteria, emission or effluent limitations, monitoring requirement or implementation plans required by the Clean Air Act, the Federal Water Pollution Control Act or other Federal laws, are not compromised or otherwise made less stringent by this act.

Finally, this amendment protects the right of any State or local government to adopt restrictive controls on land-use development regardless of any of the policies set in this act.

I ask unanimous consent that the amendments be printed in the RECORD.

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

AMENDMENT NO. 1521

On page 62, line 17, strike "Secretary of the Interior" and insert in lieu thereof "President"

On page 63 strike lines 6, 7, and 8 and insert in lieu thereof:

"SEC. 201(a) The President may perform his responsibilities under this Act through the Office of Land Use Policy Administration established pursuant to this section.

"(b) There is hereby established in the Executive Office of the President the Office of Land Use Policy Administration (hereinafter referred to as the "Office")."

On page 63, line 9, strike "(b) and insert in lieu thereof "(c)".

On page 63, beginning at line 15 strike "Secretary of the Interior (hereinafter referred to as the "Secretary") and insert in lieu thereof "President."

On page 63, line 17, and at each place where it appears thereafter in the bill, strike "Secretary" and insert in lieu thereof "President" in those places where "Secretary" is intended to refer to the Secretary of the Interior.

On page 65, line 23, insert "Interior;" immediately following "Development;"

On page 66, beginning on line 18, strike "and the agency designated pursuant to section 502".

On page 82, between lines 22 and 23 insert the following:

"(6) the Department of the Interior;"

On page 82, beginning at line 23, and continuing to page 83, line 1, redesignate "(6)", "(7)", "(8)", and "(9)" as "(7)", "(8)", "(9)" and "(10)" respectively.

On page 83, line 15 strike "notify the President, who shall"

On page 83, lines 22 and 23 strike "after notification by the Secretary"

On page 84, lines 2 and 3 strike "after notification by the Secretary"

On page 95, strike lines 21 through 25 and insert in lieu thereof the following:

"(1) take any appropriate and necessary action to minimize such conflict; (2) work with the appropriate Federal agency"

On page 96, line 20, strike "President and the"

On page 101, strike lines 17 through 23 and insert in lieu thereof the following:

"SEC. 502(a) The President is authorized to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. He shall submit proposed guidelines to the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines."

On page 102, lines 9 and 10, strike "President and the"

On page 106, line 10, strike "Secretary" and insert in lieu thereof "Executive Office of the President."

On page 106, line 15 strike "Secretary of the Interior" and insert in lieu thereof "Executive Office of the President."

On page 108, strike "Secretary of the Interior" and insert in lieu thereof "President."

On page 108, strike "Department of the Interior" and insert in lieu thereof "Executive Office of the President."

AMENDMENT NO. 1522

On page 76, beginning at line 19, strike out all through line 16 on page 78 and insert in lieu thereof the following:

"(b) (1) methods of implementation for—

(A) assuring that the use and development of land in areas of critical environmental concern within the State is not inconsistent with the State land use program;

(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities including the site location and the location of major improvement and major access features of key facilities is not inconsistent with the State land use program;

(C) assuring that any large-scale subdivisions and other proposed large-scale development within the State of more than local significance in its impact upon the environment is not inconsistent with the state land use program;

(D) assuring adoption and vigorous enforcement of standards, criteria, emission or effluent limitations, monitoring requirements or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act or other Federal laws controlling pollution;

(E) preventing any decision made as a result of the State land use program from disrupting the tax base and levels of service of any local government in the state unless the state is able to pay adequate compensation for any losses or assume the costs of providing local services;

(F) periodically revising and updating the State land use program to meet changing conditions; and

(G) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program.

(2) The methods of implementation of clause (1) of this subsection (c) shall be determined by the State.

AMENDMENT NO. 1523

On page 78, between lines 17 and 18 insert a new subsection as follows:

"(c) a process to assure that—

(1) no public or private development will be permitted unless, in the process of development, and in the completed project, the development will conform with the requirements of the Clean Air Act, as amended, and

the Federal Water Pollution Control Act, as amended, as determined by the Administrator of the Environmental Protection Agency;

(2) no industrial, residential, or commercial development shall occur on agricultural land of high productivity, as determined by the Secretary of Agriculture, unless specifically approved by the Governor as necessary to the public health and welfare or to provide adequate housing, that would otherwise be unavailable;

(3) no industrial, residential, or commercial development shall occur that would exceed the capacity of existing systems for power and water supply, waste water treatment and collection, solid waste disposal and resource recovery, or transportation unless such systems are planned for expansion and have financial support adequate to support operation and expansion as necessary to meet the demands of the new development;

(4) redevelopment and improvement of existing communities and other developed areas are favored over industrial, commercial or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, and that development contrary to these principles shall be allowed only where it will provide significant and permanent jobs, housing and educational opportunities for low and middle income families;

(5) as determined by the appropriate Federal agencies to the extent possible, no development shall occur on water saturated lands such as marshlands, swamps, bogs, estuaries, saltmarshes, and other wetlands without replacement of the ecological values provided by such lands;

(6) except where no alternative exists, there shall be no further commercial, residential or industrial development of flood plains of the navigable waterways in the state;

(7) those responsible for making less permeable or impermeable any portion of the landscape will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snowmelt;

(8) to the extent possible, upland watersheds will be maintained for maximum natural water retention; and

(9) all private and public forest lands which are leased for timber cutting under compliance with existing statutes shall be harvested in such a way as to avoid any loss in productivity of site, including nutrient and water holding capacities of the site, and take all available precautions to protect the air, water, and soil, of the site and surrounding regions, apart from removal of timber itself.

AMENDMENT NO. 1524

On page 82, between lines 7 and 8, insert a new paragraph as follows:

(3) The President shall not make a grant pursuant to this Act until he has determined that the State has a program to prevent any decision made as a result of the State land use program from disrupting the tax base and levels of service of any local government in the State unless the State is able to pay adequate compensation for any losses, assume the cost of providing local services, and assure that any local government debt obligations are met.

AMENDMENT NO. 1525

On page 107, lines 10 and 11, strike "except as required to carry out the provisions of this Act".

On page 107, lines 17 and 18, strike "except as required to carry out the provisions of this Act".

On page 107, following line 25, insert the following new subsections:

"(d) to delay or otherwise limit the adoption and vigorous enforcement, by the State, of standards, criteria, emission or effluent limitations, monitoring requirements or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act or other Federal laws controlling pollution.

"(e) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or strict control of land use development in any area over which the State or local government exercises jurisdiction."

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1506

At the request of Mr. BROOKE, the Senator from California (Mr. CRANSTON) and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of amendment No. 1506 intended to be proposed to the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

ADDITIONAL STATEMENTS

REVENUE SHARING

Mr. HART. Mr. President, I voted for the revenue-sharing bill, but with some reluctance and principally because of the immediate financial crises facing many of the Nation's cities.

For example, Detroit, which has the highest income tax and real estate tax allowed by State law, needs $48 million in revenue-sharing funds to break even this year.

Similar crises face other cities, and those hard facts overcame my reluctance stemming from the mathematics, politics, and principle of revenue sharing.

The mathematics, and, indeed, the politics of revenue sharing, revolve around who gets how much.

Some communities which would receive more under the House-approved version claim to be hurt by the Senate formula, and vice versa.

One could argue, I think, that since the bill will provide new money, all communities gain and none are hurt regardless of the distribution formula agreed on.

But, of course, any politican at any level of government, can make the case that the needs of his particular constituents are great enough to justify the formula which most favors his jurisdiction.

One shudders a bit at the prospect of future election campaigns being waged on the basis of who promises the most for his voters in revenue sharing, and the crunch which will follow when attempts are made to deliver on such promises.

If, indeed, that is the can of worms we have opened, the real victim may be the effort to reorder national spending priorities to areas of greatest need.

Equally distressing is the possibility that this annual expenditure of $5.3 billion in Federal funds will do nothing more than finance the status quo in many communities.

There is no requirement, for example, that communities and States receiving revenue sharing funds improve their planning and administrative capabilities.

This is not to argue that there is no redtape in the Federal bureaucracy nor that all wisdom can or should come from Washington.

This is not to argue with the contention that the rigidity incorporated into too many Federal programs to guard against potential abuse has made these programs unworkable at the local level.

Certainly more flexibility is needed.

Certainly, local officials should have more discretion in deciding how best to spend money to improve the quality of life in their communities.

But to agree that some Federal programs have become so rigid as to be useless does not force one to agree that the pendulum should swing to the other extreme.

Unhappily, the law by physics which requires a pendulum to stop for an instant before changing directions does not apply automatically to the swings of political pendulums.

Again, despite these reservations, I supported revenue sharing because of the enormous financial crises facing our cities, cities which are forced to carry an unfair share of the burden of the problems of poverty.

Also, the program is authorized for a specific length of time—5 years. Hopefully, then, revenue sharing is viewed as an experiment and not as a basic untouchable ingredient of our federal system.

If my fears prove unwarranted and the experiment succeeds, it should be extended.

If not, Congress should face up to the difficult task of correcting a program which I am sure will enjoy the support of many who do not like the responsibility for raising taxes.

Turning to the bill itself, there are some disappointments about specific portions of the Senate version.

The limit placed on social services expenditures, which I opposed, will reduce the net amount going to many States under the Senate bill. The loss to Michigan may well run between $30 million and $50 million.

The Senate missed a sound opportunity to achieve limited but important tax reform when it rejected amendments closing more than $3 billion worth of income tax loopholes. I supported these amendments, not only in the interest of tax fairness but because, as now constituted, revenue sharing is being financed out of the Federal budget deficit.

And finally, and perhaps to underline my point about the politics of revenue sharing, I supported, unsuccessfully, amendments to change the Senate formula which would have brought Michigan's share more in line with the amount provided in the House bill.

THE 100TH ANNIVERSARY OF EPISCOPAL CHURCH OF THE HOLY INNOCENTS, HOBOKEN, N.J.

Mr. CASE. Mr. President, this year the Episcopal Church of the Holy Innocents

in Hoboken, N.J., is celebrating its 100th anniversary. The church has a distinguished history, and I am glad to ask unanimous consent to have printed in the RECORD a letter from John J. Heaney, chairman of the centennial committee, describing some of the background surrounding this occasion.

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

CENTENNIAL CHURCH OF THE HOLY INNOCENTS,
Hoboken, N.J., September 1, 1972.

HON. CLIFFORD P. CASE,
U.S. Senator,
The State House,
Trenton, N.J.

DEAR SENATOR CASE: This year our Episcopal Church of the Holy Innocents celebrates the 100th anniversary of founding. On such an occasion as this, we would be honored to have your presence at the Church and banquet to follow at Stevens Center, Stevens Institute of Technology, Hoboken, N.J. on October 22, 1972.

The Church of the Holy Innocents is a memorial to a little girl, Julia Augusta Stevens, daughter of Edwin Augustus and Martha Bayard Stevens, who died in Rome, Italy at the age of seven, on December 26, 1870. The Church was erected by her mother. Julia's father was the founder of Stevens Institute of Technology, Hoboken, N.J. It was in historic Castle Stevens, now Stevens Center, this little girl was born. What is now the campus of Stevens Institute at one time was the family private estate.

The Stevens family has the distinction of being one of the oldest families of New Jersey. Prior to the American Revolution, the first John Stevens to arrive in America in 1699, shortly after a stay in New York City, married a Perth Amboy girl, Ann Campbell. John Stevens (1) held many prominent positions in our state's earliest history.

The Honorable John Stevens, as he was known to all who knew him, was a son of John Stevens (1), and a man of great prominence in New Jersey, prior and during the American Revolution. He was Vice President of the New Jersey Council during the Revolutionary War. Honorable John Stevens married Elizabeth Alexander, whose father was James Alexander, defender of Peter Zenger in "Freedom of the Press." His son, William Alexander, also known as "Lord Stirling", was an Aide de Campe to General George Washington, and a vast owner of land in the Hunterdon County section of New Jersey.

Honorable John Stevens' son, Colonel John Stevens, who purchased the Island of Hoboken in 1784, was the State Treasurer of New Jersey during the American Revolution. Colonel Stevens married Rachel Cox, whose family at that time resided in the Trent House, Trenton, known then as "Bloomsbury Court." Colonel Stevens was not only a great patriot, but a great inventor. Many of his contributions are in use not only in New Jersey, but our entire country, such as our railroads.

Colonel John Stevens' son, Edwin Augustus Stevens, the father of Julia Augusta Stevens, to whose memory the Church of the Holy Innocents was built, was the founder of Stevens Institute of Technology, Hoboken, N.J. He married Martha Bayard Dod of Princeton, N.J. Miss Dod's father was Professor Albert B. Dod at Princeton University. Dod Hall at Princeton is named in his honor. This lady could well look with pride to her ancestral background such as the Bayards, Stuyvesants, Stocktons, Pintards and Boudinot families. As Mrs. Edwin A. Stevens, she was Lady of Castle Stevens for almost fifty years. After her death, her son, Colonel Edwin A. Stevens, bequeathed to Morvan, a bed belonging to Mrs. Stevens' great-grandmother Susanna Stockton, sister of Richard Stockton, the signer of the Declaration of Independence. Mrs. Stevens, in the 1860's, entertained the entire State Legislature of New Jersey at Castle Stevens. Members of the Stevens family through marriage, are related to many of the old families of American background, among the few the Washington, Lee and Lewis families of Virginia.

As we honor the Centennial of the Church of the Holy Innocents, so we honor this great heritage enshrined in the love of a mother for her little girl, and her love and duty to God and mankind.

Respectfully yours,
JOHN J. HEANEY,
General Chairman, Centennial Committee.

FOOD ADDITIVES

Mr. NELSON. Mr. President, we have been concerned for some time over the effect that widespread use of food additives has for the public health. Some 3,000 chemicals currently are used either directly in food or in food packaging, and the vast majority have never been scientifically tested for safety.

Two bills that I have introduced, S. 76 and S. 3163, deal with food additives: the current testing and regulatory mechanisms; the Delaney anticancer clause; the requirement that additives be approved for necessity as well as safety; nutritional standard setting for food; the "generally recognized as safe"—GRAS—list provision in the Food, Drug, and Cosmetic Act.

The Senate Select Committee on Nutrition and Health is holding hearings September 18, 19, and 20 on these bills and the general subject of food additives.

These issues should be addressed by the Congress, as new scientific information comes to light, revealing potential dangers of many long-used additives.

The food additives industry expects its current $500 million sales to reach $756 million by 1980. The expanding development of synthetic and convenience foods means a greater use of chemicals to preserve, color, flavor, stabilize, extend, tenderize, sweeten, and condition food products.

Currently, the American public is a testing ground for many of these substances. The public is beginning to ask questions about their safety and nutritive value.

A thoughtful article by Washington Post writer Colman McCarthy, published in the Saturday Review of September 2, 1972, describes an average American dinner, and demonstrates the far-reaching ramifications which the food additives issue has for all of us.

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

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

A REGULAR FAMILY MEAL (AARGH!)

(By Colman McCarthy)

WASHINGTON, D.C.—"It won't be anything fancy," Helen said, inviting me to dinner a few nights later. "Just a regular family meal. Do come." I said fine. Helen and her husband, Frank, are old friends, and I hadn't seen them for a while. Anyway, Helen is known as a fine and homey cook.

The meal Helen served was indeed a regular family meal. I wouldn't have noticed anything wrong about it if I hadn't been reading up on the American food industry and had learned about the dangers—and potential dangers—of the chemicals that are put into processed food. I had also heard that some of our food is filthy. And I knew it could be extremely expensive. Just how nutritious are the meals served in millions of American homes, I wasn't sure.

As it turned out, Helen's meal was not the worst I've had. None of her dishes was overt junk food, and all at least looked good. Still, I didn't eat much.

Helen led off with a bowl of soup—chicken noodle, make by Lipton in its Cup-a-Soup line. On the packet of dry mix the second ingredient listed after noodles is salt. Salt is listed even before the dehydrated chicken. (On a non-standardized food, manufacturers are required by the Food and Drug Administration to list ingredients in the order of weight.) Thus, Lipton's chicken noodle actually contains more salt than chicken—it really is noodle salt soup. Although the FDA keeps an eye on the ingredients, it doesn't regulate the names.

Excessive use of salt is a common tactic in food processing. In *Consumer Beware!* Beatrice Trum Hunter points out that salt is "extremely useful to the food industry. It acts as a preservative. It can mask the flavor of odorous foods. It can help inhibit the growth of molds and bacteria. It bleaches and 'improves food color. It can prevent discoloration. It is a processing aid in peeling, sorting, and floating. It is useful in drying and freezing foods. It whets the appetite to consume *more* processed foods and beverages. And, being one of the cheapest commodities, every ounce of salt used in place of food is a saving for the processors." Mrs. Hunter goes on to say that many Americans consume "astronomical proportions" of salt—up to twenty times what the body needs or can use. She also points out that "excessive salt intake is involved in many serious health conditions, including high blood pressure, obesity, heart disease, atherosclerosis, and tooth decay."

While my hosts were drowning their joys in salty soup, I had to look busy, so I went for the bread. There was a choice: Wonder bread or imported French bread. Both were puffy and airy, but the French bread must be better for you, right? Well, in a recent study called "The Staff of Life," Paul E. Araujo and Jean Mayer tell of an experiment examining forty-four breads from several different nations. They report that "this highly regarded French bread was last nutritionally."

Although to me mass-produced bread has always been tasteless, the Wonder bread began to look tempting. At least it contained some nutrition, since law requires enriched flour to be used. So I took a slice. I had no illusions, however; I remembered that in March 1971 the Federal Trade Commission moved against the Continental Baking Company, an ITT subsidiary, because of the advertising claim that Wonder bread "helps build strong bodies twelve ways." The FTC charged that Wonder bread is no different from other enriched breads. In October 1971 the company finally admitted that its product "will not provide a child, ages one to twelve, with all the nutrients, in recommended quantities, that are essential to healthy growth and development."

Rather than eat my Wonder bread dry, I applied some pimento spread. Its main ingredient was water. Pimento was the ninth of the sixteen ingredients listed on the cover. Also on the list were as many chemicals and additives as anyone could want: disodium phosphate duohydrate, cellulose gum, sodium hexametaphosphate, sodium citrate, sodium benzoate, potassium sorbate, and, fittingly, artificial coloring. All those sodium compounds—salt is a sodium compound—made me uneasy.

And what are all these additives anyway?

According to Michael F. Jacobson in *Eater's Digest*, we eat five pounds of them a year but know little about them. The Food and Drug Administration isn't much help; a number of the substances on its list of approved food additives have been proved to be dangerous. Monosodium glutamate was put into baby food until a few years ago, when a scientist discovered that it caused brain damage to infant mice when it was injected under the skin and caused eye damage when it was fed to them in massive doses. Well, what about all the chemicals in the pimento spread? I wasn't sure I wanted to take any chances. Anyway, the stuff had a gummy texture,, and when spread broke into particles, as though the watered chemicals couldn't stand to be parted. The Wonder bread couldn't take the strain. It ripped.

A large glass of ice water was before me. It looked good—but one could not be sure. In the last decade alone there were at least 128 known outbreaks of disease or poisoning attributed to drinking water. Daniel A. Okun, chief of environmental sciences at the University of North Carolina, has said that half of the population drinks water discharged "only hours before . . . from some industrial or municipal sewer." Passing up my glass of ice water, I swallowed the grim truth that the last Senate hearing on the purity of drinking water was in 1893, when Grover Cleveland was President.

The main course was beef liver, spinach soufflé, and crinkle-cut french fries. Helen, half-apologizing for the liver, said she was avoiding steak until the prices came down. Besides, she added, beef liver is good for your blood.

The soufflé came from a Stouffer's frozen twelve-ounce package, with a pretty picture on it. Pale and airy, it tasted to me like a seaweed sponge. The next day, when I phoned the Stouffer Company in Solon, Ohio, to ask how much spinach was in the twelve-ounce packages, the public-relations man did not know right off, but he told me that Stouffer's was a great and proud company that made delicious food. An hour later he called to say that spinach was 35 per cent of the total and skim milk was 16 per cent. How can that be? I asked. On the label skim milk is listed before spinach. "That's funny," said the Stouffer's man. "Let me check." Ten minutes later he called again with a revised count. Skim milk was 31.7 per cent and spinach was 30.2 per cent. Thus, Stouffer's, like Lipton's, has it backward: Spinach soufflé is really skim milk soufflé.

The french fries turned to mush on the first bite. There was no telling by the taste that they were potatoes, and no wonder. The vitamin C is largely lost in processing them into convenience foods. According to one nutrition study, "fresh french fries contain 21 milligrams of vitamin C per 100-gram portion while the frozen samples were found to range from 0.3 to 16.7 milligrams, depending on brand." Now, a pound of fresh potatoes at the market costs 16 cents; Helen's crinkle cuts cost 33 cents a pound. In the course of doubling the price, the manufacturers may have supplied half as much vitamin C.

Everything served so far, I began to think, had been through a factory, save the water, which might have come from a sewer. Last April, when investigators from the General Accounting Office ran their clean finger of curiosity through ninety-seven food plants, randomly chosen, they found only thirty clean enough to comply with federal law. The reports on the rest ranged from "significant unsanitary conditions" to "minor unsanitary conditions."

Meanwhile the FDA has published a list of the levels of contamination it allows the manufacturers to put into food. Fifty insect fragments—presumably such tidbits as fly wings, roach shells, and ant feelers—are okay for three-and-a-half ounces of peanut butter. Corn meal may have five rodent pellet fragments; three-and-a-half ounces of tomato juice may have ten fruit fly eggs or two larvae. Other items allowed—the FDA calls them "natural or unavoidable defects in food"—include bacteria, mold, and rot. The agency claims the filth permitted in our food presents "no hazard to health."

For some reason, I was still hungry.

Helen said, with a wifely smile, that she liked to serve liver to Frank because "he can be a health nut at times."

No doubt. But whether Frank will end up a healthy health nut is another question. For almost twenty years many cattlemen have been giving their livestock a hormone called diethylstilbestrol (DES), which causes the animals to reach market weight of 1,000 pounds thirty-five days early on 500 pounds less feed. Presumably, the DES is passed by the animal in its excrement. The problem is, DES is a known cause of cancer in lab animals. Until recently the FDA seemed only mildly alarmed. "DES is clearly a useful and effective product," said the FDA commissioner Charles C. Edwards, M.D. Of course, federal law—the Delaney Clause—forbids use of a proven cancer-causing chemical in animal feed when residues of it can be found in the meat. Disclosures by the Agriculture Department in June revealed that DES is being found by federal investigators and that since January, when new regulations were instituted, the levels have risen.

At first the FDA claimed it didn't have all the facts about the cancerous drug and that a public hearing had to be held. Then, early last month, the agency took action—of sorts. It ordered an immediate halt in the production of cattle feed with DES and gave the farmers until the end of the year to use up the feed on hand. However, the drug may still be used to fatten animals, for the Department of Agriculture and the FDA are now studying another way of using DES—implanting it in the animal's ear. Their theory is that less of the substance is released into the animal's system by this method—and, supposedly, there is a smaller residue.

Needless to say, I ate as little of the liver as possible.

For dessert Helen brought out a quart of Briggs chocolate ice cream and a bowl of topping. She said Briggs, a local brand, was her favorite because the company puts out a special container that is hand-packed. "It's hand-packed?" I asked. "Yes," Helen said. "They say so on the label." I had been to the Briggs Ice Cream Company and knew a little about the statement. Last year, when the plant manager was showing me through his operation, I asked him if he could show me the workers hand packing. Sorry, the manager said, just by chance they didn't happen to be in at that particular moment. I asked if he would describe how the hand packers go about their work. Sure, he said, by now friendly. A worker on the assembly line "just holds it [the container] under the filling machine. So there's a hand on the package as it is packed. We say hand-packed, not hand-dipped. That's pretty damned clever, isn't it?"

The only federal regulations for ice cream are requirements that it be at least 10 per cent butterfat and weigh at least 36 ounces for a half gallon, which means that about 50 per cent of the contents can be air. The ingredients need not be listed, and manufacturers have more than thirty-two additives to choose from, including sodium carboxymethylcellulose and tetrasodium pyrophosphate (there's that sodium again!).

Consumers, long conditioned to buying ice cream by volume and not by weight, rarely check a brand's heaviness in relation to the price. The ice cream freezer in the Giant supermarkets in Washington, for example, carries three brands in half gallons: Briggs, Heidi, and State House. The last two are distributed by Giant but made by another firm. It is easy to discover who that is. The nearly microscopic print on the containers reveal that the District of Columbia, Maryland, and Virginia food license numbers of Heidi and State House are identical with the number on the Briggs container. Thus, all three brands are made by the same manufacturer. A further comparison reveals that the weights are nearly identical: 42 ounces for a half gallon of Briggs and Heidi, 40 ounces for State House. But the prices are not identical: Briggs costs $1.19, Heidi 99 cents, and State House 69 cents. Because ice cream makers are not required to list the ingredients or butterfat content, the consumer selecting among the three brands has no way of knowing differences in quality or weight.

The difference between the mass-produced ice cream served by Helen and the kind I buy at a bakery is air. Those who remember licking the dashers of a hand-cranked home freezer know that air is introduced into ice cream according to how much the ice cream is beaten. My baker beats his ice cream for only twelve minutes, putting in just enough air to keep it from becoming soggy and gooey. Some factory-made brands are so aereated that no bite or chew is left.

The topping Helen served was Cool Whip, the nondairy dessert manufactured by General Foods. She put two blobs on Frank's dish. They sat like a pair of creamy breasts upon the tan body of luscious-looking ice cream. To me, the Cool Whip was the most revolting part of the meal. It is a "food" made almost entirely from additives and synthetics. After water, the main ingredients as listed are an all-star selection: hydrogenated coconut and palm kernel oils, sugar, vanilla, sodium caseinate, dextrose, polysorbate 60, sorbitan monostearate, carrageenan, guar gum, artificial color and flavor. Cool Whip, which won the 1970 award of the Institute of Food Technologists, was described by the institute as a "stable freeze-thaw emulsion resembling whipped cream in appearance, utility, and texture when eaten." I passed up the Cool Whip pleasure and wondered if my friends would ever invite me back again.

When I got home that night I looked up a chapter in *Consumer Beware!* in which the author answers the question, "What harm can chemical food additives do?" She writes: "Scientists are becoming aware of the need to study the untoward results [of chemical food additives on health]—those which are slight, unnoticed, delayed, and indirect. These are the subtle effects on the human system at the basic cellular level, resulting from hundreds, even thousands of substances biologically foreign to the body, consumed daily in common foodstuffs, over many years, or even during an entire lifetime." I ate an apple, organically grown, and went to bed.

NOTABLE ADDRESS BY DR. MARIO LAZO

Mr. THURMOND. Mr. President, as a student of U.S. policies in the strategic Caribbean danger zone, I long ago noted the failure of many important sections of our mass news media to report and editorialize objectively on crucial geopolitical events, such as the Communist takeover of Cuba in 1959–61, the Bay of Pigs disaster of 1961, the Cuban missile crisis of 1962, the attempted Communist takeover of the Dominican Republic in 1965, and the maneuvers by certain elements in the State Department, beginning in 1964, to have us give up our jurisdiction over the Panama Canal.

Fortunately, there are organizations in our Nation's capital city with memberships that well understand what is

transpiring and which have the courage to expose the facts. One of them is the District of Columbia Chapter of the Military Order of the World Wars.

At its monthly meeting on May 11, 1972, the speaker was Dr. Mario Lazo, a distinguished Cuban lawyer who holds degrees from Cornell University and the University of Havana. Dr. Lazo founded and for many years headed one of the most respected and successful law firms in Latin America. The U.S. Government was one of his many clients.

At the time of the Bay of Pigs in 1961 Dr. Lazo was arrested and threatened with execution. His wife saved his life and also helped him escape to the United States. He then resolved to devote the rest of his life, if necessary, to finding out how and why Cuba had been surrendered to the Communist empire. The missile crisis, which came a year later, added to his task, to which he brought the investigative skills of a great lawyer and a reputation that permitted him to reach into the highest official circles in Washington. After almost 7 years of researching he wrote "American Policy Failures in Cuba," with the subtitle "Dagger in the Heart," published by Twin Circle Publishing Co., 86 Riverside Drive, New York, N.Y., 10024. This alarming and authoritative book has been acclaimed as the definitive account of the Castro era. Not one of its sensational disclosures has been challenged.

Previously, the September 1964 issue of the Reader's Digest had featured an article by Dr. Lazo titled "At Last—The Truth About the Bay of Pigs." The truth had been obscured for more than 3 years because word had gone out unofficially from the White House blaming the disaster on the Chiefs of Staff and the CIA. The Digest article placed the blame where it belonged.

Mr. President, since the address by Dr. Lazo to the Military Order of the World Wars on May 11, 1972, should be of the greatest interest to all Members of Congress and to the Nation at large, I ask unanimous consent that it be printed in the RECORD.

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

U.S. POLICY FAILURES IN CUBA

(Address by Dr. Mario Lazo before the Military Order of the World Wars, District of Columbia Chapter, May 11, 1972)

I appreciate very much being invited to be with you today.

It was while searching for the root causes of the Bay of Pigs debacle that I first became aware of the invisible, unrecognized struggle taking place in the United States between socialists or liberals on the one hand and conservatives on the other. This struggle, I have become convinced, permeates every sector of American society, the institutions, organizations of all kinds and the homes. On its outcome hinges the freedom of the Western World.

The Bay of Pigs was a struggle that took place in Washington. The action on the south coast of Cuba could have been cut by a few hours if the Cuban assault brigade had not fought so heroically. But the invasion was doomed by Washington decisions before the first blood had been spilled on the Cuban beaches.

It was a struggle between liberals-socialists and conservatives. In between the two groups was the new and youthful President, who had never been accused of lacking intelligence or courage. But he turned away from the professionals and sided with his political advisers, the "New Frontiersmen" who had breathlessly invaded Washington three months earlier.

The essential feature of the invasion plan was the use of air power. There were to be a minimum of 3 air strikes from Nicaragua with 16 bombers in each strike—that is, a minimum of 48 sorties. These would destroy Castro's 30 planes on the ground before the assault forces hit the beaches. The location of each Castro plane was under constant surveillance by U.S. reconnaissance. There was no way that Castro could hide a plane. Here is what happened.

The first strike was cut in half, on orders from the White House. Then the second strike was cancelled entirely, also on White House orders. Finally, when it was too late to call off the invasion, Kennedy also cancelled the third strike, under pressure from Adlai Stevenson, Dean Rusk and McGeorge Bundy. Thus the minimum of 48 sorties was reduced to 8. Yes, from 48 to 8! That last order sealed the doom of the invasion and marked it for certain disaster.

The Joint Chiefs and the CIA did everything humanly possible to induce the President to countermand these politically motivated and militarily incredible orders. But Kennedy remained adamant and the invasion fleet moved slowly toward catastrophy.

The first strike—really half a strike—destroyed most of Castro's small air force but he still had 2 jets, 3 fast Furies and a couple of B–26s and they commanded the skies. The Free Cubans lost half their planes and pilots the first day. Castro's jets sank 2 of the 5 troop and supply ships and the U.S. commander, from an LCI, ordered the others away. Although Kennedy knew that the Cuban brigade had been promised continuing supplies to the beaches, none were ever delivered. Without dramatizing the episode, this is the authentic account of the most humiliating defeat in the long, bright history of the United States.

Who were the men who advocated watering down the invasion plan? Here they are: McNamara, Stevenson, Fulbright, Robert Kennedy, McGeorge Bundy, Dean Rusk, Arthur Schlesinger, Walt Rostow, Richard Goodwin and Chester Bowles. Liberals or socialists all.

And who were the conservatives, on the side of the angels? Adm. Arleigh Burke, General Lemnitzer, General Cabell and Richard Bissell, Deputy Director of the CIA.

As the reports from the south coast of Cuba grew grimmer by the hour, these men made a final, fervent plea for the only thing that could still save the invasion—the use of American power just over the horizon. Admiral Burke asked that a detachment of Marines be permitted to go ashore. This was denied. He then asked Kennedy to permit the use of one destroyer, to lay down a barrage on the Castro tanks approaching the beachhead over two roads through swamps. The President asked, "What if Castro returns the fire and hits the destroyer?" Burke answered emphatically, "Then we'll knock hell out of them." But Kennedy said that then the US would be involved. (The involvement was supposed to be secret). Burke's answer was, "We *are* involved, Sir. God damn it, Mr. President, we can't let those boys be slaughtered there."

The traditional command structure of the United States, as you well know, has always been one under which the Commander-in-Chief sets the objectives and leaves it to the professionals to conduct the operations. In this case Kennedy kept a tight tactical control over the invasion. He rejected the advice of the military experts, assuming they could not accomplish a simple task for which a lifetime of experience had qualified them. His new political advisers were the ones who knocked out the invasion plan. That, in a nutshell, is the story of the Bay of Pigs.

Three days after the debacle Kennedy read a speech to a group of newspaper editors in the White House. Here is part of what he said:

"We must build a hemisphere where freedom can flourish; and where any free nation under outside attack of any kind can be assured that all our resources stand ready to respond to any request for assistance."

These words, my friends, were written in water.

Eighteen months later Kennedy delivered eight million of his Cuban neighbors into Communist enslavement. He gave the Soviets a pledge that the US would not invade Cuba or permit any other country to invade. This marked the death of the Monroe Doctrine after 138 years. It gave the Soviet Empire a guaranteed sanctuary inside the final defense periphery of the United States.

The Missile Crisis of October 1962 had developed in exactly the same way as had the Bay of Pigs. It was a struggle between liberals and socialists on the one hand and conservatives on the other. The conservatives pressed for a military strike, for decisive action. They felt the US had been afforded a God-given opportunity to wipe out the Communist beachhead at its door. The liberals-socialists advocated caution and accommodation.

Here the hawks were the few military men consulted, joined by Douglas Dillon and John McCone and, curiously, by Dean Acheson, who had learned very late that you had to be tough in dealing with the Communists.

The doves were McNamara, Stevenson, Robert Kennedy, Ted Sorensen, Bundy, Rusk and George Ball.

As the discussions proceeded, four courses of action were considered. One was to strike militarily. The second was a blockade. The third was to move diplomatically and the fourth was to do nothing at all.

Amazingly, the advocate, and the sole advocate of the do-nothing plan was the man heading the most powerful military establishment in world history. He argued that a missile is a missile and it makes no difference whether you get hit by a missile coming from the Soviet Union or from Cuba. The difference, of course, was in the warning time—either 15 minutes or 1 minute. McNamara eventually receded to the blockade, which was called a "quarantine," to give less offense to the Soviets.

But it was no blockade. During the 27 days that it lasted only one ship was boarded and 55 vessels were permitted to breach the arc, on orders from the White House in each individual case.

The reason the American people were led to believe the settlement was a great victory was because the accounts of Schlesinger and Sorensen, on which thousands of magazine and press articles were based, made no mention of the fact that in this power confrontation the military power of the U.S. was *overwhelmingly* superior to that of the Soviet Union, about 5 to 1.

Not only that, but Kennedy knew that he held all the trump cards The Soviets were not in a position to bluff. The U–2 had flown over the USSR for four years and had photographed every military installation. When Francis Gary Powers was shot down the U.S. reconnaissance satellites had continued photographing Russia. The U.S. had close to 200 ICBMs mounted and the Soviets were just beginning to mount theirs. The U.S. had 8 Polaris submarines at sea and the USSR had nothing in any way comparable. There was no reason to concede a single inch to the Soviets.

But the Kennedy administration was unable even to maintain the status quo ante. It gave the no-invasion pledge.

It agreed secretly to prevent Cuban Freedom Fighters from disturbing the Castro regime. Immediately following the settlement the Free Cubans were arrested and their arms and vessels were confiscated.

It secretly agreed to dismantle and remove its just-mounted land-based missiles from Turkey, Italy and England.

It agreed to high-level rather than on-site inspection of missiles in Cuba.

No, the Missile Crisis settlement was far from being the grandiose achievement that has been claimed for it. It was a defeat, the consequences of which cannot yet be measured. It may well have marked one of the great turning points in contemporary history.

In view of the versions leaked from the White House it was difficult enough to get at the truth of all this but my chief problem proved to be to determine why the liberals-socialists react the way they do. They are not Communists. They reject as slander and smear the statement that they are not patriots, although they seldom use the word except in referring scornfully to war veterans.

It is not easy to come up with a definition of liberalism. What we call a liberal is the opposite of what is known as a liberal in the Communist world. In Latin America we call them "reformistas." But the main reason it is difficult to define a liberal, I think, is because very few people are totally liberal or totally conservative. Each of us has liberal and conservative motivations. One may be a liberal with respect to domestic problems and conservative with respect to foreign affairs. . . .

It is very easy, however, to pinpoint the earmarks of the liberal or socialist.

One characteristic is that almost all liberals and socialists are pacifists or semi-pacifists. They do not understand the use of power.

Power is a normal, natural and essential ingredient of every human society. It always has been and it always will be. I refer to police power, to maintain order at home, and to the army, navy and air force to prevent aggression from abroad.

The liberals-socialists are against both war and warriors. They favor negotiation and compromise and they reject the use of force and coercion.

But human nature being what it is, there are occasionally clashes which cannot be settled by compromise. When these occur the liberals-socialists use force as a last resort and they use it haphazardly and sporadically, sometimes as a bluff. The classic example of this, of course, is the Bay of Pigs episode, when the US used exactly the right amount of power to get the worst possible result from every conceivable point of view. Instead of removing Castro, it entrenched him.

Another characteristic of the liberals-socialists is that they upgrade international concepts and downgrade national and patriotic concepts. They support the United Nations, trade with Russia and they search for areas of common agreement with the Communists.

There is no question but that liberalism and socialism has become less patriotic and more pacifist in recent years. Everybody knows this. It is shown publicly a thousand times every day.

It does not shock the average liberal-socialist that bearded young men say they will never fight for their country. He feels little thrill when the flag goes by and he finds pledges to the flag distasteful. It does not seem wrong to him that his nation's TV industry should, on a massive scale, present the scripts of those who hate his nation and seek its destruction.

Recently a survey was made of the history textbooks used in the public schools. A comparison was drawn between 14 of them used several decades back, and now retired, and 45 now widely used. Patrick Henry's "Give me liberty or give me death!" was cited in 12 of the 14 older books and in 2 of the 45 newer ones. Nathan Hale's reputed last words at the gallows, "I only regret that I have but one life to lose for my country," appeared in 11 of the 14 older books and in only 1 of the 45 newer. John Paul Jones' "I have not yet begun to fight" was in 9 of the 14 older histories and in none of the newer.

And then this. For every liberal-socialist—and there is no exception to this—the preferred enemy is always to the right, never to the left. Pas d'énamie à gauche. In fact, the liberals-socialists have the same enemies as the Communists:

The patriotic organizations—the American Legion and the DAR, which they ridicule.

The FBI.

The CIA.

The Committee on Un-American activities.

The Chambers of Commerce.

Big Business.

Colonialism.

Eddie Rickenbacker.

J. Edgar Hoover.

Listen to what they said of this American giant.

This is the Communist speaking, Gus Hall:

"Mr. Hoover was a servant of racism, reaction and repression. He was a political pervert whose masochistic passion drove him to savage assaults upon the principles of the Bill of Rights."

And here is the liberal, Dr. Benjamin Spock:

"Mr. Hoover's death was a great relief, especially if his replacement is a man who better understands democratic institutions and the American process."

And, of course, everyone knows that a common enemy of the liberals-socialists and of the Communists is the US military. The reason is that the soldier is the true patriot. He upgrades national and downgrades international concepts. He is professionally committed to place the safety and security of his country first and, if necessary, to sacrifice his life for his country.

The strongest tie that binds the US to its Latin American neighbors (230 million people) is the splendid relationship that exists between the military of our countries. Patriots understand and respect one another.

We have an example of that right here in your Commander, General Leigh Wade, and his wonderful wife. During my forty years of residence in Cuba I knew of no Americans who were more admired and loved by the Cubans.

And yet the Court historian, Arthur Schlesinger, Jr., who is slick with words and is a "closed" liberal-socialist, refers to the relationship of the military men in the Western Hemisphere as an "incestuous" relationship!

Yes, the liberals-socialists and the Communists have the same enemies, whether they be individuals or organizations, and they are always on the right.

For them the enemy is Chiang Kai Shek, not Mao.

It was Goldwater, not Khrushchev.

It is Franco of Spain, not Tito. Because Franco is a man of the right. Over a period of 15 years the US gave Tito, dictator of a country of 20 million people, more foreign aid than it gave to the 230 million people of Latin America. I am not advocating monetary aid to Latin America or to anyone else.

I wouldn't give away a single American dollar to anyone.

In Cuba the enemy of the liberals-socialists was Batista, not Castro. Because Batista was a man of the right. He gave the US the first missile tracking site on foreign soil. He gave the Pentagon every military facility and always voted with the US at the UN. He welcomed US business and industry. And he was certainly not the "predatory beast of the jungle" that Herbert Matthews called him in The New York Times. In fact, he was not a killer.

Castro, on the other hand, was known to be a radical and under Communist influence. He was also known to be a killer and strongly anti-American. But the liberals-socialists thought of him as being a man who was a little wild perhaps, with a few bad companions, but someone who expressed the aspirations of his people, someone to work with and to make plenty of allowances for. Because Castro was a man of the left. So the State Department instructed Ambassador Earl E. T. Smith to tell Batista to get out of his country and this opened the door for Castro, who never won a military victory.

The liberals-socialists have welcomed every revolution in this century that seemed to come from the left, including the Russian and Chinese revolutions. In the Spanish Civil War of 1936–39 they favored the anti-Franco, Communist-supported side.

You will never find a conservative favoring a U.S. giveaway program, whether it be the relinquishment of partial sovereignty over the Panama Canal or partial control of the Guantanamo Naval Base. The Canal is of incalculable value to the security of the U.S., and to the maritime commerce of the free world. The rights of the U.S. with respect to it were bought and paid for and the U.S. has no obligation to modify those rights in favor of a turbulent, leftwing Republic which has had 59 presidents in 69 years. The American people should be everlastingly grateful to Senator Strom Thurmond of South Carolina and Congressman Daniel J. Flood of Pennsylvania, one a Republican and the other a Democrat, for blocking the attempted sell-out of an American achievement which remains to this day one of the wonders of the world.

The Guantanamo Base is also of immense value to American security. It commands the sea approaches to Southeast United States and to the Canal. It permits, close to home, the constant training which is mandatory if the Fleet is to be kept ready. It is ideally located to permit the Navy to maintain its required expertise in engine-room and deck crews, pilots and squadrons and in task force operations as well.

Nevertheless Ambassador Philip W. Bonsal, who was assigned to Havana after Castro came to power, has written that it was his hope at the time that the status of Guantanamo might be modified to give Cuba a participation in its operation. Bonsal, no doubt, thinks of himself as being a liberal but most Cubans who have dealt with him characterize him politically as a socialist. The terms are often indistinguishable. The hope or thought of giving Cuba any operational control over Guantanamo is shocking to all true conservatives and I know of no patriotic Cuban who entertains it.

The ascendancy of liberalism-socialism in the United States rose markedly during the first Roosevelt administration and reached its peak under the Kennedy-Johnson government, when the liberals-socialists had greater influence than ever before in the history of the United States.

For all those who are not doctrinaire liberals-socialists (whose opinions derive from ideological fixations) it must be clear from what I have said that liberalism-socialism is unable to conduct a strong, continuous, intelligent fight against the left, against Communism. And it is for this reason that the fate of the Free World hinges on what I have called the invisible, unrecognized "struggle for survival."

Now, finally, whither Cuba?

Most people have forgotten that Cuba lived under the blight of Spanish colonial rule 76 years longer than any other country in Latin America. Yet, in the incredibly short span of half a century after freedom the living standard of its people was raised to the highest level of any tropical or semi-tropical country in the world and to one of the two or three highest in Latin America.

The main reason for this was that the Cubans are industrious and intelligent. But another reason was because of the contribution of American capital and know-how. There was no country in the world where Americans were more admired. During the last ten years that I lived in Cuba I got jobs for well over a thousand Cubans. In almost every instance they asked me to try to place them with an American company. Why? Because the Americans treated their employees fairly and generously. They paid their taxes and didn't cut corners. They adhered to the rigid labor and social laws.

According to the U.S. Department of Agriculture, when Castro came to power the Cubans were among the better-fed people of the world.

Castro destroyed all this. He tore the economic fabric of the country into shreds. He stole 2 billion in US property and 55 billion from his own people. And he killed more than 22,000 boys and men whose only crime was that they clung to their democratic ideals.

Today the Cuban farmer is fighting with his best weapon; he tries to produce no more than what he needs for his own family, and each month the flow of farm products to the towns and cities slows down. Today it is only a trickle. The current sugar crop is estimated to be no greater than what Cuba produced in 1919, 53 years ago.

Everything is rationed in Cuba except hate-America propaganda. Sugar and tobacco are rationed. The meat ration for an adult per week is what you eat in a single hamburger. The regime has entered a period of austerity which may well spell its ultimate collapse.

But now we hear that after the election an effort will be made to "normalize" relations with the Communist regime. Fulbright and Ted Kennedy have been in favor of this for a long time. Fulbright says that lifting the boycott against Cuba would be a "negative" act. The fact is that it would be a tremendously positive act. It would mean giving the Communist regime all the supplies, equipment, spare parts and other things that the Soviet Bloc has been unable to provide. It is the one thing that could keep Castro going a little longer. But it would not save him.

There are too many pockets of hatred for the man who has ruined his country and killed so many of his people. One day, perhaps in the noonday sun of a crowded plaza, Castro will meet a bomb or a knife or a bullet. Or perhaps the people will simply take to the streets, as in the case of Hungary. Then, within weeks Cuba will be liberated. And it will return to the family of western nations and become one of the most prosperous and conservative countries in our hemisphere.

This will be a great day for the United States because the mere survival of the Castro regime has been an element of incalculable importance in the world equation. The successful defiance of the United States from a stronghold at its own door has produced an image of Communist invincibility and American weakness which, in turn, encourages further anti-American campaigns, especially in Latin America.

There are many reasons to believe Cuba will be liberated but the basic reason is that the Cuban people love their country with a very profound love, a love of their good earth and their way of life. We, of course, give unending thanks to the American people for the hospitality we have found here. Here we have found open doors, open arms and open hearts. But no Cuban ever forgets that he is rooted to a stronghold of personal affection and no day passes that he does not long for home.

So I thank you again for having invited me to be with you. I think of this as a bright moment in our march toward freedom. When we get our country back you will be invited to visit us and you will meet with the warmest and most affectionate welcome imaginable. We know who our friends are. Every Cuban knows this.

Thank you.

U.S. PROSECUTORS CAN TRY CRIMINAL CASES WITHIN 60 DAYS

Mr. ERVIN. Mr. President, throughout the period that the Subcommittee on Constitutional Rights has been considering S. 895, a bill to provide speedy trials for criminal defendants, we have, of course, had to consider the danger that a 60-day trial limit would interfere with the ability of prosecutors to prepare adequately for trial.

Our work over the past 2 years on this legislation has convinced me that this fear is without foundation. Many witnesses have testified to the fact that the most important ingredient lacking in obtaining speedy trial is nothing more or less than willpower. Judges, defense counsel and prosecutors across the country who have dedicated themselves to speedy trial have found that it requires dedication and application much more than money or additional manpower. And they have found that speedy trial is not incompatible with justice. To the contrary, they find that defense and prosecution are better prepared, that trials are handled more fairly, that witnesses and evidence are fresh, and—in short—that justice is better achieved. The sixth amendment right to speedy trial is not incompatible with the interest of the defendant, or of the prosecution. The wisdom of the Founding Fathers is borne out by the more perfect justice achieved by a conscientious application of this constitutional right.

Today, I can offer to the Senate more evidence of this truth. On August 15, Whitney North Seymour, Jr., U.S. attorney for the southern district of New York, perhaps the busiest U.S. district in the country, in a speech before the ABA convention in San Francisco, summarized the success of his office in expediting criminal prosecutions.

His speech, which I wish to have printed in the RECORD immediately following my remarks, indicates that he has had no trouble complying with the speedy trial rules adopted by the United States Court of Appeals for the Second Circuit. Indeed, although the Second Circuit rules only require the U.S. attorney to be ready for trial by 180 days, his office is ready for trial within 60 days in all "short trial" cases—cases which can be tried within 3 court days—"the overwhelming bulk of cases."

Furthermore, Mr. Seymour has found that during the first full quarter after the second circuit rules the rate of disposition of cases was up to 20 percent, "all due to increased guilty pleas." As Mr. Seymour puts it, speedy trial is a prosecutor's "bonanza" for during the same period the conviction rate for his district increased from 90 percent to 95 percent.

I hope that Senators will read Mr. Seymour's excellent statement. Skeptics should listen carefully to a man who has the practical experience of day-to-day responsibility for law enforcement and who counts speedy trial as one of his most effective weapons against crime. His experience should put to rest any lingering worries, in the Justice Department or elsewhere, that the speedy trial legislation will "hurt the interests" of the prosecution.

I ask unanimous consent that Mr. Seymour's statement be printed in the RECORD.

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

SPEEDY TRIAL FROM THE STANDPOINT OF THE FEDERAL PROSECUTOR

Oliver Herford once defined a "liar" as one who tells "an unpleasant truth." At the risk of being branded with such a label, I assert the unpleasant truth that the current push for speedy criminal trials is primarily designed to overcome the well-deserved criticism of prosecutors and judges for dragging their feet. We engage in the polite hypocrisy of saying that defendants want speedy trials, but all of us know that this is not true in the overwhelming majority of cases where the defendant knows he probably will be convicted. Except in the rarest case, the last thing in the world a guilty defendant wants is a speedy trial. He will—and often does—do anything in his power to postpone the trial of the charges against him. The longer he can put off the day of trial, the better the chances that witnesses will become unavailable; that memories will dim; that the prosecution will lose its drive; and that the jury will become disenchanted with a violation that occurred some time in the distant past. No defense counsel in his right mind would ever push for a speedy trial if he knew that it increased the chances of his client being convicted. Practically the only circumstances under which defense counsel make speedy trial motions are when they think they have a chance of having the charge dismissed.

The real purposes behind the speedy trial rules is an effort to offset the public's loss of confidence in the administration of justice because in so many places it has become so slow and toothless. Speedy trials are essential to crime deterrence. Study after study has demonstrated that meaningful deterrence of crime can only be achieved when potential criminals believe that they will be arrested and brought to trial and punishment without delay.

The only way speedy trial objectives can be achieved is through the efforts of judges and prosecutors. Any system that depends on motions by defense counsel to eliminate trial delays is doomed to failure.

In the Federal courts, the drive for speedy trials began in the Second Circuit. A *coram nobus* proceeding was presented to the Court of Appeals on behalf of a state court prisoner who claimed that he had been deprived of his Federal Constitutional rights because of a pre-trial delay of approximately two years while he remained in custody. The Court of Appeals, under the leadership of then Chief Judge J. Edward Lumbard, decided to take a look at the situation in the Federal Courts before passing judgment on state court delays.

Almost simultaneously, new appointees as U.S. Attorneys in the Southern and Eastern Districts of New York had discovered the existence of a chronic backlog of over-age cases, some ten and twelve years old, and had already set about the task of trying to clear the backlog through the assignment of every available lawyer in both civil and criminal divisions to try the old cases and get them disposed of. Meanwhile, the U.S. District Court for the Southern District of New York did away with its master calendar and adopted an individual assignment system under which each District Judge was

accountable for the cases assigned to him, thereby eliminating the motivation for "buck passing." The stage was set for a new approach.

With the full participation of all concerned—Circuit Judges, District Judges, United States Attorneys, and bar association and Legal Aid Society representatives—a new set of rules was promulgated by the Circuit Council of the Second Circuit on January 5, 1971, to become effective on July 5 of that same year. The essential provisions of the new rules were that charges against each defendant held in custody must be ready for trial within ninety days, and that charges against each defendant on bail must be ready for trial within six months. The sanction in the former case would be the release of the defendant from custody; in the latter case, it would be dismissal of the charges themselves.

The key element in the new rules was the requirement that the prosecution must be "ready for trial" within the prescribed period. Management of the actual trial schedule was still left in the hands of the individual trial judges. The Second Circuit rules included a number of exclusions in the computation of the ninety-day and six-month periods, including periods of time when pre-trial motions are pending; continuances requested by the defendant (and, in limited circumstances, by the prosecutor); the absence or unavailability of the defendant (or a co-defendant, in a case where severence is not appropriate); detention in another jurisdiction; and failure of the defendant to have counsel.

The rules also include a catch-all provision to include other periods of delay occasioned by "exceptional circumstances." Although these exclusions are plainly necessary to provide commonsense flexibility to the speedy trial rules, it would be disingenuous not to concede that they provide potential "loopholes" which could be abused if a prosecutor or judge did not intend to implement the spirit, as well as the letter, of the rules. But this would be true of any statute or rule governing speedy trials if the prosecutor or judge really set out to obstruct the speedy-trial objective. In the mocking words of Ogden Nash, "Why did the Lord give us so much quickness of movement unless it was to avoid responsibility?" The key ingredient, obviously, is the commitment by both prosecutor and trial judge to prompt disposition of cases.

An essential element in achieving speedy trials is the development of internal systems in the prosecutor's office to keep track of criminal cases, and make sure that they are kept on schedule. In the Southern District of New York, long before the Second Circuit Rules went into effect, a special "Case Control Section" was established, staffed by paraprofessionals drawn partly from bright housewives who were held down at home by small children, but who could work part-time at modest wages to provide the kind of intelligent inventorying that was necessary. Despite the claims of management and computer experts, no one has yet put into practice a reliable computer program (although theoretically possible) to achieve up-to-date, dependable control over pending cases in a situation which, like the processing of criminal cases, changes day by day. The Southern District of New York Case Control system depends on control cards filled out by hand—one card for each case—supplemented by regular interviews of Assistant U.S. Attorneys. Written summary reports are prepared and submitted to the court on a regular basis, bi-weekly for jail cases, and monthly for all cases.

Among the procedures developed to implement the speedy trial concept was a new form called a "Notice of Readiness" to minimize the risk of communication breakdowns in indicating the government's readiness for trial where because of the abolition of a master calendar, there was no opportunity to answer "ready" on the court record.

In the Southern District of New York the internal timetables within the U.S. Attorney's Office were structured on a much stricter schedule than those set by the Second Circuit. In the case of indictments, each Assistant U.S. Attorney is now required to obtain an indictment within ten days of arrest in jail cases; and within twenty days of arrest where the defendant is out on bail. In the overwhelming bulk of cases—those referred to as "short trial" cases, which can be tried within three court days—Assistants are required to be ready for trial within sixty days. The six-month limit is reserved solely for the more complex cases which are classified as "long trials." To minimize the risk of slip-up, the Criminal Clerks in the Office send out ticklers to Assistant U.S. Attorneys to remind them to serve their "Notice of Readiness" within forty-five days on "short trials" and four months on "long trials." Where an Assistant has not sent out his "Notice of Readiness" within the prescribed time limits, his name is called at the weekly Criminal Division meeting to explain the reason for the delay. All internal control procedures are personally supervised by the Chief of the Criminal Division. The whole approach and implementation has been structured on a fundamental doctrine once articulated by Henry Wadsworth Longfellow: "It takes less time to do a thing right, than to explain why you did it wrong."

The problem of adequate administrative control, however, is not limited to the prosecutor. Of equal importance is effective supervision of the District Judges in moving along the criminal cases assigned to them within a reasonable time after the government has indicated its readiness to go to trial.

Judges are, after all, human beings, and across the broad spectrum there are those few who do not work as quickly or efficiently as their colleagues. In some cases, senior judges, who have already put in a lifetime of hard work, are inclined to feel that the breakneck pace of speedy trials is for the younger men. In other cases, some judges, like lawyers, are better "law men" then "feet men" and are more attuned to writing opinions than trying jury cases.

Anticipating this problem, the Second Circuit Court of Appeals requires in its rules that the United States Attorney file bi-weekly reports listing all defendants held in jail and giving all of the salient facts concerning the proceedings against him. Of even greater significance, the Second Circuit rules require the preparation and filing of Monthly Case Reports which list every criminal case pending more than six months, and the reasons why it has not been reached for trial. The reporting forms developed by our office include not only the particulars of the case, but also the identification of the trial judge and the Assistant U.S. Attorney, so that both the prosecutor's office and the court administrators can know whose cases are not moving. Recently, the Circuit Council requested us to issue the monthly case reports arranged by individual judge, so that the caseload of each would be more readily apparent.

The principal unresolved problem today is how to deal with those few judges who have not kept up with their individual caseloads of criminal cases. Obviously, this is a problem that requires tact and effective handling, but it is something that can only be dealt with within the court itself. It would be extremely unfair to reassign cases from those judges who have fallen behind to those judges who have kept current. This would totally destroy the initiative for trying to keep up with criminal cases as they come along. A more promising solution would be to utilize the services of visiting judges from other districts to help dispose of the backlog criminal cases which cannot be moved along by administrative prodding.

The results of the new speedy trial procedures in the Second Circuit have been impressive. In the year since the rules went into effect, every one concerned has become adjusted to the quickened pace, including the investigative agencies. Formerly one of the problems in filing indictments was the delay while waiting for the agency's written report to insure that there were no contradictions between factual material in the report and in the indictment. Most of the agencies are now aware that these investigative reports must be submitted promptly and the indictment process has been speeded up accordingly.

Another important benefit that has resulted from the speedy trial rules has been increased quality of the indictment themselves. When a younger Assistant U.S. Attorney must face the fact that he will have to present his evidence to a trial jury in approximately sixty days, he is much more likely to take a jaundiced look at the evidence presented to him by the investigative agency, and to ask more hard questions at the threshold of the prosecution, rather than waiting until some far-off day of preparation for trial. He knows that he is preparing for trial from the start and that there will be no future opportunities to fill in the gaps in the proof if they exist.

The net effect of all of these changes has been to increase both the rates of disposition, and also the rate of convictions. In the Southern District of New York, although the intake of new cases has continued to climb, the over-all rate of disposition has actually exceeded the rate of new business, with the over-all effect of a steady cutting back of the criminal caseload. This disposition rate has been primarily explained because defendants now know that they will go to trial soon, and are therefore more inclined to enter guilty pleas than they were when they could count on a certain amount of attrition as cases languished in file cabinets. During the first full quarter after the new Second Circuit rules went into effect in the last part of 1971, the rate of disposition was up by 20%, all due to increased guilty pleas. From a prosecutor's point of view, the result was a bonanza—the conviction rate in cases which were disposed of on the merits climbed from 90% to 95%.

All of our experience in the Second Circuit has taught us that the key to speedy trials is not laws and rules alone, but rather the wholehearted cooperation of the investigative agencies, prosecutors, judges, and other personnel involved. To paraphrase Judge Learned Hand's famous quotation about Liberty:

"The speedy trial lies in the hearts of judges and prosecutors; when it dies there, no statute, no rule can save it; no statute, no rule can even do much to help it."

SENATOR ALLEN J. ELLENDER

Mr. YOUNG. Mr. President, the untimely passing of Senator Allen J. Ellender was a tragic loss, not only to his beloved family, but to his State, Nation, and internationally.

Senator Ellender was an unusual and remarkable person. He had a good and retentive mind. Few men I ever knew had as inquiring a mind. He was also one who had a great interest in people and their problems. His interest in legislation and every activity as a Senator had a wider range than almost any Senator I have ever been associated with. This, coupled with his boundless energy, capacity for hard work, his friendly personality, his integrity and good judgment, all made

this man one of the most effective legislators I have ever been associated with.

No Senator during my time, or perhaps in the entire history of the U.S. Senate, made as great a contribution to the agriculture of this Nation. He either wrote or had a major part in writing practically all farm legislation from the beginning of his service in the Senate nearly 36 years ago.

He served longer than anyone in the history of the Senate on the Committee on Agriculture and Forestry almost 36 years. Of those years 18 were as its chairman, which is also a record.

Among the many other great interests and contributions of Senator Ellender were public works projects, especially civil functions. Literally hundreds of water projects, such as flood protective works, hydroelectric dams and navigation locks and dams, would not be in existence today if it had not been for this man's work and great influence in the Congress of the United States.

Senator Ellender always had a very keen interest in the welfare of people and extended his interests and work into many other areas, such as housing and national security. Invariably our friend was always found on the side of economy in government. He was quite a liberal, though, when human needs were involved, such as in meeting housing needs, food and nutrition needs and many others.

Through his effective and hard work he has left his imprint on almost every piece of legislation considered in the Congress during his long tenure here.

The interests of our late good friend extended even way beyond this Nation and his beloved State. In his extensive travels abroad, he did much to bring about a more friendly relationship between leaders of many nations of the world and the United States. Many of the things he advocated for years with respect to a better working relationship with other countries have come to fruition only in recent months.

Allen Ellender was one of my best and closest friends in the Senate. We had the same major committee assignments, those of Agriculture and Appropriations. We worked closely together on legislation handled by these committees. We made many trips together on committee assignments, not only in this country, but to many areas of the world. I perhaps came to know him better than most Members of the Senate.

Sometimes people, in listening to Senator Ellender interrogate a witness before one of his committees, would get the impression that he was very aggressive and even harsh. Not many understood that his only purpose of his sometimes tough questioning was to elicit the broadest possible information and facts.

While our committee assignments and work in the Senate found us working together most of the time day after day and year after year, we spent many happy hours together outside of the Senate. When I first took up golf—and this was not until quite some time after I had come to the Senate, we played together whenever we could find the time and that was until 4 or 5 years ago when he gave up golf.

Like many other Members of the Senate, I was often privileged to be his guest at his apartment and his hideaway Capitol office, where he found great enjoyment in cooking his creole dishes for his friends. In his cooking, like everything he undertook, he excelled.

I have lost a very close and dear friend, and the Senate has lost one of its truly fine Members. Mrs. Young and I extend our deepest sympathy to his wonderful family whom he loved so dearly.

GENOCIDE CONVENTION DOES NOT THREATEN AMERICAN JUDICIAL HERITAGE

Mr. PROXMIRE. Mr. President, many people have received the false impression that ratification of the United Nations Convention on Genocide by the United States would result in a loss of constitutional guarantees and would undermine the traditional liberties of our Nation. There are no grounds for such fears.

Indeed, it is the very intent of the Genocide Treaty to preserve the national heritage of our country and that of the 75 nations who have already ratified the convention. The purpose of the treaty is to insure that any effort to exterminate any racial, national, ethical, or religious group will not be tolerated.

Further, the section of individual rights and responsibilities of the American Bar Association studied the Genocide Convention and found that it is "consistent with the American tradition." The bar association concluded its study with the following statement:

> The Genocide Convention is now twenty years old, but it is a living and important document. Our friends are confused, our enemies delighted, at continued United States hesitation about the Convention. Adhering to the Convention now would be a real step in the advancement of America's national interest.

There is no danger that ratification of the treaty will in any way militate against the sustained presence of the Constitution as the highest law of the land. Nor will the rights of individual citizens under our Constitution be in any way impaired.

Mr. President, the time has come for Senate action on this important document. I urge the Senate to follow the lead of the Committee on Foreign Relations and the White House and ratify this treaty in the very near future.

IMPOUNDMENT OF HIGHWAY TRUST FUNDS HELD ILLEGAL

Mr. ERVIN. Mr. President, Chief Judge William H. Becker, of the U.S. District Court for the Western District of Missouri, Central Division, recently ruled that the executive branch has unlawfully impounded highway trust fund moneys that should be apportioned to the State of Missouri.

Judge Becker made the ruling in the case of State Highway Commission v. Volpe—Civil Action No. 1616—on June 19. He granted an injunction to restrain the withholding of highway trust funds from the State of Missouri issued a writ of mandamus requiring the Secretary of Transportation and Director of the Office of Management and Budget to end such withholding, and declared that the impoundment was unauthorized by law, illegal, in excess of lawful discretion, and in violation of the Federal-Aid Highway Act. The judgment has been stayed pending appeal of the case.

I believe that Judge Becker's ruling may well represent a breakthrough in efforts to reestablish the power and prerogatives of Congress over the Federal purse.

Impoundment of appropriated funds by the Executive is an important issue which has been explored thoroughly by the judiciary Subcommittee on Separation of Powers, of which I am honored to serve as chairman. The subcommittee conducted extensive hearings on the practice in March of 1971 and as a result of the testimony and materials adduced at those hearings, I subsequently introduced S. 2581, the impoundment procedures bill which is pending in the Committee on Government Operations.

S. 2581 would provide for congressional approval as a prerequisite to Executive impoundment of funds beyond an initial 60-day period. It also would require the President to notify the Congress of each impoundment action, giving the amounts withheld, the programs affected, and the reasons for each impoundment.

Several lawsuits have been initiated against the executive branch as a result of widespread impounding of appropriated funds during the past several years, the total amount impounded having reached as much as $12.7 billion at one time. Judge Becker's ruling, to my knowledge, is the first decision which has been reached on the merits of the impoundment question.

The decision rendered by Judge Becker is based primarily upon paragraph (c) of 23 U.S.C. 101, which reads—

> (c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

Congress, Judge Becker held—

> Undertook to avoid such unauthorized action by making its intent clear and unambiguous in paragraph (c)". He also found that the impoundment of $80 million in Highway Trust Funds which should be apportioned to Missouri for Fiscal Year 1973 "has caused great and incalculable injury to Missouri because of continuing inflation of highway costs, and interruption of efficient

obligation of the funds apportioned to Missouri.

The Secretary of Transportation claimed that he has discretion to withhold authority from the States to obligate their unexpended apportionments of the highway trust fund. However, Judge Becker found that:

The current, as well as the past and possible future, withholding of obligational authority for the reasons relied on by the Secretary has been, is and will be, unauthorized, and without the lawful discretion of the Secretary.

He went on to say that—

The reasons advanced by the Secretary for the current and past withholding of obligational authority are foreign to the standards and purposes of the Act and the Fund. The reasons relied on are related to the prevention of inflation of wages and prices in the national economy. These reasons are impermissible reasons for action which frustrates the purposes and standards of the Act, including but not limited to those in Section 109, Title 23, U.S.C.A. Therefore it is not within the discretion of the Secretary to withhold obligational authority from Missouri, and judicial relief should be granted to Missouri.

Mr. President, the past two administrations have managed to impound a total of $5.7 billion in highway trust funds. As the Subcommittee on Separation of Powers learned at its hearings last year, many reasons and justifications—both legal and economic—have been stated by the Executive for this action. Judge Becker's decision indicates that these reasons are open to attack on legal grounds.

I hope that when finally resolved, this case will lead to a reassessment of the proper role of Congress in the appropriations process.

Mr. President, I ask unanimous consent that the opinion and orders of Judge William H. Becker in the case of State Highway Commission against Volpe be printed in the RECORD.

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

[In the U.S. District Court for the western district of Missouri, central division, civil action No. 1616]

THE STATE HIGHWAY COMMISSION OF MISSOURI v. JOHN A. VOLPE, SECRETARY OF TRANSPORTATION OF THE UNITED STATES, AND CASPAR W. WEINBERGER, DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET OF THE UNITED STATES

(Formal judgment confirming judgment for plaintiff orally rendered and entered June 19, 1972, issuing writ of mandamus, injunction and for declaratory judgment)

Now on this 19th day of June 1972, this civil action was called for trial on the amended complaint pursuant to notice and order setting the action for trial. The plaintiff appeared by its counsel, Robert L. Hyder, Esquire, and Michael McCabe, Esquire. The defendants appeared by their counsel, Stuart E. Schiffer, Esquire, and Kenneth Cranston, Esquire.

Counsel for the defendants suggested the succession of Casper W. Weinberger to the original defendant George Shultz as Director of the Office of Management and Budget of the United States. Thereupon on motion of counsel for defendants, it was ordered pursuant to Rule 25(d), F.R.Civ.P., that Casper W. Weinberger be, and he was, in his official capacity, substituted as party defendant for the original defendant George Shultz.

The second, third and fourth defenses of the answer of defendants were taken up, submitted and denied. In this connection it was concluded that (1) the plaintiff does not lack standing to maintain this action, (2) the Court does not lack jurisdiction over the subject matter of the action and (3) the complaint does not fail to state a claim upon which relief can be granted.

On the initiative of the Court the unnumbered last paragraph of the first defense of the answer was stricken as redundant, surplusage, and an impermissible form of qualified general denial in the context of the pleadings in this case.

With approval of the Court the parties stipulated that the record of the evidentiary hearing and arguments of June 24, 1971, in this cause be considered as part of the argument and evidence offered this day on the amended complaint without prejudice to any objection, motion, argument, legal contention and factual contention therein made, so that it should not be necessary for any party to reoffer at the trial any evidence offered on June 24, 1971.

Then this action was called for trial by the Court, without a jury. Plaintiff and defendants answered ready for trial. Opening statements were made by counsel for the plaintiff and defendants. Evidence in chief of the plaintiff was offered and received. The plaintiff rested. Then the defendants moved for dismissal under Rule 41(b) F.R.Civ.P., on the ground that on the facts and the law plaintiff is not entitled to relief, which motion was denied. The defendants offered evidence in chief and rested. The plaintiff rested without offering evidence in rebuttal. The issues were thereupon submitted by the parties for decision. Thereupon the following findings of fact and conclusions of law were made by the Court:

JURISDICTION

On the subject of jurisdiction it was found and concluded that the Court has jurisdiction to hear and determine the issues under each of the following statutes independently:

(1) Section 1361, Title 28, U.S.C.A., relating to actions in the nature of mandamus to compel an officer of the United States to perform a duty owed to the plaintiff.

(2) Chapter 7, Title 5, U.S.C.A., judicial review of administrative agencies, including Sections 702, 703, 704, 705, and 706.

VENUE

On the subject of venue it is found that venue of this action is properly laid in this district and that the defendants do not claim lack of venue.

REMEDIES AVAILABLE

The remedies available under Section 1361, Title 28, U.S.C.A., include mandamus, prohibitory injunction, mandatory injunction and declaratory judgment in the nature of mandamus.

The remedies available under Chapter 7, Title 5, U.S.C.A., include (1) holding unlawful and setting aside of agency action that is arbitrary, an abuse of discretion, or otherwise not in accordance with law or in excess of statutory jurisdiction, authority, limitations or short of statutory right (§ 706) and (2) any form of legal action including declaratory judgment and writs of prohibitory or mandatory injunction (§ 703). Cf. *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 28 L.Ed. 2d 136, 91 S. Ct. 814.

On the question of finality of the agency action under review, and exhaustion of administrative remedies, it is found and concluded that the agency action under review is final and that no unexhausted administrative remedies exist. Cf. § 704, Title 5, U.S.C.A.

On the question of adequacy of other remedies at law, it is found and concluded that plaintiff has no remedies in court at law or otherwise except those available in this action.

STANDING TO MAINTAIN THIS ACTION

Under federal law, the Constitution of Missouri and the statutes of Missouri, the plaintiff has standing to maintain this action as the state agency invested with exclusive and plenary powers and duties on behalf of the State of Missouri to receive and administer all federal highway funds and apportionments. Sections 226.010 to 226.190 R.S. Mo. inclusive, particularly Sections 226.020, 226.150, 226.190 R.S. Mo.; Sections 29, (30(a) and 30(b), Article 4, Constitution of 1945; Section 101, Title 23, U.S.C.A., defining "State highway department."

DECISION ON THE MERITS

In order to accelerate the construction of the Federal-aid highway systems, including the National System of Interstate and Defense Highways ("Systems" hereinafter) and to provide for the prompt and early completion of the entire System simultaneously, the Congress of the United States enacted, and has from time to time amended, Title 23, United States Code, a comprehensive Federal-Aid Highway Act ("Act" hereinafter). Title 23, U.S.C.A.

To insure continuing adequate federal-aid moneys for completion of the System, Congress created the Highway Trust Fund ("Fund" hereinafter). Historical Note, § 120, Title 23, U.S.C.A. The defendant Secretary of Transportation of the United States ("Secretary" hereinafter) has been given the functions, powers and duties to administer the Fund in accordance with the Act, which provides a comprehensive plan and precise standards for apportioning the Fund annually, and for obligation of the Fund by state highway commissions in accordance with the Act. Sections 101 and 215 inclusive, Title 23, U.S.C.A.

Anticipating the possibility of executive or administrative impoundment or withholding of the apportioned Fund for legally impermissible reasons, Congress undertook to avoid such unauthorized action by making its intent clear and unambiguous in paragraph (c) of § 101, Title 23, U.S.C.A., which reads as follows:

"(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund."

Paragraph (c) is now a part of the Act, Title 23, U.S.C.A., and is to be read and construed in the context of the comprehensive plan for administration of the Fund and the Act. Even if paragraph (c) were absent, the intent of the Act would be the same.

The record establishes without controversy that the Secretary with the approval of his co-defendant has from time to time by administrative action effectively withheld from the plaintiff, The State Highway Commission of Missouri ("Missouri" hereinafter), the obligation of sums lawfully apportioned to the State of Missouri from the Fund. Presently Missouri is forbidden by administrative action of the Secretary from obligating over $80,000,000 of the apportionment for the fiscal year 1973. (Apportioned funds for a coming fiscal year may be obligated in the preceding fiscal year under the Act.)

The practice of ordering the withholding of obligation of parts of the apportionments has continued for a number of years, without reference to any fixed period of time. Often the withholding was done on a quarterly basis. Presently the withholding is fixed on an annual basis.

The effect of this practice, and of the current withholding of obligation by Missouri of prior apportionments and a large part of its apportionment from the Fund for the fiscal year 1973, has caused great and incalculable injury to Missouri because of continuing inflation of highway costs, and interruption of efficient obligation of the funds apportioned to Missouri. Missouri has provided proof of this injury beyond the customary burden of proof by a preponderance of the evidence.

As a part of this proof, Missouri has established that it is and has been able, ready and willing, and desires and has desired, to obligate its apportionment from the Fund but is and has been prevented from doing so by the defendant Secretary, with the approval of his co-defendant Director. In this connection Missouri has proven that presently and in the past it has developed plans and projects which would be approved under the Act, and regulations made pursuant thereto, except for the withholding of the obligational authority by the Secretary. Therefore Missouri is entitled to relief if the action of the Secretary in withholding from obligation is unauthorized, without his discretion, arbitrary or otherwise illegal.

The Secretary claims that the law invests in him discretion to withhold from time to time authority for Missouri to obligate its unexpended apportionments. The Secretary concedes that the apportionments can readily be paid by the Fund from the ample moneys presently therein. If the Secretary lawfully possessed the discretion he claims Missouri should be given no relief. It has been concluded, however, that the current, as well as the past and possible future, withholding of obligational authority for the reasons relied on by the Secretary has been, is and will be, unauthorized, and without the lawful discretion of the Secretary.

The reasons advanced by the Secretary for the current and past withholding of obligational authority are foreign to the standards and purposes of the Act and the Fund. The reasons relied on are related to the prevention of inflation of wages and prices in the national economy. These reasons are impermissible reasons for action which frustrates the purposes and standards of the Act, including but not limited to those in Section 109, Title 23, U.S.C.A. Therefore it is not within the discretion of the Secretary to withhold obligational authority from Missouri, and judicial relief should be granted to Missouri. *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 28 L.Ed. 2d 136, 91 S.Ct. 814, § 706, Title 5, U.S.C.A.

The appropriate relief to which Missouri is entitled includes prohibitory or mandatory injunction, and declaratory judgment. § 703, Title 5, U.S.C.A. It also includes mandamus. § 1361, Title 28, U.S.C.A. Missouri has no other adequate judicial or administrative remedy except this action. Therefore judgment will be entered granting an injunction, a writ of mandamus and a mandamus and a declaratory judgment.

JUDGMENT GRANTING INJUNCTION

It is therefore

Ordered and Adjudged that the defendants and each of them and their subordinates be, and they are hereby, enjoined and restrained now and in the future from withholding from Missouri, directly or indirectly, any authority to obligate its apportionment of Highway Trust Funds, for the fiscal year 1973 for any reason or reasons relating to the prevention or control of inflation in the national, regional or local economies, or in wages or prices in the nation, or any region or locality therein, or any combination of such reasons.

JUDGMENT GRANTING WRIT OF MANDAMUS

For the foregoing reasons, in addition and independently, it is hereby further

Ordered and Adjudged that the defendant John A. Volpe, and his subordinates, be and they are hereby, commanded to annul and revoke by official act in writing the current announcements, orders, directives, limitations, regulations and other official written and printed documents and evidences of withholding of authority of Missouri to obligate its apportionment from the Highway Trust Fund for the fiscal year 1973.

DECLARATORY JUDGMENT

For the foregoing reasons, it is hereby further

Declared and Adjudged that the currently effective, and past official actions of the Secretary of Transportation, and his subordinates, in withholding authority from Missouri to obligate any apportionment from the Highway Trust Fund for reasons related to the prevention or control of inflation in the national, regional or local economies, or in wages and prices in the nation, or any region or locality therein, is unauthorized by law, illegal, in excess of lawful discretion and in violation of the Federal-Aid Highway Act.

RETENTION OF JURISDICTION

It is further Ordered that this Court retain jurisdiction of this action for the purpose of making and entering such further orders and judgments and taking other judicial action necessary, or desirable, to implement and enforce the judgments herein, and any one or more of them.

ORDER ON COSTS

It is Ordered that each party bear its or his own costs in this Court.

WILLIAM H. BECKER, *Chief Judge.*

Kansas City, Missouri, August 7, 1972.

[In the United States District Court for the Western District of Missouri, Central Division, Civil Action No. 1616]

STATE HIGHWAY COMMISSION OF MISSOURI, PLAINTIFF, V. JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, AND CASPAR W. WEINBERGER, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, DEFENDENTS

ORDER

Defendants having orally moved for a stay of the judgment entered by this Court on pending appeal, and the Court having considered the entire record in this action, and it appearing to the Court that good cause exists for the granting of defendants' motion, it is, this 19th day of June, 1972, hereby

Ordered that defendants' motion for a stay of the judgment be and hereby is granted and the judgment of this Court is hereby stayed pending disposition of the appeal filed by defendants.

WILLIAM H. BECKER, *Chief Judge.*

DR. HOLLAND COMPLETES A MOST SUCCESSFUL ASSIGNMENT AS AMBASSADOR TO SWEDEN

Mr. BOGGS. Mr. President, recently Dr. Jerome Holland returned to the United States following a most successful 2-year term as our Ambassador to Sweden.

He is visiting Washington this week for a final discussion on his assignment with Secretary of State Rogers and other officials of the State Department.

My colleagues are well aware of some of the difficulties that strained the friendly relations between the United States and Sweden at the time Dr. Holland accepted this appointment. It was agreed by all that it would take no ordinary man to unravel those difficulties, and to open fresh channels of communication.

Brud Holland is no ordinary man, as even a brief glimpse of his distinguished career will show. Early in his life Brud Holland showed himself to be a man who settled for nothing short of excellence. His distinguished academic record at Cornell University speaks for itself. It was all the more impressive when one remembers that he was also an All-American end on the Cornell football team.

Dr. Holland subsequently returned to Cornell for a master's degree in 1941, then earned a Ph. D. in sociology from the University of Pennsylvania in 1950.

Mr. President, during service as Governor of Delaware, I had the great honor to work with Dr. Holland in his capacity as president of Delaware State College, located in Dover. I came to admire and respect his foresight, his dedication, and his ability as an educator. Delaware State made great progress during his too-short leadership.

Upon leaving Delaware State, Dr. Holland accepted the presidency of Hampton Institute in Virginia, where he compiled another distinguished record. Under his leadership, Hampton Institute undertook a successful centennial fundraising campaign, which raised endowment to over $32 million, a great achievement.

Mr. President, these achievements proved to be an excellent preparation for his assignment in Sweden, where Dr. Holland showed himself to be a tireless ambassador of good will. Twice every month, Ambassador Holland traveled through Sweden, meeting with local dignitaries and touring farms, factories, and museums, bringing his message of good will to the citizens of Sweden. His task was not an easy one. Frequently, he faced anti-American demonstrators and hecklers. Yet Ambassador Holland's calm, effective response served as an inspiration to the people of both Sweden and America.

Mr. President, Dr. Holland has shown himself to be a more than exceptional diplomat over these past 2 years. He has shown himself to be a selfless, tireless, and compassionate representative of all Americans. I know my colleagues will join me in commending him for a job well done, welcoming him home to the country he has served so well, and in extending our best wishes to Brud Holland in his further service to our Nation.

REVENUE SHARING WILL INCREASE DEFICIT SPENDING

Mr. GAMBRELL. Mr. President, last evening I cast a vote against the so-called revenue-sharing program. I reserved final judgment on this question until the last, hoping that some element of fiscal responsibility would be introduced into the program, or that some responsible authority would announce an acceptable means by which this enormous spending program would be financed.

In the absence of such a development,

I found it necessary to vote against the bill. On April 20 of last year, I had the occasion to address the Georgia Association of County Commissioners at their annual meeting for 1971 in Macon, Ga. At that time, I outlined my thinking on revenue sharing, and in particular established certain guidelines which I would use in making a legislative judgment on the subject.

Although revenue sharing was in its formative stage at that time, in looking back over my remarks made more than a year ago, I find them to be quite pertinent to the present situation, and can say, that, by and large, those principles still govern my thinking.

I ask unanimous consent that the text of that address be printed at the end of my remarks today.

The current revenue-sharing proposal will enormously increase Federal deficit spending. I see no justification for enacting a Federal spending program of this magnitude when no restrictions on Federal spending are planned, when no responsible leader will recognize the necessity for a tax increase, and when no priorities have been established among presently authorized spending programs.

This is not revenue sharing, but simply a means of sharing Federal borrowing power with State and local governments. It does not replace or reorganize existing Federal assistance programs under which nearly $30 billion is being spent each year. This is in addition to existing programs. What is even more alarming is that no restraints or incentives are contained in the program to encourage careful spending of these funds at the local level.

I have consistently supported the idea of sharing the Federal tax base in a way which would relieve the financial pressures on State and local governments, and would offer some relief to local property taxpayers. The revenue-sharing plan simply distributes borrowed money with no assurance of local tax relief.

If the administration, or the congressional leadership of either party had previously supported effective Federal spending limits, or had accepted the necessity of a tax increase and had identified the subjects of increased taxes, I would have been willing to support this program. As the matter stands, I cannot support a new program to spend more than $33 billion without an assurance of the means to finance it. To me, this would be the height of fiscal irresponsibility.

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

REMARKS BY SENATOR DAVID H. GAMBRELL

I favor the principle of revenue sharing as proposed by the Nixon administration. This proposal follows a concept which has been under study by a number of foundations and research organizations for years. It recognizes that the federal govenment, though the power to tax incomes, has the most productive, the most efficient, and the least regressive tax levy now being assessed by governments at any level.

At the same time, it recognizes that the tax sources in use by state and local governments, primarily the sales and property taxes, have been stretched to the limit, and further are regressive in placing the burden of taxation most heavily upon those least able to pay.

The proposed revenue sharing plan encompasses what is described as general revenue sharing and special revenue sharing.

General revenue sharing covers a generally unrestricted appropriation of federal funds for use by state and local governments. The allocation is to be in accordance with a formula based primarily on population, but having certain adjustments which recognize "local tax effort", the extent to which the local government has recognized its own responsibilities for solving its own problems through taxation.

Special revenue sharing is proposed to replace some four hundred separate federal programs which presently provide the direct grants and federal cost sharing. At the present time, federal funds are available to state and local governments for many specific purposes such as rural and urban development, law enforcement, education, manpower training, and rapid transit through a variety of federal departments. Under special revenue sharing, existing programs would be "folded into" the special revenue sharing plan.

I will not undertake to more specifically describe the pending revenue sharing proposals, but will say that for fiscal year 1972, the program is to include approximately 16 billion dollars, 11 billion in special revenue sharing and 5 billion in general revenue sharing. Of this, one billion in special revenue sharing, and all five in general sharing will be "new money," that is, federal grants to local governments in excess of what has previously been granted.

It is also worthy of note that President Nixon's 1972 budget contemplates a deficit of more than 11 billion dollars, possibly as high as 35 billion depending upon revenue receipts. Thus, it may be accurately stated that all or substantially all of the federal revenue sharing money will come from deficit financing by the federal government in fiscal year 1972.

With this thought in mind, it might simply be said that if the Federal Government has no use of its own for the revenue sharing money, why should we not simply reduce Federal taxes and permit State and local governments to raise what money they need.

There are three considerations which may be validly set against this proposal;

(1) This argument could be made for a repeal of the present system of direct grants constituting approximately 30 billion dollars at the present time;

(2) Such a policy would deprive State and local governments of sharing in the Federal tax base as previously described; and

(3) There is some positive benefit in using the Federal taxing power, and the experience of Federal programs, to create an incentive for improvement of programs at a local level.

There is hardly a soul in Washington who does not recognize the needs of State and local governments for additional sources of financing, and I do not consider the delay in the enactment of some relief measure as suggesting a lack of sensitivity to these problems. In fact, there have been a number of suggestions whereby the process of working out the details of revenue sharing might be short-circuited so as to make relief more immediate.

One of these would be to enact general revenue sharing separate and distinct from special revenue sharing. Another would be to provide for the Federal Government to assume the entire burden of welfare from the State governments.

My own thinking on these subjects is that easy solutions should be approached with a degree of caution. As I will point out later, I have a deep concern about the wisdom of accepting "easy money." Furthermore, the proposal for Federal assumption of welfare responsibility, without any built-in limits and restraints, simply threatens an open-ended Federal welfare program with astronomical costs and increasing Federal involvement in local affairs.

When viewed as a continuing program of the Federal Government to share its tax base with State and local governments, revenue sharing could be a substantial adjustment in our own Federal system, a shifting of Government power and responsibility from the central government to the local level. If carefully thought out and implemented, it would represent a desirable re-emphasis on bringing government nearer to the people.

However, failure to carefully implement the plan could result in more, rather than less, Federal intervention in local affairs, and the creation of enormous political slush funds to be used by those greedy for control over governmental affairs.

Having thus stated my support for the principle of revenue sharing, but at the same time acknowledging the concerns I have about the plan, I will now briefly outline certain restrictions, or guidelines if you will, which I would like to see built into any plan which might ultimately be adopted.

First, I think the revenue sharing plan should be made a permanent part of our federal government system. It should be continually in effect from year to year in accordance with established principles, and at predictable funding levels which can be relied upon by state and local governments for the purpose of long-term planning.

A more cruel system for enslaving local governments could not be devised than one which would send them groveling each year to Washington for appropriations with which to commence and continue their basic programs. The delivery of funds should be either automatic at the federal level, or based upon requisitions from the local level, neither of which would require any federal bureaucratic review.

Second, none of these funds should be delivered to any local government where they are not needed or asked for, or where no adequate plan for their expenditure has been conceived. Incentives should be established to encourage area planning, rather than fragmenting the funds available among a multiplicity of smaller municipal jurisdictions.

Georgia, with its outstanding state planning department and its nineteen area planning commissions, as well as its local planning boards, should easily be able to comply with such a provision.

The formula for distribution should be equitable. After giving due consideration to the local funding effort, distribution among the states should be made primarily upon the basis of population. The states in turn should be encouraged to utilize advanced planning methods and the experience which other states have had in making intra-state distribution plans. Revenue sharing funds should not be allocated on a "cost of living" basis so as to subsidize areas of high cost and expense.

Special care and attention should be exercised to avoid undermining existing valid programs which are funded by the federal government. Local officials have expressed due concern about the diversion of direct grant resources away from existing programs such as vocational educational projects, regional development authorities, mass transit programs, the agricultural extension service, and the like.

Implementation of revenue sharing should guarantee that mature and beneficial programs which rely on federal support will not be dismantled, even if they must be continued outside of the revenue sharing plan.

Last, but not least, in my thinking, some effort should be made to assure that this new source of funds is not simply used to support the cost of general government. The increasing burden of cost and expense of local government has resulted primarily from a demand for new types of service not from a

mere increase in the cost and extent of the traditional functions of government. It is my hope that any additional funds made available to local governments by the revenue sharing program will be applied toward the solution of modern problems, and the provision of new government services.

I think President Nixon and the present administration have performed a great service to the Nation by initiating a dialogue on the subject of revenue sharing. However, it is obvious that, if guidelines such as those which I have suggested, and any others which will be brought forward, are to be fairly evaluated, it may be a number of years before a permanent plan of revenue sharing is adopted.

But, it is desirable that there be such a dialogue. There are many ramifications of the plan which are not yet fully apparent, and we are learning more about them every day.

It seems unlikely to me that a total program of revenue sharing is likely to be adopted at this session of the Congress which will continue through the year of 1972.

However, it is possible, and I might say likely, that a modified and emergency plan may be adopted. In substance, the interim plan might provide for general revenue sharing for a limited period of time, to be funded by annual appropriations. The existing program of block and categorical grants for which special revenue sharing will be a substitute, might be continued in much its present form.

However, the adoption of such an interim plan of revenue financing should not deter us from the quest for a permanent plan.

It is my firm belief that local government, being closer to the people being governed, is the most responsible level of government for most purposes. This is particularly true where local government has the benefit of competent and progressive planning staffs to assist in the development of comprehensive programs.

A reassumption of governmental responsibility at the State and local levels, funded by unrestricted access to a portion of the Federal income tax base, will be, in my judgment, a desirable redistribution of governmental powers within our Federal system. In my opinion, this is a goal which we must actively seek to achieve.

PEACE AND SECURITY

Mr. ERVIN. Mr. President, the Journal and Sentinel, of Winston-Salem, N.C., for August 27, 1972, contains a thoughtful editorial entitled "Peace and Security" which commends in cogent and eloquent fashion Senator JACKSON'S amendment to the so-called Arms Limitation Agreement with Russia. As one of the cosponsors of that amendment, which I deem to be of crucial importance to our Nation's future security, I ask unanimous consent that the editorial be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PEACE AND SECURITY

Our old adversaries in Moscow and Peking are now wafting an occasional smile in our direction, and as the political campaign unfolds, we will hear more and more about "a generation of peace."

We Americans are an optimistic lot, and we are only too eager to believe that peace, abiding peace, is on the way. But smiles do not change realities and today's campaign slogans are often tomorrow's heartbreak.

So before we are carried away by the smiles and the slogans, we had better be clear about the ugliest of the realities. It is simply stated:

1. The leaders of the Soviet Union now control what may well be the largest arsenal of the most destructive weapons in all of world history.

2. These leaders are subject to no controls or checks. They have no Congress to call them to account, no vigilant newspapers or broadcasters to warn the nation of what they are doing, no opposition parties to give the people an alternative. The winners take all. The losers pass into oblivion.

In brief, the awesome power to bully the rest of the world into submission is now in the hands of a small group of men subject to no internal restraints of a political, social, historical, religious or humanitarian nature.

Since the beginning of the nuclear age, however, there has been one external restraint on the Soviet leaders: American nuclear superiority.

In his speech to the American Legion last Thursday, President Nixon promised, in effect, to maintain that superiority. Our defense establishment, he assured the Legionnaires, will remain "second to none." And he went on:

"So long as I remain President, America will never become a second-rate power. We are today and will remain the strongest nation in the world."

Well and good. But Mr. Nixon uses the English language in strange ways, and as the "interim agreement" on offensive nuclear weapons that he signed in Moscow moves through the Senate, we cannot help wondering about his assurances.

Under the relentless questioning of Sen. Henry M. Jackson of Washington, the Senate has learned that the President agreed with the Russian leaders to set the following limits on offensive weapons:

Landbased ICBMs, U.S. 1,054; Soviet Union, 1,618.

Submarine-launched ballistic missiles, U.S. 710; Soviet Union, 950.

Missile-firing submarines, U.S. 44; Soviet Union, 84.

Heavy ICBM's (25–50 metagons), U.S., 0; Soviet Union, 313.

"The agreement," concluded Sen. Jackson, who is the Senate's leading expert on strategic weapons, "confers on the Soviets a 50 per cent advantage in numbers of land and sea-based launchers and a 400 per cent advantage in throw weight (payload)."

At the moment, conceded Sen. Jackson, the U.S. has an advantage in numbers of nuclear warheads because it has found ways to fix more than one warhead to a missile. But when the Soviets have developed this capability, they will also surpass us in numbers of warheads because of their "vastly superior throw weight".

But what does it matter? The U.S. has enough nuclear power to destroy the Soviet Union and all the rest of the world, too. A few missiles one way or the other shouldn't count.

The trouble is that the whole international system which has given most of the world a quarter of a century of peace and prosperity has depended on American nuclear superiority.

Our alliances, our trading partnerships, our international economic arrangements have all proceeded from that superiority.

Our NATO allies from Britain to Greece and Turkey, our trading partners from Canada to Japan have all assumed that so long as the U.S. is on top it will have the will to protect them from an aggressive, bullying Soviet Union.

But what happens when the U.S. is no longer on top? What happens when we concede nuclear superiority to the Soviets? Will we have the will to stand by our partners when the Soviets threaten them? These questions and doubts must inevitably arise—in London, Paris, Rome, Bonn, Athens, Ankara, Tokyo and elsewhere. And these questions and doubts threaten the whole international system—the Pax Americana—because they may impel each nation to strike out on its own and make the best deal it can with the Soviets.

In fairness to President Nixon, it must be said that his Democratic opponent, Sen. McGovern, would certainly be willing to give as much away to the Soviets and perhaps more. So where can Americans—Democrats and Republicans—turn?

They can turn to the Senate.

Sen. Jackson has introduced an amendment to the Moscow interim agreement, an agreement which runs for five years. This amendment makes clear that the U.S. will not accept on a permanent basis the inferiority in numbers and weight of nuclear weapons that Mr. Nixon conceded in Moscow. Any permanent agreement would have to be based on the principle of equality in offensive nuclear weapons.

This amendment seems to us to embody plain common sense. We hope that a majority of the Senate, including our own Senators Ervin and Jordan, will support it.

ATROCITIES BY COMMUNISTS IN VIETNAM

Mr. PERCY. Mr. President, in December 1967 I visited Dak Son in South Vietnam to help bring to public attention a most horrendous massacre of some 200 hill people in that quiet village a few nights before. The massacre was perpetrated on these defenseless people, almost all women and children by Viet Cong guerrillas who set fire to scores of thatched huts as the people were asleep within them.

I shall never forget the scene of devastation that I encountered in Dak Son, but it was brought back to me vividly by a recent report in Time magazine of August 21, 1972, which recounted additional atrocities by the Communist forces.

An excerpt from the Time report gives specifics on the extent of the murders committed by Communist units in South Vietnam. It is important that this appear in the RECORD for all to see.

I ask unanimous consent that it be printed in the RECORD.

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

AN EXCERPT

During the 1968 *Tet* offensive, for instance, the Communists executed more than 3,000 South Vietnamese in the former capital of Hué. Even though the brutality has been on a smaller scale during this year's Easter offensive, the Communists have murdered at least 200 people and imprisoned 6,000 in the Communist-controlled portion of Binh Dinh province. Allied intelligence officials believe that the number executed will surpass 500 before the whole of the province has been retaken by the South Vietnamese.

For the most part, the victims were local officials whom the enemy wanted to eliminate either because they were especially effective in their jobs, or because they were so unpopular that the Viet Cong could win favor by killing them. The primary motive for the show trials and the brutalities, reports Time Corespondent Rudolph Rauch, "appears to have been to wreck whatever allegiance the government might have built up, and there are few more effective ways of mitigating allegiance than to bury four dozen loyal men alive"—as happened in the town of Bong Son. Some examples:

In Hoai Nhon district, 300 townspeople

were herded together in front of a village school and designated a "people's court." They were invited to denounce the crimes of a man named Phung Sao, who had been in charge of the town's military affairs under the Saigon government. A few villagers accused Sac of using his position to assassinate a number of revolutionary cadres. The "president" of the court declared. "The people have decided that Sao will be executed for crimes against the people." In less than an hour, Sao's bullet-ridden body was turned over to his widow, who had been obliged to watch both the trial and the execution.

In the middle of a Binh Dinh tea plantation, a Viet Cong court declared that 20 defendants owed a "blood debt to the people." The result: at a midnight gathering in the local sports stadium, three of the prisoners were shot to death by a Viet Cong platoon leader. The other 17 were given prison sentences ranging from two to five years.

In Vinh Phung hamlet, 42 policemen were reportedly executed in a mass ceremony; another was beheaded, and his body was hung from a tree beside a police station. A hamlet chief was disemboweled in Kontum.

GROWING POSTAL PROBLEMS

Mr. CRANSTON. Mr. President, since the beginning of the 92d Congress, I have received a steadily rising flow of complaints from my constituents about the U.S. Postal Service. The complaints are twofold. How, Californians are asking me, can our mail service be deteriorating so rapidly while the cost of our postal system is going up and up?

It had been my belief that the recently created U.S. Postal Service needed a reasonable period of time for transition to its new status. We could not expect a brand new agency with the monumental task of delivering our Nation's mail to run perfectly smoothly at first. The Postal Service also had to modernize many antiquated procedures of its predecessor, the Post Office.

The Postal Service has been in the process of phasing in for nearly 2 years now—although the official takeover date was July 1, 1971. It seems to me that this has been ample time to show some improvement—not steady deterioration.

Californians tell me that their mail delivery becomes worse and worse. My office has seen a steady increase in complaints that—

More and more letters are going astray.

More and more packages arrive in damaged condition.

More and more mail arrives late.

Fewer and fewer deliveries are made.

Pickups are made with less and less frequency.

Individual home delivery has been reduced for new housing developments.

The historic use of the informative postmark has been virtually abandoned.

And the cost of mailing to each consumer and to each business goes up and up.

Under the Postal Reorganization Act, a Postal Rate Commission was established to study and to set postage rates. The Commission's initial recommendations were not quite as high as the Postal Service had asked, but were remarkably similar.

I was particularly distressed by the recommended hikes in second-class mail rates. Second-class mail carries most of the periodical literature which keeps us informed about events, interprets their significance, and spreads new, old, and dissenting ideas across the country. Since most small—and many large—publications simply cannot absorb the costs, the new rates could price these important vehicles of free speech right out of the market.

I do not believe Congress should stand by and watch this happen. For this reason, I was proud to join with the Senator from Wisconsin (Mr. NELSON) to cosponsor S. 3758. The bill has four sections which would:

Obligate the Postal Service Corporation to provide services at rates that encourage and support the widest possible dissemination of news, opinion, scientific, cultural, and educational matter.

Prohibit the Postal Service Corporation from imposing per-piece charges on second-class mail. Instead, publishers will be able to continue to pay by the pound.

Charge the first 250,000 copies of each issue to be mailed under second-class rates at the June 1, 1972, rate. Additional copies would pay the higher rate imposed on July 1, 1972. Revenue lost to the Postal Service would be underwritten by congressional appropriations.

Phase-rate increases for the editorial content of second-class publications in equal stages over a 10-year period.

I believe that the bill, which probably will not be acted on by Congress until 1973, will make a good start to correcting some of the shortcomings of the U.S. Postal Service.

I want to emphasize that this bill only makes a start. There is a great deal of question in my mind about the costs of the other classes of mail.

Replying to one letter I sent, the U.S. Postal Service said that it was "quite serious about identifying and remedying the deficiencies which prevent our customers from getting the service they deserve." Being "quite serious" is not good enough. The people of California and across the Nation and the men who represent them are running out of patience.

The Postal Service must improve its performance or Congress may have to consider seriously the possibility that its great experiment in independent postal service has been a failure. This may very well mean that we should abolish the Postal Service and replace it with a streamlined mail service run either by the Federal Government or by private enterprise to give the people and the taxpayers the service they deserve.

EMIGRATION OF JEWS FROM THE SOVIET UNION

Mr. MONDALE. Mr. President, the Soviet Government has raised official cynicism and inhumanity to new heights by requiring arbitrary and exorbitant fees as payment for permission to emigrate from the U.S.S.R. These vicious fees set a price on human liberty. And that price is far beyond the means of the tens of thousands of Soviet citizens who are desperately seeking to leave the U.S.S.R. for a happier life elsewhere.

No group is more tragicaly affected by this hateful policy than the Soviet Jews.

In recent months the distant longing of thousands of Jews to live in Israel has come closer to reality. Soviet policy seemed to waver. The Soviet prohibition against emigration relaxed. In a year's time, the number of Jews leaving the Soviet Union rose from 1,000 to almost 15,000. By the time of the President's visit less than 4 short months ago, it appeared that the number this year would reach at least 35,000—and the door might be left open for the 80,000 who have already applied to leave.

But just as the stream threatened to become a flood—just as the deepest longing of thousands of men and women seemed at the point of realization—the Soviet action struck.

The cynicism of this action, which makes the fees retroactive to all pending applications, is beyond belief. The Government claims that the fees are a form of repayment required from citizens who have been educated at Government expense. This claim is belied by the fact that the Government has long exacted repayment from its graduates in the form of years of Government service. It is also belied by the fact that there is no correlation between the Soviet estimate costs of education and the astronomical fees.

The Government is well aware that Soviet families cannot possibly afford the fees, which can run as high as $40,000 for a single individual. The total ransom could reach hundreds of millions of dollars. The Soviet Government knows that this money can only come from abroad.

The inhumanity of the Soviet Government surpasses even its cynicism. Human beings are being offered for sale as surely as they were 30 years ago, when Adolph Eichmann attempted to negotiate an exchange of Jews for the military trucks desperately needed by the Germans. Human beings are being held hostage as surely as they were last week in Munich, except that in the U.S.S.R. they are being held not by a band of outlaws, but by the Soviet Government.

The Soviet Government does not need machineguns and grenades to destroy men. Instead it has a policy—disguised in the form of bureaucratic procedure—that denies the most basic principles of humanity, murders hope, and leads to the destruction of the spirit.

The case of Alexander Solzhenitsyn, the Nobel Prize winning novelist who has been harassed and vilified beyond belief in his own country, has shown the world that despite their cynicism, Soviet leaders are not deaf to world opinion. I add my voice to the rising chorus of protest that cries out not merely against the artificial barriers to emigration raised by the Soviet Government, but against the brutal policy that denies the essential human dignity of thousands of men and women.

We will be heard.

BARBARIC TERRORISM SWEEPS THE WORLD

Mr. CRANSTON. Mr. President, Columnist David Broder wrote for last Sun-

day's Washington Post a most eloquent and compassionate plea for an end to the barbaric terrorism which is sweeping our world.

The tragedy of Munich, Mr. Broder says, should give the Nation "a glimpse of the ultimate evil of which humans are capable" and thus turn us away from a "continuation of the killing in the vain hopes of redeeming our blunder in Vietnam."

Mr. President, I hope that all Senators will give deep thought to what David Broder has said.

I ask unanimous consent that the column be printed in the RECORD.

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

MUNICH AND VIETNAM

(By David S. Broder)

Whenever we are confronted with a truly horrible event—the accidental death of someone we love, say, or the murder of a national leader—our natural human instinct is to find a larger meaning for the tragedy. Our minds rebel at expecting such a calamity as the product of blind chance or perverse circumstance. The cause, we feel, must be as enormous as the consequence, and we search for meaning in madness.

So it is with the slaughter of the Israeli athletes at the Munich Olympics. Not since the assassins' bullets cut down John and Robert Kennedy at moments of political triumph have we been shown so starkly how pomp and pageantry can be shattered by acts of violence.

The analogies that come to mind as you search for meaning in the emotional aftershock of such an event are, perhaps, more prone to error than the considered judgments of a calmer time. But ever since last Tuesday, I have been unable to shake the thought that there is a link between the tragedy of Munich and the tragedy of Vietnam—and perhaps a lesson.

The thought occurred that America had approached the Olympics very much as we approached Vietnam: as an arena of international competition, where our prestige and standing would be tested in the eyes of the world, as a test we must meet as a matter of obligation and of national pride.

As in Vietnam, so in Munich: The American performance was a tale of magnificent individual courage and endurance, marred by incredible bureaucratic blunders. In both Vietnam and Munich, the American forces were so top-heavy in upper-echelon incompetents that our logistic mobilization became a burden, not an aid, to the young men on the front line.

As Red Smith wrote in The New York Times, "The United States party included 168 coaches, trainers and other functionaries, which seems like enough to take care of 447 athletes. It wasn't enough, however, to get two world-record sprinters to the starting blocks for the 100-meter dash" or to warn Rick De Mont he risked disqualification if he used his asthma medicine.

A blunder is a blunder—whether we are talking about the coaches' slip-ups in Munich or the American intervention in Vietnam. No one can turn the clock back to salvage for De Mont and Hart and Robinson what human error cost them, or to salvage for America what was lost by the human misjudgment that sent us into Vietnam.

To talk about redeeming the national honor by prolonging the agony of either mistake is to deny reality.

But a blunder of either kind—personal or national—no matter how awful the consequences, is of a different order of moral fault than the deliberate use of violence, the dealing out of death, to achieve a political goal.

The Arab terrorists committed that outrage in Munich, and thereby reminded us how fragile is the fabric of international law and order. The Olympic ideal of fraternity in peaceful competition was shattered with ridiculous ease by the act of those dedicated fanatics; and our talk of detente, open doors and a generation of peace is mocked by the passions that exploded into violence in every portion of the globe from Ulster to Bangladesh.

In a world where we live closer to anarchy than to an ordered international society, the ultimate evil which any man or nation can commit is deliberately to inflict death or destruction on others in order to achieve a political goal.

Once Munich made that clear again, the question in one's mind was irresistible. Is not that what the United States is doing now in Indochina?

The terror is not one-sided in Vietnam, but the crimes of the North Vietnamese do not allow us—in this autumn of national decision—to avoid passing judgment on our own deliberate policies in the war.

Between January and June of this year, the tonnage of American bombs dropped on Laos, Cambodia, North and South Vietnam—with none of which we are at war—increased 100 per cent, from 56,000 tons to 112,000 tons.

We cannot comprehend what that means in human terms, what it would feel like if one were living under such an assault. We can only guess what the peasant or villager would think of our efforts to justify such deliberate destruction as a step to preserve a remote government in Saigon, now systematically denying even the vestiges of democratic freedom to its own people.

Most Americans cannot identify themselves with those on whom the Americans bombs are falling. But all of us could identify with the hostages of those terrorists in Munich, and feel the horror the Israeli athletes must have felt at the realization that those armed men, self-righteous in their own cause, were ready to kill them without a qualm.

Perhaps that glimpse of the ultimate evil of which humans are capable will steel us toward the harsh judgment we must, it seems, make as a nation in this election: Will we condone a continuation of the killing in the vain hopes of redeeming our blunder in Vietnam?

If the Munich tragedy does that for America and the world, there may be some measure of meaning in its madness. Otherwise, we must record it as just another mindless massacre in this darkened age.

CHICAGO COUNCIL OF LAWYERS ENDORSES CONSUMER PROTECTION AGENCY LEGISLATION

Mr. PERCY. Mr. President, I am exceedingly pleased to learn that so distinguished a group as the Board of Governors of the Chicago Council of Lawyers has endorsed legislation to create a governmental voice for the consumer, who for so long has gone unrepresented before Federal agencies and courts.

In view of the fact that both the Republican and Democratic Party platforms, just adopted, endorsed the concept of an independent consumer advocacy agency, and that the Senate Government Operations Committee recently voted 15 to 2 to report S. 3970 to the floor, I am hopeful that the leadership will act promptly to schedule this legislation for full consideration before the Senate.

The Consumer Protection Agency legislation is a precise and balanced measure which affords the authority and resources needed to assure effective advocacy for consumer interests. It is needed, because the regulatory agencies Congress has set up to protect the consumer have simply not been doing the job. The legislation also provides for a Council of Consumer Advisers which will advise the President on policy matters that critically affect the public and will guarantee that consumer interests are taken into account at the highest levels of Government.

Mr. President, the Chicago Council of Lawyers was founded in response to the need for a reform professional organization of lawyers in the Chicago area. Since its organization, council membership has grown to over 1,300 and it is now counted as a major general membership bar association in Chicago affiliated with the ABA.

I ask unanimous consent that the resolution adopted by the Chicago Council of Lawyers be printed in its entirety in the RECORD. The reference to S. 1177 in the resolution is a reference to the predecessor bill of S. 3970, which was modified somewhat in the course of 2 months consideration before the Government Operations Committee. The basic findings and conclusions of this resolution, however, continue to apply with the same force and effect as they did with respect to the original measure.

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

STATEMENT OF THE CHICAGO COUNCIL OF LAWYERS

The Chicago Council of Lawyers' Board of Governors urges adoption of Senate Bill 1177 which authorizes creation of a Council of Consumer Advisers to the President and an independent Consumer Protection Agency. In recent years, it has become apparent that the interests of the American consumer of goods and services have not always been considered either by industry in product design and delivery or by government in regulatory policy-making. At present, the consumer's view is advocated only by a few dedicated citizens whose resources do not permit broad representation and who often are forced to expend those limited resources and energies merely to establish their right to be heard. Essentially, S.B. 1177 provides an integrated framework for developing over the long-term national consumer programs and priorities through a Council of Consumer Advisers (the "CCA"), and for meeting the need for a consumer spokesperson, through a Consumer Protection Agency (the "CPA"), with financing and authority to represent consumer interests full time on specific questions.

The CCA, to become a part of the executive department, is directed to report annually to the President on consumer programs, priorities and legislative goals; thus progress in meeting consumer needs will receive the national attention and concern they deserve. The CPA will have standing to be heard in federal administrative adjudicatory and rule-making proceedings. Though it will have no authority to impinge on the jurisdiction of other agencies, an active and aggressive CPA will force sometimes ineffective and industry-wedded agencies to consider the interests of the consumer. Another important feature of the CPA's role is the direction to conduct industry-wide surveys and investigations to analyze industry and business practices of concern to consumers. Included in this authorization is the important power to require business and industry to answer interrogatories. Until now, only understaffed and in-

adequately financed citizen groups have undertaken such studies. Other important consumer interest functions the CPA will exercise are to receive consumer complaints and direct them to the appropriate agency for action, to act as a clearinghouse for information of interest to consumers, and to publish a Federal Consumer Register of information useful to consumers.

Besides establishing a potentially strong advocate for consumer interests, S.B. 1177 contains safeguards against unnecessary and irresponsible harassment of business by the CPA. Specifically, section 208 requires the CPA to take all reasonable measures to assure the accuracy of all public disclosures, to avoid "surprise" disclosures, and to announce product comparisons only under controlled conditions. Perhaps most important to business is the role the CPA will take as advocate for industries and businesses forced to act contrary to consumer's interest because of existing laws or agency policies. For example, only two years ago the television industry, alerted to a potential fire hazard in color TVs, sent representatives to a Chicago meeting to discuss upgrading flammability standards at the risk of Justice Department intervention on antitrust grounds. The CPA would act to urge government approval of industry cooperation in similar matters.

Recognizing, too, the critical role citizen groups have played in making government and industry increasingly responsive to consumer interests the drafters of S.B. 1177, notably Senators Charles Percy and Abraham Ribicoff, have assured further responsible citizen initiative by providing for a CPA administered system of grants to help support citizen research and action groups. To the same end, section 405 orders all federal agencies to clarify, and relax where appropriate, procedural requirements for citizen participation in public hearings.

In sum, the Chicago Council of Lawyers believes S.B. 1177 is legislation that all interests—consumer, industry and government—can and should support.

LAOS: THE FURTIVE WAR

Mr. EAGLETON. Mr. President, the concern that congressional power is being usurped by the executive branch has been voiced many times by this body. The 68-to-16 vote for passage of the War Powers Act is a clear indication that an overwhelming majority of Senators feel it is time to reassert the constitutional prerogatives of Congress.

In the forefront of this fight to bring awareness to the Congress and to the American people is my distinguished senior colleague from Missouri (Mr. SYMINGTON). As a member of the Committees on Armed Services, Foreign Relations, and Joint Atomic Energy, Senator SYMINGTON has viewed with growing concern covert operations of the U.S. Government.

Senator SYMINGTON has now contributed a most perceptive article in World magazine entitled "Laos: The Furtive War," in which he expresses in a compelling manner his deep concern that the power of Congress to declare war has been eroded.

Senator SYMINGTON's strong feeling that the authority of Congress has been bypassed in the Laotian experience is reflected in the following passage from his article:

The Constitution has been bypassed by a small group of men in various Departments of the Executive Branch who, under the direction of four Presidents, initiated and carried out policies without any real Congressional knowledge and thus any true Congressional authorization. Needless to say, these policies were also carried out without the knowledge and approval of the American people, on whose consent our government is supposed to rest.

This theme is reinforced in Senator SYMINGTON's article as he looks at the history of our involvement in Laos since the Presidency of Dwight Eisenhower. Senator SYMINGTON's analysis is both compelling and shocking. I commend it highly to the Senate.

I ask unanimous consent that the article be printed in the RECORD.

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

[From World magazine, Aug. 29, 1972]

LAOS: THE FURTIVE WAR

(By U.S. Senator STUART SYMINGTON)

(NOTE.—Stuart Symington, a Democrat, is the senior senator from Missouri, and the only sentator on the Armed Services, Foreign Relations and Joint Atomic Energy Committees. Born in Massachusetts, he has been in the Senate for twenty years.)

The United States has been involved for more than a decade in an undeclared and largely unnoticed war in northern Laos. From the beginning, and as of today, this war has been characterized by a degree of secrecy never before true of a major American involvement abroad in which many American lives have been lost and billions of American tax dollars spent.

A perversion of the processes of government has been going on, a perversion inimical to our democratic system and to the nation's future.

Who is responsible? The Constitution has been bypassed by a small group of men in various departments of the Executive Branch who, under the direction of four Presidents, initiated and carried out policies without any real Congressional knowledge and thus any true Congressional authorization. Needless to say, these policies were also carried out without the knowledge and approval of the American people, on whose consent our government is supposed to rest.

The war in northern Laos, in which the United States has been a principal party, has been pursued without a declaration of war by the Congress. Moreover, in the past few years, the U.S. government has financed Thai troops fighting in northern Laos despite a clear legislative prohibition against such activity.

It has been possible for successive administrations to ignore the normal processes of government because, until recently, the Executive Branch has succeeded in concealing from the people and the Congress the true facts of our involvement in this little country. As long as Congress and the people did not know what the United States was doing, as long as there was no public debate on the issues involved, Executive Branch policymakers were free to do as they pleased without having to explain or justify their actions. John Foster Dulles, Secretary of State under President Eisenhower and an arch proponent of the Domino Theory, considered Laos a key domino that then stood between China and North Vietnam on the Communist side and Thailand, Cambodia, and South Vietnam on the free world side.

By an exchange of diplomatic notes in July 1955, the U.S. and the Royal Government of Laos called for economic cooperation and the defense of the Kingdom of Laos. During the late Fifties, U.S. aid to Laos was running $40-million a year, and 80 per cent of that went to the support of the Royal Laotian Army.

To guide the Lao Army, the State Department organized an incognito American military mission with headquarters in Vientiane. This group was attached to the U.S. Operations Mission, or more popularly, the PEO. Its members were called technicians and wore civilian clothes. At its head was an equally disguised American general. When the general assumed command of this force his name was erased from the list of active American army officers.

Thus for many years this war was a well-kept secret. When John F. Kennedy became President in 1961, there were 700 American military personnel in Laos as well as 500 Soviet operatives whose mission was to provide logistic support to local Communist forces. These forces included at least 10,000 North Vietnamese.

Soon thereafter, the military position of Royal Lao government forces began to deteriorate whereupon President Kennedy and the Soviet and Chinese leaders entered into negotiations that led to a conference in Geneva. The Geneva Convention recessed when President Kennedy and Chairman Khrushchev met in Vienna and produced a joint statement on Laos in which both parties assured the neutrality and independence of Laos and "recognized the importance of an effective cease fire." In July, what became known as the Geneva agreements of 1962 were signed.

The Geneva Agreements prohibited Laos from joining any military alliances, including SEATO, banned the introduction of foreign military personnel and civilians performing quasi-military functions (with the exception of a small French training mission), and forbade the establishment of any foreign military installation in Laos.

After these agreements were signed, the United States and the Soviet Union withdrew their military personnel. The North Vietnamese, however, failed to withdraw most of their forces and advisers.

In the fall of 1962, because of the continuous presence of the North Vietnamese in Laos, the United States agreed to provide Souvanna Phouma, the Prime Minister and leader of the Neutralist faction in the tripartite government, with limited amounts of military equipment as permitted by the Geneva Agreements.

In 1962 the United States began, through the CIA, to suport a force of Lao irregulars on the theory that it would be possible to deny officially that the Geneva Agreements were being violated. The decision to use the CIA as the instrument for waging what became a full-scale war was, in my view, a clear perversion of that agency's intended role.

With the outbreak of serious hostilities in 1963, the United States secretly began to train Lao pilots and ground crews in Thailand. In June 1964, American tactical fighter bombers began, again secretly, to strike targets in northern Laos far from the Ho Chi Minh Trail area in the south.

When these strikes were reported by the press, the Executive Branch clung to the story even after it was no longer true, that the United States was flying reconnaissance missions at the request of the Lao government and that our planes were authorized to fire back if they were fired upon.

The United States also began to provide greater amounts of war material and other assistance and to transport Lao supplies and military personnel, using the airplanes and the services of Air America and Continental Air.

In 1965, as the war in South Vietnam intensified, American aircraft began to attack North Vietnamese supply routes in the southern panhandle region of Laos. These attacks were not officially acknowledged until 1970.

In 1966, about fifty U.S. Air Force officers and enlisted men, nominally asigned in the air attache's office, were stationed at Lao air force bases as advisers to the local command.

In 1967, about the same number of U.S. Army personnel were assigned to the Lao regional headquarters for similiar duty, and about twenty U.S. Air Force pilots stationed in Laos and others stationed in Thailand began to fly as forward air controllers directing tactical aircraft to their targets.

American air attacks on North Vietnam intensified in 1967 and 1968. Following the bombing halt in North Vietnam in 1968, a large part of the U.S. air effort there was redirected at Laos. During this period, the United States installed several navigational aid facilities in Laos, some manned by American Air Force personnel, and U.S. air strikes in Laos increased. By 1969, more than 100 sorties a day were being flown in northern Laos in addition to those being flown over the Ho Chi Minh Trail area in southern Laos, which was considered to be an adjunct of the battlefield in South Vietnam.

Since the Executive Branch, during the Kennedy, Johnson, and Nixon administrations, obviously intended not to give the Congress all the facts, it was necessary for the Legislative Branch to seek the information on its own. It determined to find out what the United States is doing now in northern Laos and which of its activities are still surrounded by secrecy. It did so by holding hearings and through staff reports of the United States Security Agreements and Commitments Abroad Subcommittee of the Committee on Foreign Relations.

As a result of these hearings and reports originally secret but subsequently made public after they had been sanitized by the Executive Branch, the American people now know that the United States, through Defense Department-funded military assistance, is training, arming, and feeding the Royal Lao Army and Air Force; that the United States, through the CIA, is training, advising, paying for, supporting, and organizing a 30,000-man Lao irregular force; and that the United States is also paying for, training, advising, and supporting a force of Thai troops in Laos, at a cost last year in the neighborhood of $100 million.

These Thai troops are currently being financed by the United States despite an Act of Congress, signed into law by the President, prohibiting U.S. funds from being used in Laos for other than the support of Lao government forces or "local forces" in Laos.

The Executive Branch maintains that the Thai troops are "volunteers" or "irregulars." The facts regarding the organization and command structure of these Thai forces, however, do not bear out the Executive Branch's contention.

When confronted with these findings, the Executive Branch refused to declassify all the relevant information. Even the argument that the Executive Branch relied upon to suppress these facts, which was that the Thai government did not wish to have such details known, revealed the true nature of the arrangement under which these Thai are in Laos. The fact of the matter is that they are in Laos as the result of an arrangement between the Lao and Thai governments, but the United States, as usual, is paying the bills.

In my view, this use of U.S. funds to pay foreign mercenaries in Laos is precisely what the law was intended to prohibit.

We now know also that since February 1970 we have been using B–52s in northern Laos on a regular basis, particularly during the dry seasons. Until the spring of 1971, that fact had been concealed.

In March 1970 the White House confirmed that there had been one B–52 mission in northern Laos. There had been no subsequent disclosure that B–52s were bombing northern Laos on a regular basis. In fact, the Foreign Relations Committee had not been informed, even in classified communications, that B–52 raids had been extended to northern Laos.

The staff of the Subcommittee on U.S. Security Agreements and Commitments Abroad, Messrs. James Lowenstein and Richard Moose, visited Laos in April 1971 and thereupon reported to the Committee on the B–52 operations in northern Laos. A few days later, when members of the Committee, on the basis of this report, asked the Under-Secretary of State at a hearing whether B–52s were bombing northern Laos on a regular basis, the fact was acknowledged for the first time on the public record.

We now also know other details of U.S. air operations in Laos. We know, for example, that in 1970 the United States flew 182,303 attack, combat air patrol, reconnaissance, and other sorties in Laos, not including the B–52 missions; that in 1971 the number rose to 186,564. We now know, too, that in 1971 there were 8,823 B–52 sorties in Laos—representing, incidentally, 65 per cent of all the 12,555 B–52 sorties flown in Indochina in that year.

We also know that in 1971 the United States flew about 66 per cent of all strike sorties in Laos, the Royal Lao Air Force 33 per cent, and the South Vietnamese 1 per cent.

Until 1971 not even the Congress, let alone the public, knew how much money we were spending for the war and other purposes in Laos. At that time, the only overall figure ever released by the Executive Branch for any category of current aid was the amount of economic assistance—some $52-million in fiscal year 1971. In fact, even had the American public been told the amounts appropriated by the Congress every year for military assistance, it still would not have known how much we were spending, because the amounts newly appropriated by the Congress each year did not correspond to the level of expenditures.

The Secretary of State finally admitted publicly last year that the United States was spending about $350-million a year in Laos, or about ten times the Lao national budget. At my suggestion, a ceiling was legislated that limited all security-related American expenditures to $350-million in fiscal year 1972.

The American involvement in Laos continues to grow. In the past few months, we have begun a program to support Thai who fly helicopter gunships in northern Laos. It is claimed by the Executive Branch that these gunships, now being flown for the first time in northern Laos, will be used only to support medical evacuations. The force of Thai irregulars in Laos will also be increased this year. There are preliminary indications that the Executive Branch will ask for more money for Thai and Lao irregulars and will insist that the $350-million ceiling be raised in the fiscal year 1973.

Certain aspects of the Thai irregulars' program in Laos are still kept secret by the Executive Branch. The size of the Thai force remains classified. The Lao Prime Minister, however, in an interview with a Voice of America reporter last January 14, put the limit at twenty-five or twenty-six battalions of volunteers. It has been more than half a year since he acknowledged that the battalion had arrived, and that the remainder were on the way.

The war in northern Laos is thus still secret in some respects, although far less secret than it has been in the past. Congress now examines the appropriation requests instead of blindly appropriating the money.

The Executive Branch is still reluctant, however, to place the question of U.S. involvement in Laos squarely before the Congress, and it continues to circumvent existing laws. Meanwhile the war continues, at a terrible cost in Lao lives and American money.

This war in northern Laos, furtive and secret, will perhaps teach us all a lesson about the dangers of creeping involvements, hidden from the Congress and the public, that make a mockery of our governmental processes. It is a lesson we cannot afford to be taught again.

YOUTH SUPPORT PRESIDENT NIXON

Mr. BROCK. Mr. President, I was delighted by the results of the most recent Gallup poll which showed that 61 percent of American youth support President Nixon.

As chairman of the Congressional Advisory Committee to the Young Voters for the President, I have long felt that young people should not be written off as a monolithic group who would summarily support the Democrat nominee. Many people, especially Democrats, scoffed the idea that any significant portion of young America would vote for the President. This assumption prevailed in the Democrat camp while Republicans actively sought youth and offered them the opportunity to participate in our party. We did so not by quotas, not by coersion, but by simply affording them a chance for involvement.

The response has been terrific. On and off campus young people have shown their willingness to work for the President. Republicans have not automatically relegated young party workers to drudge jobs that exist in every campaign as is so often done in Democrat campaign organizations. To be sure, young Nixon supporters will be putting on bumper stickers and ringing doorbells but also, they are and will be participating in more responsible positions throughout all facets of the campaign.

In the various State and regional Nixon youth campaign organizations, young people are designing and operating their own programs. Often, this includes fund raising activities to finance the cost of the operation. The parent campaigns outline the objectives and the young workers are called to use their own intuition and expertise to meet their goal.

We, who support the President, are not telling youth what to do or how to do it. We are asking for their help, listening to their ideas, and assisting them where we can.

Mr. President, the Democratic nominee has miscalculated the youth of America. Anyone who can tell young persons and workers who support Richard Nixon that they should have their heads examined demonstrates a total misunderstanding of what the youth of this country are seeking in their leaders. Youth will not be bought with idealistic rhetoric, will not be told what they want or what to do.

No one can assume the youth vote is theirs. The candidate who presents the most effective record, who can get the job done, who is consistent, and who is open to new ideas and challenges will win the support of youth.

President Nixon has demonstrated each of these qualities. The intelligence

of American youth has perceived the candor, consistency, and capability of the President. I fully expect that a majority of young Americans voting in November will demonstrate their recognition of the President's accomplishments and vote for Richard Nixon. I believe that the President will enjoy the support of youth, and with it the next 4 years of his administration will see even greater gains in achieving the goals of all Americans.

Mr. President, I ask unanimous consent that the latest Gallup poll, published in Sunday's Washington Post, be printed in the RECORD.

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

GALLUP POLL

(By George Gallup)

PRINCETON, N.J.—The latest nationwide survey, conducted immediately after the GOP convention shows a shift to President Nixon among voters under 30, who, with nonwhites, have represented the core of Sen. George McGovern's support.

In the previous survey, Mr. Nixon trailed Senator McGovern 48 per cent to 41 per cent among voters under 30. Now, Mr. Nixon not only has gained the lead but holds a wide 61 per cent to 36 per cent margin over McGovern with this group.

Mr. Nixon's sizable gain among young voters has been one of the few factors in the President's gain nationwide. The latest national figures show Mr. Nixon leading Senator McGovern 64 per cent to 30 per cent, with 6 per cent undecided. The previous survey showed Mr. Nixon with a narrower margin, 57 per cent to 31 per cent, with 12 per cent undecided.

Until the latest survey, McGovern's losses had been due largely to a decline in support among older voters.

A review of survey findings shows that the race is still far from decided:

Sharp movement has occurred in presidential preferences since the primaries this year.

A residual base of support still remains for McGovern as revealed by the fact that, only four months ago, McGovern received only 10 percentage points less than Mr. Nixon, 49 per cent to 39 per cent, in trial heat measurements.

Recent survey evidence shows that 30 per cent of the vote for either candidate can be considered "soft"—that is, not socially committed to the candidate currently preferred. Approximately 3 voters in 10 currently favoring Mr. Nixon, for example, admit they might change their mind and vote for the other candidate.

The trend in trial heats nationwide since April:

[In percent]

	Nixon	McGovern	Undecided
Apr 21–24	53	34	13
Apr 27–May 1	49	39	12
May 24–29	53	34	13
June 16–19	54	27	9
Democratic Convention: July 14–17	56	37	7
Eagleton disclosures: Aug 3	57	32	11
Aug 5–12	57	31	12
GOP Convention: Aug 21–24	64	30	6

Analysis of the latest survey findings shows Mr. Nixon holding a wide lead with all major population groups with the exception of non-whites, where McGovern is currently preferred by a more than 5-to-1 ratio.

REGISTERED VOTERS

[In percent]

	Aug. 5–12	Latest
Under 30 years old:		
Nixon	41	61
McGovern	48	36
Undecided	11	3
Manual workers:		
Nixon	49	64
McGovern	35	24
Undecided	14	2
Catholics:		
Nixon	43	62
McGovern	42	29
Undecided	19	9
Labor union members:		
Nixon	52	61
McGovern	25	30
Undecided	13	9

The latest trial heat is based on personal interviews with a total of 1,203 registered voters out of a total sample of 1,534 adults interviewed August 25–28 in more than 300 localities across the nation.

This question was asked:

If the presential election were being held today, which candidate would you vote for—Nixon, the Republican or McGovern, the Democrat?

SURFACE MINING

Mr. MOSS. Mr. President, on September 11, I commented upon the fact that an executive session of the Committee on Interior and Insular Affairs had been called to discuss surface mining legislation, and that not one Republican came to that executive session. Secondly, that the minority had filed an objection to the committee meeting during morning. So our executive meeting, at which I hoped the committee would mark up and report the bill, collapsed.

All of this action took place subsequent to attacks by the President against the 92d Congress for delaying and a response to that charge delivered by Senator MANSFIELD on September 8.

Mr. President, I also stated on Monday that the work of the subcommittee on surface mining legislation could not have been accomplished without "the great and full support of the minority members of the subcommittee." The Senator from Idaho (Mr. JORDAN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oklahoma (Mr. BELLMON) were prime supporters of the subcommittee and worked tirelessly. I lauded their efforts during those sessions as chairman of the subcommittee, and I laud their efforts now.

It was because of their great and faithful dedication to the task of drafting the surface mining legislation that I was doubly shocked to find not one of them at the executive session and therefore expressed my dismay that their failure to attend might have political overtones.

Perhaps my frustration under extreme pressure and urgency induced me to speak more bitingly than I should have done. So if my criticism on Monday was unwarranted, I apologize.

I am most pleased that a full quorum was in attendance at the Interior Committee's executive session today and that we did, indeed, report a bill to regulate surface mining, subject to amendments to be proposed on the floor of the Senate.

SALT NEGOTIATORS THEMSELVES SEE PROBLEMS IN THE ACCORDS

Mr. BUCKLEY. Mr. President, I wish to invite the attention of the Senate to a detailed and thoughtful analysis of the SALT accords that appears in the September 1972 issue of Fortune. Its author, Mr. Charles Murphy, has delved into the problems of strategic arms limitation with energy and thoroughness, producing one of the most comprehensive and balanced press interpretations of SALT to date.

Mr. Murphy's article reinforces the testimony already on the record, that officials who played key roles in concluding the interim agreement—notably the chief negotiator, Ambassador Gerard Smith—consider that the present interim agreement is not acceptable as a permanent agreement.

In short, Mr. President, it is clear that the interim agreement does not provide the kind of strategic equality necessary for a stable, long-term, arms control agreement. This is the serious concern of the sponsors and supporters of the Jackson-Scott amendment. I commend Mr. Murphy's article to the Senate.

Mr. President, I ask unanimous consent that the article entitled "The SALT Negotiators Themselves Are Troubled By What We Gave Away in the Moscow Arms Agreements" be printed in the RECORD.

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

[From Fortune magazine, September 1972]

THE SALT NEGOTIATORS THEMSELVES ARE TROUBLED BY WHAT WE GAVE AWAY IN THE MOSCOW ARMS AGREEMENTS

(By Charles J. V. Murphy)

The agreements reached in the Strategic Arms Limitation Talks (SALT) have had a rather remarkable record in the U.S. Senate. The first of the two major agreements, the Antiballistic Missile Treaty, sailed through last month by a vote of 88 to 2. The ABM treaty binds us and the Russians to confine the defenses against each other's missiles to two fixed sites, at least 800 miles apart, each to have no more than 100 interceptor rockets—a token number. The other major SALT agreement, which put limits on offensive missiles, managed to generate a certain amount of controversy about the conditions that should be attached to it; but there was never the slightest possibility that the Senate would reject it. This "interim agreement" fixes future ceilings for the two nations on the number of strategic nuclear submarines each may have during the next five years, the total number of missiles these vessels may carry, and the number of land-based strategic missiles each nation may separately deploy.

What is remarkable about the Senate record is that virtually none of those who are responsible for the agreements are happy with them. Not President Nixon. Not Henry Kissinger, who with the President took part in the final horse trading in Moscow and composed a dazzling if not wholly convincing political rationale for the trade. Not Secretary of Defense Laird. Not the Joint Chiefs of Staff. Not even the principal negotiators.

One adviser to our negotiating team, William R. Van Cleave, observed sadly in testimony before the Senate Armed Services Committee that the agreements were "a light-year removed from the outcomes contemplated in the studies and planning for SALT . . . There has since the start of SALT been a constant erosion of U.S. SALT positions and expectations."

The private unhappiness with the agreements is focused on several problems. First, the interim agreement leaves the Soviet Union with a three-to-two lead over us in the number of land-based strategic-missile launchers—now the central element of military striking power; concedes them at the end of the five-year life of the agreement an equal superiority in strategic missile submarines, where we now have a three-to-two lead over them; and gives them a three-to-one advantage in the weight of the nuclear warheads that the ICBM's can deliver. Second, the agreement leaves the Russians in a position to make far more technological improvements in their strategic weapons than we can hope to make. The U.S. has frozen itself, says Dr. Edward Teller, the distinguished physicist and weapon expert, "in a position that is difficult and dangerous."

A SINGULAR OPPORTUNITY FOR THE RUSSIANS

If this is the practical outcome, what was Nixon after in the SALT exercise to begin with? The short answer is that he was trying to prevent an even worse outcome for the U.S. As Kissinger put the Nixon choice in Moscow, the value of the interim agreement is to be judged not by assessing "whether the freeze perpetuates a Soviet numerical superiority" but by what "this margin [would] have been without the freeze." The primary American objective was to brake the spectacular momentum the Soviet Union has lately acquired in the deployment of strategic ICBM's inside the Soviet Union and missile-launching submarines in both the Atlantic and Pacific Oceans. By Kissinger's figures, the Russians have been adding to their strategic strike forces at a rate of some 100 sea-launched and 200 land-launched missiles a year. The U.S. last added launchers to its strategic inventory in 1967.

The decision to hold down our numbers was reached back in the early 1960's by Defense Secretary Robert S. McNamara. The growth of the Minuteman force was to be halted when it reached 1,000 launchers, the Polaris force was to hold at its present level of forty-one hulls, and an advanced bomber proposed by the Air Force was rejected. In the wake of the Cuban missile crisis, it appears, the Kennedy men were determined to reduce the risk of another nuclear confrontation; they hoped that if we did not add to our nuclear advantage and let the Russians rise to parity, the arms race would slow down and the risk would in fact be reduced.

On the evidence, the Russians certainly made the most of this singular opportunity. As Kissinger pointed out in Moscow, the situation in which the U.S. found itself nine years later, particularly with regard to submarines, was hardly "the most brilliant bargaining position" for our negotiators. President Nixon has suggested that if the U.S. were to set out now to redress the balance, immediate additional investments in strategic systems on the order of $15 billion a year would be necessary. And Congress, given its present massive mistrust of just about any military investment, would certainly never yield up such funds. It has persistently skimped on the strategic programs and the R. and D. account through the past four years.

Thus our bargaining position in the SALT talks was a steadily weakening one. We had no ongoing weapon systems in development and deployment, while the Russians had at least three: a class of heavy multimegaton ICBM's, which we call the SS–9's; a class of light ICBM's called the SS–11's; and a class of strategic-range missile submarines called Y, for Yankee. In bargaining for a future ceiling on the Soviet strategic offensive force, we really had only one thing to put up for bid: the Safeguard ABM, a more promising property than is commonly appreciated. "On the offense side," says Dr. John S. Foster Jr., director of defense research and engineering, "our margin of advantage was melting fast. The Russians knew this and why. They were hardly likely to yield to the President what Congress would not give."

To the degree that the agreements brake somewhat the accumulation of city-destroying weapons, they are certainly all to the good. The destructive power of the weapons already piled up passes all rationality. And their costs now border on the lunatic. We have at least begun the effort to construct a system in which these costs will be less necessary; we have again demonstrated a willingness before the world to do what we can to stop the arms competition.

In other respects, though, the SALT agreements are undesirable. It is one thing, serious enough in itself, to slide into a situation in which the Russians gain an advantage in numbers of strategic weapons; it is quite another matter to regularize this advantage in a formal agreement. Furthermore, the agreement enables the Russians to raise the power of their strategic forces still further by technological improvement, and so make their advantage more threatening. In May, toward the climax of the negotiations, the U.S. delegation warned that if the next round of SALT talks failed to impose a real check on strategic power, "U.S. supreme interests could be jeopardized." The most serious defect of all is that the agreements on defensive and offensive weapons do not complement one another; indeed, they are inherently incompatible. Van Cleave complained: "We are comparing levels of ABM with levels of ABM and offensive levels with offensive levels, which is politically important and which *may* be strategically important, but which blurs the really significant offensive-defensive relationship and the need to match defense to offense and vice versa. If ABM is to be limited as stipulated by the treaty, the offensive capability permitted the Soviet Union is intolerable. If such offensive capability is to be permitted, higher levels of ABM are necessary . . ." On these same grounds, Dr. Donald G. Brennan of the Hudson Institute, another defense analyst of high repute, deplores the treaty. 'The ABM treaty," he argued recently, "does the wrong thing well, and the interim agreement on strategic weapons does the right thing badly."

ABANDONING THE SHELTER

There is no question that the ABM treaty has transformed our defense posture. Our Safeguard system was earlier supposed to consist of twelve antiballistic missile complexes across the land. Their function was to provide defense for our cities against a light attack—e.g., of the kind the Chinese might launch—and, more important, to ensure that even a massive attack on our land-based missiles and strategic bombers would not destroy all of them. Additionally, Safeguard was to shelter what the prevaling jargon describes as the National Command Authority (NCA)—meaning particularly the President and his staff, the high military command, and the members of Congress.

Now, under the ABM treaty, the concept of a country-wide ABM defense for the Minuteman and bomber forces, let alone for the cities, has been abandoned. We and the Russians have restricted ourselves to token deployments consisting of two antiballistic elements—a limited force in defense of a single ICBM complex in the field, and another limited force in defense of our respective capitals—the NCA role, that is. This was the outcome most ardently desired by the Kremlin. The Russians were not seriously interested in limiting strategic weapons. What they were adamant about, through the critical exploratory phases of SALT negotiations, was finishing off Safeguard. The Kremlin began the horse trading on offensive strategic weapons only after the ABM issue was settled pretty much to its satisfaction.

For many Americans, this Soviet attitude was entirely welcome They interpret the Soviet abandonment of antiballistic defenses as a tardy conversion to the "mutual assured destruction" theory of strategy promulgated by McNamara and the school of defense scientists and analysts to whom he looked for counsel. That proposition holds that where both sides are entirely vulnerable to nuclear attacks, neither side will dare to launch one—that nuclear war becomes possible only when there are defenses against the attacks. It was on this line of reasoning that so many in Congress and the academic community fiercely opposed the Safeguard system when Nixon announced it three and a half years ago.

THE TROUBLE WITH GALOSH

It is possible that the Soviet leaders now agree with these critics about the benefits of mutual assured destruction. But it seems more likely that the Russians, who are by tradition defense-minded, believe in ABM's—and that they opted for the ABM treaty only because their own defensive system was so far behind ours. As early as the mid-1960's they had begun to raise around Moscow an elaborate ballistic defense, which the West named Galosh. From satellite photographs and study of energy emissions, U.S. intelligence judged the system a mediorcre one. It depended upon clumsy mechanical scanning radars for aiming the interceptor missiles. These radars could track but a single missile at a time, or a cluster. The interceptor rockets were huge, and interception could take place only in outer space. Four years ago the Russians, realizing that they were on an unpromising path, tore down much of what they had built and started all over again, this time putting up two huge phased-array radars, each as long as two football fields, the costliest structures of their kind in the world. The radars are first class, but the revamped system still appears to be faltering because of the well-known Soviet lag in computers and other data-handling gear. The Russians may well have decided that a defense against the thousands of American warheads is at present beyond them.

Meanwhile, they might well have been alarmed by the superior showing of Safeguard. The Army over the past several years has put our ABM system through rigorous tests on the Pacific missile range, which extends from California to Kwajalein Atoll in the mid-Pacific, 4,200 miles away. Out of twenty-nine attempted interceptions, twenty-five were successful. These trials were all, to be sure, carefully orchestrated; none of the experts, not even Safeguard's stoutest champions, claim that the system can be made to provide anything approaching a leakproof defense against a severe nuclear attack. Nevertheless, the development of high-capacity computers (Sperry Rand), memory storage banks (Lockheed), and programming techniques (I.B.M.), in combination with phased-array radars (Raytheon and Bell Telephone Laboratories) and an integrated command system (Western Electric), has finally created the means for mastering the stupefying volume of data upon which the tracking-aiming-firing-intercepting sequence ultimately depends. "The theory," says Dr. Foster, "now rests on demonstrated principles. A workable ABM system can be put together."

M'NAMARA'S UNEASY SURMISE

It is now plain that the numerous skeptics about Safeguard were grossly wrong. Paul Nitze, when he was Deputy Secretary of Defense under Lyndon Johnson, made himself

a lay expert of sorts in this strange new military science. In the SALT talks he was the advocate of the American position where technical points in the ABM matter were concerned. "As a defense for hardened silos," Nitze has concluded, "Safeguard can be made effective. It's expensive, but it's going to be more expensive to deploy an offensive missile capable of defeating it."

And so the Russians may have concluded that they faced the prospect of our having an effective ABM technology and their being without one. A U.S. defense analyst who had numerous conversations with his Soviet counterparts says, "Though they never came right out and said so, I got the feeling that they were afraid we Americans would be tempted to move on to still better radars, more interceptors; that we would go from a thin to a thick ABM cover, while having the advantage of the MIRV technology. They may have realized that the combination of the two would swing the strategic ascendancy back to us."

It should be noted that there is a much more pessimistic view of their reasons for wanting the ABM treaty. Teller, for one, believes that the Russians know more about the effects of high-yield nuclear explosions on warheads, structures, and command-and-control systems than we do. They are also said to know more than we do about the electromagnetic effects produced by nuclear explosions outside the earth's atmosphere. During the extensive nuclear tests that the Russians ran in 1961, American surveillance systems verified the stunning revelation, which the Kennedy Administration suppressed, that the Russians had staged several interceptions of missile warheads by exploding nuclear devices outside the atmosphere.

While the intelligence community is divided on the point, a strong body of opinion is increasingly suspicious that the Galosh complex may be only the tip of the real Soviet ABM iceberg. During the past fifteen years the Russians have assembled over their immense geography a surface-to-air missile defense, originally called the Tallinn system, which has no counterpart anywhere else. It includes at least 10,000 interceptor missiles and hundreds of radars. The system undoubtedly has an antibomber function. But Dr. Foster has steadily argued that with the inclusion of the huge surveillance radars that dot the Soviet landscape, the whole apparatus could be tied together fairly rapidly into a vast ABM system. This is only a surmise. The treaty itself explicitly prohibits any move toward a country-wide system. Nevertheless, there remains a brooding suspicion in our defense community that those radars may signify a Soviet intention to cheat. Years ago McNamara remarked to Foster, "They never would deploy so many missiles simply for an air defense, considering the thousands of winged interceptors they have. They must intend to make the system over into an ABM system."

A NEW SET OF PROBLEMS

In any case, and whatever their reasons, the Russians have most certainly induced Nixon to administer the coup de grace to Safeguard, his single contribution to U.S. strategic assets. The program now is a shambles. So far, $5 billion has been obligated for Safeguard, most of it for R. and D. If the Washington complex goes forward, the final cost of the two sites would be an estimated $8.5 billion. When the agreement came, a grudging Congress had authorized Defense Department construction of but four sites, and active construction was under way on only two.

At Nekoma, North Dakota, close to the Manitoba line, on the northernmost edge of the ninety-mile-long Minuteman field that starts at Grand Forks, the earth moving and structures are about 90 percent completed; however, it will take another two years before the radars, computers, power generators, and command-and-control mechanisms are installed and made operational. At Malmstrom Air Force Base in western Montana, 600 miles away, construction was about 10 percent advanced, work having been delayed by a long strike. At the two remaining complexes—one at Warren Air Force Base in Wyoming and the other at Whiteman Air Force Base in Missouri—the ground had not even been broken for the construction. Now the Grand Forks complex is to be finished, but Malmstrom is being dismantled, and work at the other sites has ceased.

Meanwhile, there is a large question about the NCA complex permitted for Washington. The defense authorization request for fiscal 1973 asks for $28 million with which to start work, and the Army hopes to shift there the radars and computers on order for Malmstrom and Whiteman. But Congress is now stone cold on the ABM proposition, and we may not even elect to build the NCA complex we are allowed under the treaty.

And so the ABM treaty leaves us with a good many problems. In February, 1970, in a message to Congress, Nixon deliberately raised the question whether it is a good thing for a President to be left with the single option, in a nuclear attack, of ordering a strike back at the adversary's cities, knowing that this would bring a mass slaughter of Americans. "Should the concept of assured destruction be [so] narrowly defined and should it be the only measure of our ability to deter the variety of threats we face?" Obviously, the President's answer then, in Washington, was no; but the treaty he signed in Moscow constitutes a yes answer. In the immediate future, cities and people will remain defenseless. As Brennan has observed, "We and the Russians have agreed not to defend ourselves, not only against each other, but, interestingly, against anybody else." Mutual assured destruction, he argues, is not so much a theory as "a fashion"—a nightmarish notion that "nuclear stability resides in high hostage levels."

Now the question arises: just how mutual is the mutuality of destruction likely to be? On this point, the arithmetic suggests that we shall end up a good deal less mutual than they.

COUNTING UP THE LAUNCHERS

U.S. satellite photography shows that the Soviet Union has deployed precisely 1,527 ICBM's of various character. Silos for ninety-one more, not yet emplaced, have been marked. The agreement on offensive weapons permits unfinished work to be carried forward to deployment, and no doubt these empty holes will be loaded, giving the Russians a total of 1,618 ICBM launchers. Inasmuch as the U.S. has no unfinished ICBM systems in the works, our inventory of launchers must remain at the level of the past five years. It consists of 1,000 Minutemen deployed in six fields and fifty-four Titan missiles.

Furthermore, the lead that the U.S. still retains in submarine-launched ballistic missiles (SLBM's) will soon be erased and here, too, we shall slide into an inferior numerical position. By our count, at the time the interim agreement was signed, the Russians had twenty-six to twenty-eight Yankee-class missile submarines at sea, and fifteen more building. These are nuclear-powered, and those at sea, each have tubes for sixteen ballistic missiles with a range of 2,000 miles. A new class has lately appeared, having only twelve tubes; these are being armed with a 3,000-mile missile. U.S. intelligence had credited the total Soviet submarine force, in being and in assembly, with an aggregate inventory of 710 SLBM's. The Russian negotiators startled our delegation with the disclosure that the true number was forty-eight submarines and 768 missiles.

The agreement allows both sides to enlarge and modernize their SLBM forces in exchange for cutbacks of older missiles. Here again the Russians, who had more obsolescent missiles and fewer modern submarines, will benefit most. They are permitted to move on to a fleet of sixty-two submarines having a total of 950 missiles in their tubes. To reach that level they are bound to retire 210 of their pre-1964 land-based ICBM's (liquid-fueled rockets in the SS–7 and SS–8 classes) as well as thirty fairly short-range ballistic missiles deployed at present on ten older nuclear H class submarines, also verging on obsolescence. The U.S., for its part, is allowed to add three submarines to its present fleet of forty-one sixteen-tube Polaris/Poseidons, and to raise its present inventory of 656 SLBM's to an eventual aggregate of 710. This gain in sea-based launchers would be at the expense of the fifty-four land-based Titans, the oldest and heaviest ICBM's in the U.S. strategic forces. At the end of the period covered by the Moscow agreement, then, the Russians could have 1,408 land-based launchers to our 1,054; and, since the three additional submarines allowed us are hardly likely to be built in the next five years, they could have 950 launchers at sea to our 656.

Considering the advantages that the Russians already had on the ICBM side of the strategic equation, the stubbornness with which they held out for a roughly equivalent advantage in numbers of SLBM's was disturbing to the American negotiators. "The submarine ratio," one of Kissinger's lieutenants says, "was the knottiest issue of all. There was no give on the other side." The ratio was finally settled directly between Nixon and Brezhnev in the Kremlin at high noon on the day of the signing, while the Soviet and U.S. negotiating teams were still deadlocked over numbers in Helsinki, 550 miles away, in an atmosphere that one observer has described as "frantic."

One justification advanced for this really extraordinary concession on our part is that the Russians, lacking forward bases similar to those the Polaris/Poseidon force uses at Holy Loch in Scotland, Rota in Spain, and in the Pacific, are able to keep their submarines on station only half as long as we are, and accordingly need a larger force in order to have an equal number of SLBM's in position at any given time. This argument is not altogether persuasive, however; some defense analysts have suggested that there are ways for the Russians to operate their submarines more efficiently. In any case, the 3,000-mile SLBM's with which the new Y class submarines are being armed should minimize their problems.

THE MEANING OF MIRV

Calculating the military value of the opposing missiles is trickier than just adding up launchers. The "throw-weight" of the missiles, i.e., the military payload carried, varies considerably from one launcher to another. The number of warheads and their accuracy, range, and explosive yields also bear on the potential value of the payload. Henry Kissinger has said that the U.S. has a two-to-one lead in numbers of warheads. Furthermore, Soviet warheads are not now as accurate as ours—on the average, their missiles will hit about three-tenths of a mile farther from target than the Minuteman will—but their greater yields offset their inaccuracy. The Soviet SS–9 missile, for example, weighs about 500,000 pounds. It lifts a 12,000- to 14,000-pound warhead having a twenty-five megaton yield. Other land-based Soviet missiles are smaller; still, aggregate throw-weight of all classes of Soviet ICBM's is estimated to be around three times the Minuteman's 2,400,000 pounds. (The Minuteman's gross weight is about 70,000 pounds. It can throw a single warhead with a yield of 1.5 megatons or three warheads with a total yield of 600 kilotons.)

Is our disadvantage in throw-weight a

crucial one? Defenders of the SALT agreement think not. They argue that bombers must be counted in the balance and that our Strategic Air Command is clearly superior to the Soviet bombers. More important, our development of MIRV (for multiple independently targeted re-entry vehicles, i.e., warheads) enables us to put more warheads on our launchers than the Russians have been able to fit on theirs—three on the Minuteman, as many as fourteen on the Poseidon. A number of targets, tens, even hundreds, of miles apart, can be attacked with extraordinary accuracy from a single launch.

But this technology, which is now an American monopoly, is almost certainly within the Russians' grasp. Defense Secretary Laird recently informed Congress that the first Soviet MIRV is expected to be tested this winter. If the test is successful, a thorough refitting of the Soviet missile forces is expected to be under way within two or three years.

A STRANGE PAUSE IN DEPLOYMENT

Once they have mastered the MIRV technique, it should not be excessively difficult for the Russians to fit a huge SS–9 warhead with from six to twenty separately steered warheads, all more powerful than those lifted by either the Minuteman or the Poseidon. The strange pause that settled over the vast SS–9 deployment program during the winter of 1970–71, after 288 missiles had been deployed and with some twenty-five silos still empty, is now believed to reflect a decision to replace the entire SS–9 force with a new generation of MIRV warheads. There are also signs that the SS–11 force is to be replaced methodically with a new MIRV'd class of relatively "light" ICBM's, and that some two score other silos in SS–11 fields, as yet unfilled, will get MIRV'd weapons too. Finally, the Russians have about a dozen new silos that are even wider than those in which the first-generation SS–9's are emplaced; and a huge new missile has been spotted on a Soviet test launcher. Its payload is estimated at between 24,000 and 28,000 pounds—it is at least double the size of the SS–9—and Senator Henry M. Jackson has said the missile may be armed with a fifty-megaton warhead.

What kind of threat does this emerging Soviet capability represent to the U.S.? No one can speak definitely to this question, but there are some fairly pessimistic answers around. Teller, for example, believes that a combination of improved SLBM's and improved SS–9's might conceivably give the Soviet Union a capability over the next several years to wipe out the U.S. Minuteman and strategic bomber forces on the ground. Actually, to destroy ICBM's in their silos, warheads are not needed in fantastic numbers. In the absence of ABM, it is easy enough, given data on accuracy and yield, to calculate the number of missiles needed to destroy just about all of an enemy's silos. If the Russians should finally begin to approach U.S. standards of accuracy, they should soon have enough SS–9's and SLBM's to annihilate our land-based strategic forces. They could use those two strike elements alone, holding the SS–11's in reserve to retaliate against our cities in the event that our sea-based forces struck at theirs.

There are all sorts of reasons for doubting that the Russians actually intend to launch any such first strike. Nevertheless, the fact that they had a first-strike *capability* would cast a long shadow over world events. And the fact—if it ever came to pass——could not be hidden. In an age of satellite cameras and computers, the adding up of opposing strengths can be done swiftly and accurately. Long before any crisis came to a boil, the behavior of our political leaders, and theirs, would be influenced heavily by that arithmetic. Confidence in Minuteman is a political factor of prime importance, for us and for our friends and foes.

During the five-year life of the interium agreement, it seems clear, the Russian strategic forces will benefit more than ours will from technological improvements. This is all the more reason, many of our defense analysts believe, for the U.S. to be investing heavily in the kinds of advanced technology that we *are* allowed under the agreement and that might make a difference toward the end of the decade, if the present agreement is not meanwhile replaced by one more favorable to us. The chairman of the Joint Chiefs of Staff, Admiral Thomas H. Moorer, a sailor of vast experience and uncommon sense, says, "The side which masters the technological openings should prevail. The chiefs and I understand this. We insisted, on that account, that the agreements shelter three rights: the right to modernize, the right to keep R. and D. alive, and to look and see."

Few question the need for surveillance—i.e., looking and seeing. But there is an extremely serious division in Congress and the scientific community over the Defense Department's desire to proceed forthwith with the development of a new strategic bomber (which we are free to develop anytime), and a new strategic submarine (which would not be operational for more than five years). Senator Proxmire of Wisconsin has served notice that the procurement programs are in for a hard time. Proxmire has been supported extensively by a broad coalition of antimilitary lobbies and "think tanks" that have become a powerful influence in shaping the behavior of Congress on defense spending. In the coalition are such bodies as the Federation of American Scientists, the Council for a Livable World, SANE, the Coalition on National Priorities and Military Spending, the Arms Control Association, and the Institute for Policy Studies.

These groups and their allies in Congress would hold investment in the strategic area to a level that would keep R. and D. barely alive. And they are strongly against any move into production—to the creation of new forces in being.

A CASE FOR THE TRIDENT

Both of the two new strategic systems that the Defense Department wants to develop have been before the country, in one form or another, for quite a few years. One, the Trident system, seeks to replace the Polaris/Poseidon submarine missile force in the 1980's with a more advanced combination of hull and missile. The other, the B–1, involves the large-scale production of a supersonic, swing-wing intercontinental bomber, to be ready for initial deployment in the late 1970's. At this point, the funding required to take the two systems further along in the R. and D. and prototype cycle comes to only about $1.3 billion in the current budget. In the production and deployment phases, the aggregate costs would of course be $25 billion at the least, and might even be twice that.

As a matter of fact, the Trident is in the process of being invented. All that is certain about it now is that the hull will have about twice the displacement of the Polaris submarines; the Trident will carry twenty-four missiles, versus sixteen, will be faster, quieter, and much more versatile, will take five years to build, and will cost at least $1.3 billion for each vessel (the figure includes R. and D. and missile costs). In simplest terms the Trident is being invented for the purpose of exploiting one available new technology, and to anticipate and evade another that is pregnant with menace, but which has not yet materialized.

The menace lies in the knowledge that if the Russians, with their fast and growing flotillas of attack submarines, should develop a means of detecting and tracking the Polaris force—and we and they both know the theoretical solutions to the problem—the elusiveness that has been the singular merit of the system would be lost. As Teller recently observed, "a single big discovery in oceanography—the detection of submarines—could wipe out our last deterrent." The available new technology would bring within the Navy's reach a 6,000-mile missile—Trident II—that can (like the Poseidon missile) be launched from a submerged vessel. The Poseidon missile now has a maximum range of about 3,000 miles. This means that when the vessel is on station it must linger fairly close to the Eurasian land mass if the missile is to reach worthwhile targets, and that requirement considerably narrows the ocean areas where the adversary has to look for it. A 4,000-mile missile, Trident I, is in development now and could presently replace some of the Poseidons. With the full-range missile, the Trident will have just about the whole expanse of the Atlantic and Pacific oceans in which to maneuver.

SECOND THOUGHTS IN CONGRESS

Unfortunately, the Trident costs a mint. The Navy contemplates an initial buy of ten vessels, as replacements for the first ten Polaris vessels (which will be twenty years old early in the next decade). That means a capital outlay of between $13 billion and $15 billion, as a starter. A total of $164 million has already been committed to R. and D. In fiscal 1973 the Defense Department has asked for a total of $977 million. Of this sum, $555 million is to extend the research looking to the eventual design of the hull, further improvement in the missile, and superior communications. Another $361 million is mostly for developing the reactor, a five-year task, and buying some hardware.

Until a year or so ago, even the leading congressional and other skeptics on defense favored moving on to an improved submarine missile force. A sea-based deterrent has long been attractive to many of these skeptics, because it promises to draw fire away from the homeland (and also because it requires no ABM to protect it). But the looming cost of the system, together with the now-familiar argument that another U.S. SLBM would only provoke the Soviet Union into developing another of its own, has brought a change of heart. A parade of defense analysts before the various congressional military committees has recommended that we stand pat with the Polaris/Poseidon force. In June the Trident seemed to be in big trouble in Congress; the Navy's request for immediate production money came within one vote of failing to win approval of the Senate Armed Services Committee.

In July, however, the mood of the Senate seemed to undergo a change. An amendment to restrict Trident funding to R. and D. was defeated, forty-seven to thirty-nine. Six days later, the Navy's entire request passed the Senate, as part of the $20.5-billion military-authorization bill.

A VERY EXPENSIVE BOMBER

The B–1 is the intercontinental bomber that the Strategic Air Command has longed to suit up for ever since McNamara virtually scrubbed the Advanced Manned Strategic Aircraft (AMSA) about ten years ago. The airframe for the first of three prototypes is to start through North American Rockwell's jigs in October. General Electric is running tests at its Evendale, Ohio, plant on the 30,000-pound-thrust engines. (They are designed to deliver twice the thrust of the engines used in the F–4.) In April, Boeing was awarded a contract for integrating the avionics system. By and large, the program is on schedule. The first test flight is scheduled for April, 1974, only a year and a half away.

If the machine eventually makes it through Congress, it should cut quite a figure in the air. Its gross weight of about 360,000 pounds will be about three-quarters that of the B–52, but will include a bomb load that will be twice as large. Furthermore, its top dash speed is better than mach 2—i.e., more than twice the speed of sound—but the real difficulty for an enemy

will be the B–1's ability to maintain almost supersonic speeds over hundreds of miles at earth-hugging, rooftop level on the way to the target. The B–1, using the terrain-following radar successfully developed for the otherwise ill-starred F–111, will be able to arrow over hostile lands at speeds never before attained by machines moving so close to the earth.

The problem about the B–1, as about the Trident, is its staggering cost. So far, close to $700 million has been spent on development, and the Air Force asked for $445 million more this year. Carrying the program through the prototype will cost an estimated $2.6 billion. The Air Force is counting on a total buy of 241 machines, with spares. That would put the total cost of the program at about $11.1 billion, an average of $45,500,000 per plane. (The avionics alone will cost $5 million per plane). Given such costs, and the likelihood that they will soar further in the production and deployment phases, it is unlikely that Congress will give the Air Force anything like the numbers it wants. The penalty for excessive costs, in bombers as in submarines, is likely to be a loss in effective numbers—ever fewer machines for the mission. For the moment, however, the Air Force's progress to the prototype has been virtually assured by the Senate's all but unanimous approval of the entire B–1 package.

A year and a half ago, the Defense Department's Dr. Foster made public certain calculations regarding Soviet investment in the military technologies. The burden of his findings was that Soviet spending on R. and D. alone was exceeding U.S. spending by a margin of $3 billion to $4 billion a year. U.S. outlays for all military R. and D. was running around $7 billion to $8 billion a year the Soviets rate had risen to $10 billion to $11 billion. These estimates were based upon a close scrutiny by the various intelligence agencies of some five score Soviet military programs. Foster acknowledged that his estimates might be off by as much as 20 percent on the high side, but they could also err on the low side. His point was that an investment program like that on the Soviet scale, which appears to have acquired its present momentum in the 1968–69 period, is bound to produce technological surprises. "The development cycle," Foster noted, "runs from four to seven year. The satellite cameras can't see through a roof. But whatever has been in preparation in the plants should begin to come out into the open before long."

It is a mistake to believe that satellite reconnaissance, technically brilliant as it is, can keep us apprised of all the important military work that may be going on in the Soviet Union. A camera cannot see through a layer of cloud, and sizable stretches of the Soviet Union are hidden by cloud 80 percent of the time. We were a year or more discovering an ICBM field in a locality previously judged to have no military facilities. The Chinese Communists actually finished a whole new gaseous-diffusion plant under the all but everlasting Himalayan cloud cover before a clear, bright day exposed it to a camera in space.

We Americans have lived on the high side of the strategic equation for a quarter of a century. Living on the low side is certain to be a lot more dangerous. We might well have ended up on the low side in the years ahead even if there had been no SALT talks at all; but the outcome of the talks, by formalizing our inferior status, and limiting our options for changing it, have made our situation still more precarious.

The numerical inferiority we accepted in 1972 will become tolerable only if the Soviet Union is prepared to restore a more satisfactory balance in SALT II, which may begin soon. It would seem to be mandatory that, despite the considerable costs entailed, we exercise the options we have and look toward a time when we may end our strategic inferiority.

THE JAWS OF THE WHALE

Mr. WILLIAMS. Mr. President, at its annual meeting, recently held in London, the International Whaling Commission failed to adopt a recommendation by the United Nations Conference on the Environment at Stockholm for a moratorium on the killing of whales. The rejection of this proposal was a severe blow to conservationists and other concerned individuals all over the world who have long maintained that a moratorium on whaling is imperative in order to save many species, whose future survival is already in question.

Although, unfortunately, the moratorium was not adopted by the Commission, several important actions, including the setting of quotas for all major exploited species, were taken. While not all that we had hoped for, these efforts are nevertheless a step in the right direction.

Mr. Scott McVay, a member of the U.S. delegation to the International Whaling Commission and Chairman of the Committee on Whales, Environmental Defense Fund, whose efforts to save whales and other sea mammals are well known, has written an interesting and informative article outlining the actions of the Commission which appeared in the New York Times on Sunday, September 3, 1972. In his article entitled "The Jaws of the Whale," Mr. McVay notes that the Commission asked the United States to halt the killing of porpoises during commercial fishing operations. This serious problem is of great concern to conservationists and others who fear that the continued loss of 200,000 to 400,000 of their numbers each year is severely depleting the populations of this species of whale.

I was most gratified when the Senate adopted an amendment that I cosponsored to S. 2871, the Marine Mammal Protection Act, which establishes the goal of reducing the number of porpoises and dolphins killed during fishing operations to levels approaching a zero mortality and serious injury rate. I am hopeful that our actions in behalf of marine mammals during this session of Congress will serve as an example to other nations of our concern for these creatures of the sea and our commitment to their preservation, thus helping to bring about an agreement to halt the killing of whales at the next meeting of the International Whaling Commission.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE JAWS OF THE WHALE

(By Scott McWay)

PRINCETON, N.J.—Advocates of a moratorium to stop killing whales—which was urged by the United Nations' Conference on the Environment at Stockholm—were disappointed by results of the recent International Whaling Commission meeting at London. But the moral imperative of the Stockholm decision, persistently voiced by Russell E. Train, leader of the U.S. delegation, did contribute to a number of positive actions.

Intensive efforts the previous year had already achieved regional observer plans in the North Pacific (Japan, U.S. and U.S.S.R.), North Atlantic (Canada, Iceland and Norway), and South Atlantic (Australia and South Africa). The observer agreement for the Antarctic, involving Japan, Norway, and the U.S.S.R., was finally signed in London. The exchange of observers is a major, far-reaching accomplishment.

There were other affirmative notes.

The "blue whale unit" (one whale equalled two Fin or six Sei whales) was finally eliminated, and for the first time quotas were set for every major exploited species, including the Minke whale.

The Fin whale quota was reduced by about one-third in the North Pacific and Antarctic. (Even when a moratorium is achieved, however, the Fin will need 30 to 40 years to recover to a level of "maximum productivity.")

Quotas were set for the Sei whale at levels believed to be at "maximum sustainable yield" but they do not provide an adequate margin for safety if the estimates are wrong.

Quotas for male and female Sperm whales were set separately, as recommended (but, unfortunately, at levels higher than would have been the case with the combined quota).

The Commission asked the United States to halt, as the Norwegian commissioner put it, "the strangulation and drowning of porpoises in tuna nets" by which some 250,000 porpoises perish annually.

An Argentine resolution was approved asking the Secretary General of the United Nations to urge nations which are whaling outside the Whaling Convention to join the International Whaling Commission and abide by its rules.

The Mexican commissioner questioned the prevailing assumption that to know more about whales we must continue to kill them in vast numbers. She was appalled to learn "that to have a meaningful voice in the proceedings we have to kill what are probably the most amazing of nature's creatures, and to kill them for profit." Such an encrusted pattern of thinking contrasts sharply with President Luis Echeverria Alvarez's recent action to establish a haven for whales in the peninsula of Lower California.

A permanent secretariat of the commission will be established and its convention brought up to date. An international decade of cetacean research was declared, giving impetus to studies of the living whale.

Used whaling equipment will not be sold to nonmember nations.

The moratorium idea, which has taken hold in the West in the past two years, caught the Soviets by surprise. Not the Japanese. They were at Stockholm. They feel world opinion more strongly and may have to harken to it, especially when threatened by a boycott of Japanese cameras, cars and radios. Also, the Japanese people, including many gifted writers and scientists, are sick of whaling and no longer find whale meat very palatable. The problem is profit. While only 17 per cent of the fishing effort of one Japanese company is directed at whales, more than 50 per cent of its profits are from butchered whales.

In the Soviet Union, environmental concern has not yet gotten into public consciousness nor pricked the public conscience. The whale has not yet become the symbol of a world habitat ravaged by man—as seems to have happened at Stockholm. Yet those who celebrate the whale should remember that the Soviet Minister of Fisheries, Aleksandr Ishkov, who banned the killing of porpoises as "cousins to men" in 1966, displayed considerable faith in the whale family again in 1967 in Vancouver, British Columbia, when he put his head into the open jaws of a killer whale. One day we may earn the reciprocal faith of the whale.

THE ADMINISTRATION ACTS TO AID PENNSYLVANIA'S FLOOD VICTIMS

Mr. SCOTT. Mr. President, an article published in the September 9 Philadel-

phia Inquirer points out the extensive Federal effort being waged to aid Pennsylvania's hard-hit flood victims. As I believe the facts noted in the article speak for themselves, I ask unanimous consent that it be printed in the RECORD.

I also ask unanimous consent to have printed in the RECORD a report of the Honorable Frank Carlucci, Deputy Director of the Office of Management and Budget, the remarks of the President at Wilkes College, and a fact sheet on the extent of the tropical storm Agnes recovery effort.

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

UNITED STATES OUTSPENDING STATE 10 TO 1 IN FLOOD RELIEF

HARRISBURG.—Both the Federal and state governments, after checking to see who's paying what for flood relief in Pennsylvania, have found the figure comes to $403 million, most of it coming from the Federal Treasury.

Put another way, the state has spent about a dime for every Federal dollar.

Gov. Milton Shapp, in a running feud with the Nixon administration about who should pay for what, has said on numerous occasions Washington isn't meeting its obligations to Pennsylvania, which tropical storm Agnes hit harder than any other state in late June. Damage in Pennsylvania was estimated at more than $2.5 billion.

Shapp blames flood-relief delays on a slow moving national bureaucracy that almost couldn't get started administering aid and he says it is still not moving fast enough.

Some of Shapp's cabinet members have caustically remarked that Pennsylvania would have fared better in getting relief if it had been the Saigon government.

"We are the U.S. government," one said, "yet we might have gotten quicker help if we could have gone to the United Nations."

Federal relief officials admitted to bureaucratic snags in the beginning. But Washington has been following a line of silence toward Shapp now—except for an occasional countercharge alleging political motivation on the part of Pennsylvania's governor. It seems to prefer to let the facts speak for themselves.

Here are figures, as of the end of August, supplied by the Federal and state governments.

The Federal government has spent or has under contract about $365 million for statewide flood relief. State government has spent $38.9 million. About 70 percent of the money has gone to the hard-hit Wyoming Valley in the northeastern part of the state.

The Federal government predicts spending another $1.2 billion in the future. State government has appropriated $150 million from its budget for flood relief but most of it is sitting idle in the various departments.

Another $1.75 million in state money, drawn from the general fund right after Agnes hit, went for flood relief. Shapp appropriated that $1.75 million under emergency powers granted the governor by the state Constitution.

All the $150 million in state money hasn't even been earmarked by departments. About $23.5 million is being held without designation in the general fund.

Additionally, a $100 million bond issue for flood relief that Shapp proposed is still hanging in the legislature. And there's been talk from his office of additional bond issues and the possibility of raising the state gasoline tax by 2 cents a gallon.

Morever, much of the money the state might spend will be reimbursed. Charles McIntosh, the state budget secretary, figures at least $50 million might be reimbursed—if certain funds are ever expended. He referred to a $50 million, short-term loan fund for businesses set up in the Commerce Department.

Only two loans totaling $6.5 million—$4 million to the Piper airplane firm at Lock Haven and $2.5 million to a Wilkes-Barre heating company—have been made from that fund. Commerce Secretary Walter Arader figures he might loan another $10 million by December.

The Commerce Department received $51.8 million of the $150 million state appropriation.

REPORT ON AGNES RECOVERY EFFORTS IN WYOMING VALLEY

(Memorandum for the President from Hon. Frank Carlucci, Deputy Director, Office of Management and Budget)

During our meeting before you sent me on August 12 to the flooded areas of Pennsylvania as your personal representative, you spelled out definitive instructions in four areas.

1. Work closely with the flood victims themselves. Meet with them. Visit their homes and businesses. Listen. Seek their ideas and criticisms as my guide to actions.

2. Combine all available talent, not only in Pennsylvania but in the entire Federal Government, into one effective, well-coordinated team geared to meet the immediate and long-term needs of the people.

3. Within the law, change or discard any rule if it will help even one family.

4. Steer clear of politics. Concentrate on results.

Now, about four weeks later, I report to you as your personal representative about our accomplishments and remaining goals, concentrating on Wyoming Valley, by far the hardest hit area. But also, Mr. President, I report to you as a native of the Valley who has seen childhood friends in despair, neighborhood landmarks crushed and former homes in Forty Fort and Kingston in a pile of rubbish.

I've walked across the square in Wilkes-Barre back to my office from a meeting three blocks away. It took 45 minutes. Friends of my family would stop me. Others would shake my hand and say "Tell the President he's doing great." Some would say thanks. Then, there were many who would ask for help.

Almost every day, as you instructed, I've walked through the streets where the worst damage occurred. I've also visited farms and smaller cities both downriver and upstream. Always, the people were very friendly. They needed resources, and these are now coming in. But in the square, on the streets, in their homes, in their stores and on their farms I have found something more important than resources. That is a firm determination to come back . . . better than ever.

Also on your instructions I have held open house at my office in Scanlon field each day from 4 to 5. Ombudsmen have been appointed from each agency. I have personally met with almost 600 persons and discussed their problems individually. Where complaints were justified, prompt corrective action was taken. While I was helping I was also able to listen, to learn and to chart new directions for Federal programs.

At first, there was a wide misunderstanding of what Federal programs were available, how they worked and who was eligible.

The people still feared that major portions of the Valley might subside into the depths of worked-out coal mines that honeycomb the subsurface. They feared that their levees had been penetrated and would burst again with the next heavy rainfall. Reassurance has been provided on these points.

But most of all, my former neighbors feared that the Federal Government—the only entity with the funds and people capable of doing the job—could not meet their needs and would abandon them. This anxiety had been feared all too often by those who have not verified the facts first.

To allay this fear, to answer their need and right to know, I started an "open information policy." Under this policy, all available information, unless it is detrimental to an individual's privacy, is released to the public as soon as it's available.

The main focus of this effort is my daily "Report to the People," a news conference to explain events taking place and to answer any questions from the press.

In addition, top representatives of many government agencies have come to Wilkes-Barre, taking part in the "Report to the People," to explain their programs and to answer questions.

These have included Secretary of Transportation John Volpe; Director of ACTION Joseph Blatchford; your Consumer Advisor Virginia Knauer; and Dr. Arthur Flemming, Special Consultant to the President on the Aging.

Others include John Veneman, Under Secretary of Health, Education, and Welfare; J. Phil Campbell, Under Secretary of Agriculture; Dr. Sidney Marland, Commissioner of Education; Lt. General Fred Clarke, Chief of Engineers; Robert Podesta, Assistant Secretary of Commerce; and Norman Watson, Assistant Secretary of Housing and Urban Development.

I can now report a greater confidence in the Federal Government and in its ability to deliver. Your personal interest has brought about results which the people can measure. Here are a few:

Resources are pouring in. Twice as much Federal money will be spent on the total Agnes recovery effort than on the Camille hurricane, the California earthquake, the Alaska earthquake, the West Virginia Buffalo Creek flood, and the Rapid City, South Dakota, flood combined. Here in Wyoming Valley over $225 million in Federal funds have already been obligated, most of it in SBA loans to individuals. Checking accounts have jumped indicating that economic stimulus is underway.

To date, more than 9,000 families have been housed in Wyoming Valley. Ths constitutes over 60 percent of those families eligible for housing assistance. HUD has provided an unprecedented array of housing assistance ranging from private rentals to temporary camper trailers to fully equipped mobile homes on individual and park sites. Some 30 mobile home parks are now either under construction or have been completed. These parks are designed to accommodate about 5,340 families. If the weather holds we will meet our schedule for housing every victim by the end of September.

Because of the high population of elderly persons in the flood affected area, I have given special attention to their problems. Approximately 25,000 elderly were uprooted by the flood. The first group site I dedicated was for the elderly. The first personal assistant I named was for the elderly. We have created our own President's Task Force on the Aging for Wyoming Valley with a special office, "life line" telephone service and outreach services. Through this effort, we have put the Luzerne County Bureau for the Aging back in operation by providing office space, equipment and additional staff. We have developed a coordinated community effort, utilizing the elderly as both staff members and young caseworkers, to meet the needs of the elderly.

There has been a major effort in removal of debris and I have observed a distinct improvement in the appearance of the Wyoming Valley since my arrival. Approximately $16,309,598 of Federal funds have been expended for this program and over 16 million cubic yards of debris have been removed from the communities in the Valley since the June flood.

An intensive effort is underway to meet

the everyday needs of the flood victims. I have established a task force to create a quality living environment in the trailer camps and flood affected areas. We intend to provide a full range of services, from site management to day care, health, transportation, law enforcement, community organization and many others. We are seeking the cooperation of the State of Pennsylvania in this effort.

Priority has been given to restoring the school system. Local school districts have received $12 million in Federal funds. This program should enable all schools to reopen by September 19.

Prompt action was taken to implement aid to private schools as proposed in your special message to Congress and incorporated in the approved legislation. Most private schools have been surveyed and checks are on the way. The same is true for institutions of higher learning.

Highways are being restored. Secretary Volpe has accelerated funding for a temporary North Street bridge. As a result this critical artery should be reconstructed by January. The Pennsylvania Department of Transportation is developing plans for a permanent bridge, and Secretary Volpe will move on them as soon as they are received.

For the first time concentrated efforts are being made to develop a viable mass transit system for the Wilkes-Barre area. This is a cooperative undertaking involving Federal, State and local participation. In the interim period the Office of Emergency Preparedness, using your disaster program authority, has assumed operating responsibility for the bus service. An action program is also underway to speed the traffic flow in Wilkes-Barre.

Extensive aid has been provided for the restoration of the health care delivery system. All hospitals are in full operation. Aid has been provided to doctors, dentists and pharmacists. To my knowledge, none has abandoned his community.

The Corps of Engineers has made a study of the Susquehanna River basin and the people of the Valley have been informed of the program for providing greater flood protection. The levees have already been restored to pre-flood condition. Further construction will take place in two stages. An immediate contract will be let to restore them to their authorized height, several feet above pre-flood conditions, providing protection against a 100 year flood. Then three more feet will be added. These improvements coupled with the acceleration of the Tioga Hammond and Cowanesque projects contained in your appropriation request approved by Congress should, upon completion, protect the Valley against another storm of the super proportions of Agnes.

The Bureau of Mines has studied the situation carefully and has assured me that subsidence has not increased as a result of the flood.

The Department of Agriculture is providing emergency feed for livestock at as low as half the market price. Conservation assistance is being given to rehabilitate the farmlands damaged by the flood. Emergency loans have been awarded to replace livestock and equipment. Grants and loans are available to restore and repair farm homes.

New and expanded initiatives have been taken in the following areas:

Expanded Legal Services are being made available to flood victims.

A multi-million dollar recreation program will provide a range of services and facilities to all communities.

Military personnel have been brought in to assist in handling maintenance problems on mobile homes.

A new Federal building has been announced for Wilkes-Barre.

The emergency home repair program has been expanded to enable more people to get back in their homes before winter.

The free food stamp program has been extended.

Consumer protection offices — including mobile FDA vans—have been opened.

The Internal Revenue Service has expanded its staff to deal with price gouging complaints.

A fraud prevention program employing the resources of Justice and the FBI has been started.

Strong emphasis has been given to long-range reconstruction. The key is to allocate the vast resources coming in so that the Valley is not just back where it was, but that it is a better place to live. This requires a total effort with the Federal, State and local governments working cooperatively with local citizens.

To facilitate the planning process the Federal Regional Council has reached agreement with the State and the local citizens Flood Recovery Task Force to work through the Economic Development Council of Northeastern Pennsylvania. The Council will coordinate all renewal and community development projects to make sure the resources are being used as efficiently as possible.

Some visitors to the area have compared the devastation to a battle.

I wish to assure the nation that there is a battle here. There's a battle against time, a battle to house and feed and clothe the victims of our worst natural disaster in history. There's a battle that must be won before the winter ice freezes the homeless and snow locks "the Valley with a Heart."

There's a battle to rekindle hope, community spirit and a determination to come back better than ever.

Mr. President, we have thousands of dedicated Federal employees, most of them local residents, many themselves flood victims, who are determined to help the citizens of Wyoming Valley win that battle. With your continued support and the sympathetic understanding of the rest of the nation we will do just that.

Remarks of the President at Wilkes College, Wilkes-Barre, Pa.

Dr. Michelini, Mr. Carlucci, ladies and gentlemen:

I am very happy that the first opportunity to say anything in Wilkes-Barre is at this small college. If I can speak in personal terms, I took my law at Duke University, one of the larger universities in the country, and a very fine university. I took my undergraduate work at a small college, Whittier College, about the size of Wilkes College. Both were great experiences. Both the large universities and the smaller colleges serve a very, very important purpose in our educational system.

The point is that we need both. So often people think only of the large universities and they make contributions and the rest to the larger universities who naturally have lots more publicity and consequently attract much more funds.

I have found in studying the situation within the past four years that small colleges across this country are having an increasingly difficult time, apart from any floods, apart from anything else, because costs are going up and contributions many times are not coming in to the extent that they should. This action here, this check, I should make clear, is not from the President of the United States or Frank Carlucci; it is from all the people of the United States to this small college. But it indicates our feelings that the small college in America contributes something that is very much worth preserving, that we need. It contributes a spirit where the facility and the students work together to build a better institution and a better community.

So, we know the money will be well spent. The dollars that come to this small college will probably go further than the dollars that would go to a large university. You need it more. You know what it means. You are going to spend it well and the beneficiaries will be all these wonderful young people I have seen as I have traveled through the streets of Wilkes-Barre here today.

We wish you well. We wish your college well in all the years ahead and we will continue to do everything that we can to keep the interests of the small college up front as well as, of course, the interests of the large universities, both of which deserve our support.

The White House Fact Sheet: Tropical Storm Agnes Recovery Effort

Over the period June 18 to 24, Hurricane and Tropical Storm Agnes dropped an estimated 100 billion tons of water causing record flooding, with the heaviest damages occurring in Pennsylvania and Western New York. At least 225,000 people were driven from their homes and cared for in mass shelters; the families given aid by the Red Cross, over 63,000, is indicative of the number of families seriously affected.

The President declared major disasters for Florida, Virginia, Maryland, West Virginia, Pennsylvania, New York, and Ohio. Disaster loan declarations were made by the SBA and/or the Farmers Home Administration of the Department of Agriculture for affected counties in North Carolina, Delaware, the District of Columbia, and New Jersey making them eligible also for up to $5,000 forgiveness on loans and low-interest, long-term arrangements on the remainder.

The President's Office of Emergency Preparedness, coordinating the Federal disaster relief and recovery effort, opened 11 field offices and 73 individual assistance centers where disaster victims could receive information and make applications for Federal assistance. The Department of Housing and Urban Development, Small Business Administration, and the Corps of Engineers each opened a large number of field offices immediately. In early August, the President sent Mr. Frank Carlucci as his personal representative to Wilkes-Barre, the most severely damaged area.

The estimates of damage to public facilities and private non-profit schools and hospitals in the seven-State area, which will be repaired or replaced by expenditures from the President's Disaster Relief Fund, the Federal Highway Fund, DHEW for schools, and Corps of Engineer funds are attached.

These estimates include over $20 million for private, non-profit educational institutions authorized by recent legislation proposed by the President and $24 million for private, non-profit medical care facilities. In addition, the Department of Health, Education and Welfare will provide nearly $60 million for damage to public schools and colleges, while the Department of Transportation will provide over $100 million for repair of Federal-aid roads. The total estimated input of Federal funds for public assistance including temporary housing is three-quarters of a billion dollars. Repairs to public facilities and private schools and hospitals which are eligible are underway.

For immediate relief, nearly $8 million is being provided for disaster unemployment assistance from the President's Disaster Assistance Fund and $8.5 million for food stamps and commodity food distribution.

The voluntary agencies provided major, immediate assistance with the Red Cross expending approximately $23 million, operating 688 shelters, and giving 527,000 disaster victims some form of assistance.

Of the approximately 26,000 families requiring temporary housing, over 21,000 have now been housed by the efforts of HUD and the remainder are scheduled to be housed by the end of the month. Approximately 6,000 are in New York; 19,000 in Pennsylvania, of which 14,000 are in the Wilkes-Barre area; and 1,000 in the other Agnes

States. The temporary housing program will cost over $150 million from the President's Fund.

Of the approximately 26,000 families being provided temporary housing, less than a third need to be housed in trailer parks. The others are housed either in already-established communities or on their home sites through rentals, temporary home repairs and the placing of mobile homes beside the flood-damaged homes, where space is available.

Approximately 5,000 families are being housed "at home" through a temporary repair program and the temporary use of camper trailers while the homeowner repairs his home, both expedients being instituted for the first time to meet the extraordinary housing problems of Agnes.

In addition to the policy of emphasis on hiring local contractors and labor, the President's Relief Fund has provided unemployment assistance to over 40,000 persons, and special Department of Labor problems have given jobs to over 18,500.

The SBA and FHA have already accepted over 75,000 disaster loan home and business applications for approximately $500 million, and have already approved loans totaling $350 million. It is estimated the loan program may be as large as $1.2 billion. Along with helping homeowners go forward with home repair, these loans help businesses get back on their feet. The Dun and Bradstreet survey of the Agnes area estimate $600 million damage to business and industry including private utilities.

Cleanup and progress on repair is underway with over $30 million spent on debris removal (undoubtedly more than 10 million cubic yards) and another $30 million on water plants, sewage plants, repair of dikes, and other emergency actions with most of the work done by the Corps of Engineers. For example, over 650 damaged water and sewage plants have been put back into operation. Over 18,000 of approximately 23,500 surveys of damaged roads, bridges, sewage plants, etc., have been completed. This is necessary preliminary to provision of authorized Federal grants for repairs. Advance payments are already being made on these repair projects.

Reviews and approvals for both the loan programs and the public assistance programs are delegated to field offices, with few exceptions, in order to streamline administration and avoid delay.

Practically all the Agnes area is now out of the emergency period except for the Wilkes-Barre area, which will be through the emergency period shortly. The whole area is on the upward recovery road.

Estimates of expenditures for repair or replacements of facilities

From the President's disaster relief fund:	
Florida	$1,292,000
Virginia	18,376,600
West Virginia	1,838,300
Maryland	24,768,000
Pennsylvania	192,155,500
New York	146,552,000
Ohio	860,000
	385,842,400
From departmental or agency funds:	
Federal Highway Administration, DOT	$108,905,100
Corps of Engineers, DOD	16,034,000
Department of Health, Education, and Welfare	57,917,000

THE PRESIDENT'S "SECRET PLAN"

Mr. SCOTT. Mr. President, although I have often requested that material be printed in the RECORD for the edification of the Senate, it is not often that I direct such information to the attention of the news media as well. However, because I believe that a guest column printed in yesterday's New York Times merits the attention of President-watchers everywhere, I will break with precedent and do so at this time.

I ask unanimous consent that "The Secret of Mr. Nixon's 'Secret Plan'" be printed in the RECORD.

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

THE SECRET OF MR. NIXON'S "SECRET PLAN"

(By William Safire)

WASHINGTON.—The Old Guard dies, but never "surrenders." Those ringing words were supposed to have been said by Gen. Pierre Eitienne de Cambronne, commanding Napoleon's Imperial Guard at Waterloo, when called upon to surrender.

He never said it. A reporter named Rougemont invented the remark some time after the battle, and General de Cambronne went to his grave firmly denying he was the author of the famous phrase.

Could that happen in modern times? With tape recorders, press conferences, attributed quotations, microfilm records—is it still possible to invent and then perpetuate a quotation?

Consider this one: "I have a secret plan to end the war."

Who said it? Why, Richard Nixon of course. When? On March 5, 1968, in Nashua, N.H.. Or did he?

Everybody says he did, carefully using quotation marks to show the "secret plan" was right out of the 1968 candidate's mouth.

As George McGovern put it in 1971: "Three years ago, Richard Nixon campaigned on the pledge that he had a 'secret plan to end the war.' . . ." McGovern returned to the theme in his acceptance speech: "I have no 'secret plan.' . . ."

John Lofton, editor of the Republican National Committee's weekly publication, "Monday," has made a hobby of writing a polite query to everybody who quotes Richard Nixon directly as having used the words "secret plan." Once in a while he gets a reply.

The most forthright of these came from Anthony Lewis of The New York Times, who wrote in October 1969: "I think you have caught me in a mistake. The truth is I wrote that out of the same general impression that so many people seem to have. But I have now checked back through our files and agree with you that I cannot find the precise phrase 'a plan' in what Mr. Nixon said during 1968."

What Mr. Lewis did find, and what is most often cited as the basis for "secret plan," was this remark of Mr. Nixon's on March 5, 1968, in Nashua, N.H.: "And I pledge to you the new leadership will end the war and win the peace in the Pacific. . . ."

In late 1970, John B. Oakes, editor of the eitorial page of The New York Times, responded to a new query on another use of the "plan" by citing the same quotation and asking: "How could he make such a pledge if he didn't have a plan?" The Times editor argued: "It seems obvious that Mr. Nixon implied that he had a plan when he gave his pledge. But, as I say, it was doubtless an error to put the words in quotes and if that is what you want me to admit, I am glad to do so, and to state that it won't appear that way in this context again." Nor did it—in The Times.

Not everyone was willing to stop using the phrase when its unreliability was pointed out. N.B.C.'s Edwin Newman replied: "When I spoke of a secret plan, I did not mean it as a quotation. It was shorthand, which is sometimes unavoidable, *for a plan that the President said he had* and the particulars of which he said he could not divulge without impairing the plan's chance of success." (Italics mine.)

Did Mr. Nixon ever say he had a "plan," secret of otherwise? He did not; nobody who has been challenged on the use of a direct quotation on this has ever come up with the citation of time or place. Mr. Nixon never said it; the use of quotation marks is inaccurate, unfair and misleading. But it continues, error feeding on error, as a myth becomes accepted as truth.

The question then becomes—if he did not actually say it, did he imply that he had a secret plan? His remarks on March 5, 1968, in Nashua, N.H., were a pledge "to end the war and win the peace." He continued he had no "push-button technique" in mind, but would "mobilize our economic and diplomatic and political leadership."

Not surprisingly, both press and political opponents came back with the question "How?" Newsmen pressed for details, and when no plan was set forth, its absence was noted. The first use of the word "plan" that I could find was in the March 11, 1968, New York Times subhead: "Nixon Withholds His Peace Ideas/Says to Tell Details of Plan Would Sap His Bargaining Strength If He's Elected." The Associated Press lead three days later added to the idea of a specific plan, necessarily cloaked in secrecy: "Richard M. Nixon says the reason he is not ready to spell out the details of his plan to end the war in Vietnam is because he is reserving his 'big guns' for use against President Johnson if he wins the Republican Presidential nomination."

In that A.P. story, Mr. Nixon stressed that he had "no magic formula, no gimmick. If I had a gimmick I would tell Lyndon Johnson." The furtherest he would be drawn into a discussion of a "plan" was this: "But I do have some specific ideas on how to end the war. They are primarily in the diplomatic area."

That's as much as the clips I have seen show about the "plan." Would a fairminded person say they constitute the basis for an inference that the candidate possessed a detailed, and necessarily secret, panacea for the conflict? I think not—no more than one would infer that Senator McGovern has a "secret plan" to fulfill his pledge to bring back the prisoners in ninety days.

Throughout the campaign and on into the years ahead, we can expect to hear some orators and commentators use a little inflection around "secret plan" that makes it sound like a quotation. The quotation thereof is no dark media conspiracy, just an example of how some writers and cartoonists, too lazy to check source materials, casually pick up and perpetuate an error. A small but hardy band of newsmen, with no constituency but objectivity, will wince when they see the non-quote quoted.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there any further morning business? If not, morning business is concluded.

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business (S.J. Res. 241), which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar 929 (S.J. Res. 241) authorizing the President to approve an interim agree-

ment between the United States and the Union of Soviet Socialist Republics.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

CALL OF THE ROLL

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Arkansas not lose his right to the floor.

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

The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 420 Leg.]

Allen	Byrd, Robert C.	Jackson
Buckley	Fulbright	Mansfield
Byrd, Harry F., Jr.	Hughes	

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Fong	Nelson
Anderson	Gambrell	Packwood
Bayh	Goldwater	Pastore
Beall	Gravel	Pearson
Bellmon	Griffin	Pell
Bennett	Gurney	Percy
Bentsen	Hansen	Proxmire
Bible	Harris	Randolph
Boggs	Hart	Ribicoff
Brock	Hartke	Roth
Brooke	Hatfield	Saxbe
Burdick	Hollings	Schweiker
Cannon	Hruska	Scott
Case	Humphrey	Smith
Chiles	Inouye	Spong
Church	Javits	Stafford
Cook	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Stevens
Cotton	Long	Stevenson
Cranston	Magnuson	Symington
Curtis	Mathias	Taft
Dole	McClellan	Talmadge
Dominick	Metcalf	Thurmond
Eagleton	Mondale	Tower
Eastland	Montoya	Weicker
Ervin	Moss	Williams
Fannin	Muskie	Young

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mrs. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

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

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. GAMBRELL). A quorum is present.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, with respect to the cloture vote which will occur on tomorrow, I ask unanimous consent that all amendments at the desk at the time of the vote be considered as having been read in order to meet the reading requirement under rule XXII.

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

Mr. FULBRIGHT. Mr. President——

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, as we resume the discussion of the interim agreement, I wish to say that I am indeed very sorry that the leadership felt compelled to file a cloture motion.

For the record, I would like to state that, from the beginning, my position and the position, I believe, of those associated with me in the effort to approve, without qualification, the interim agreement that the Senate should proceed under the rules of the Senate in the regular manner and that any amendments to the resolution of approval should be presented and be subject to debate and amendment.

The sponsor of the proposed amendment which gives rise to this situation, the Senator from Washington (Mr. JACKSON), has taken the position that he is unwilling to submit his amendment to the resolution in the absence of what is called a package agreement, that is, an overall agreement to limit time on all amendments to his amendment and provide for a specific time for final action on amendments and the resolution itself. That has been the reason why we have not been able to proceed in the usual manner for the discussion of and action upon amendments to the Interim Agreement.

As I said before, I consider the Interim Agreement a most important measure. It, together with the ABM Treaty, is, I believe, a most significant step if we can succeed in carrying through with it and proceedings to phase II negotiations. This is the most significant step since World War II toward some kind of reconciliation between the Communist nations and the non-Communist countries of the world. If we take this first step we might look toward a period of détente and possibly even a period in which the United Nations might be infused with new strength and hope.

I would remind the Senate that this agreement was negotiated over a 3-year period between our officials and the Russians at both Helsinki and Vienna. Those negotiations led to agreement at a meetings. We approved it unanimously and President Nixon in Moscow.

The Committee on Foreign Relations approved this agreement after full hearings. We approved it unanimously and with no amendments. We specifically discussed the possibility of various amendments and decided that amendments of any kind would be inappropriate. Since the committee reported the resolution, of course, amendments have been offered specifically the Jackson amendment, compelling us to review this position, and I have done so with other Members. Therefore, we will offer amendments to the Jackson amendment; if the Jackson amendment, in any form is adopted, other amendments will be offered, which are at the desk.

The President and his spokesman stated categorically at the time we reported this matter that the interim agreement adequately provides for our security. Numerous quotations from the President's statement in Moscow and in Washington, and also his spokesman, Mr. Kissinger, support this position. The President stated that at a minimum the United States has overall equality in strategic weapons. In some categories, of course, we are fairly superior; that is, in such things as nuclear warheads, for example, we have more than the Russians. We have superiority as a result of MIRV and also as a result of the stationing of our nuclear weapons in Europe. We have some 14 operational aircraft carriers and two under construction, I believe, and we will thus have about 16 very large, very expensive, very powerful aircraft carriers which can, as we know, be maneuvered close to the Soviet Union or any place else. In heavy bombers we also have about an advantage of three or four to one, with over 500 heavy bombers, whereas the Russians have about 150. These are approximate numbers. We have bases overseas for our submarines, and we have been told by experts that because of this geographic advantage for the U.S. it is necessary for the Soviets to have about three submarines for every two of the United States to keep the same number on station. In other words, the overseas bases we have in Spain, Scotland, and the Pacific enable our submarines to stay on station without going back and forth across the ocean for refueling, supplies, and so on.

So overall I think it is clear we have at least equality in some cases superiority. The only area in which the Russians have numerically more weapons is in the intercontental ballistic missiles, which are roughly in the position of 1,618 to 1,054.

Here again there is some slight difference in those categories as to size and throw weight, but difference is of very minimal significance because from testimony we had both recently and at the time of the ABM debate, it was quite clear that each side has far more destructive capacity in these missiles than is necessary to inflict what is called unacceptable damage to the other.

Mr. President, you will recall at the time of the ABM debate Secretary of Defense McNamara and others were talking about the mutual capacity to kill 100 million Americans and 100 million Russians and destroy 75 percent of all industrial capacity in either country, and so forth. These figures were bandied about in those hearings, but the significance is that we both have what is generally considered to be overkill capacity; that is, both sides have the capacity in the absence of an effective defense to destroy

effectively the industrial capacity and an enormous number of the inhabitants of each side. The ABM treaty, of course, recognized that neither side has an effective defense against a nuclear attack. If it could be assumed the ABM was an effective defense to the missiles then there would be a more complex situation, but now we have had almost unanimous approval of the ABM agreement. The effect is that both sides give up the idea of trying to create an effective ABM defense weapons system, effective against the intercontinental ballistic missile. That is a very significant agreement.

I am very glad the ABM Treaty has been approved. But accepting that at its true value, and I have no reason to believe either side does not intend to abide by it, then the question is how much overkill, how much surplusage of destructive power is needed when we both can inflict unacceptable damage on the other.

That gives us a very different picture. The argument about superiority of numbers on the one side as opposed to the other has become almost irrelevant. However, that the core of the argument now being used is that we still must have superiority.

Mr. President, much has been written to the effect that the President has lent the prestige of his office to support the amendment by the Senator from Washington (Mr. JACKSON), the amendment to the resolution authorizing the President to accept the Interim Agreement on Offensive Weapons, the agreement the President signed in Moscow, subject to congressional approval.

I am struck by the irony of the situation. The most prominent, vocal critic of the Moscow agreements, the Senator from Washington, has enlisted the support of the President in opposition to the principal agreement the President brought back from Moscow, an agreement the President himself hailed as tangible evidence that mankind need not live forever in the dark shadow of nuclear war.

An agreement which, said the President, will provide renewed hope that men and nations working together can succeed in building a lasting peace.

The President is supporting the principal critic of these agreements—the Senator who has characterized the Interim Agreement negotiated by the President as one which puts the United States in a position of subparity.

Here are the words on August 7 of the Senator from Washington, Mr. JACKSON:

> We have, in the few brief years since the Kennedy Administration, gone from strategic superiority to parity to sufficiency—whatever that means—to *interim* subparity.

Who got the United States into a position of interim subparity?

None other than the President of the United States, says Mr. JACKSON. The President signed the agreement which Mr. JACKSON describes as putting the United States in a position of interim subparity. Lest there be doubt, the Senator from Washington removes it in these words: "in the interim agreement before the Senate we have subparity."

The Senator from Washington was referring to the interim agreement signed by President Nixon in Moscow in late May—let me make that crystal clear.

I happen to agree with the Nixon who in late spring described the agreements to Members of the Congress and the American people as agreements in which "neither side won and neither side lost—if we were to look at it very, very fairly, both sides won, and the whole world won."

They were the words of President Nixon.

I find myself in agreement with the position which the President took in late May—but opposed to his position in midsummer.

The careful examination which members of the Committee on Foreign Relations gave the interim agreement supports the proposition that the interim agreement is a good and significant first step.

But a first step must be followed by a second, and a third, so that finally we may begin to move toward some control of man's ingenuity to destroy himself.

Now it appears that the President himself is beginning to have doubt about the wisdom of the first step he took in late May.

The officials who negotiated the agreement, Ambassador Gerard Smith and others, have been left dangling, not knowing what is going on. At a time when the White House needed people who could read the fine print in amendments such as that proposed by the Senator from Washington, the expertise was lacking.

What I find most disturbing about the waffling of the administration on the language of the Jackson amendment is that it does not seem to realize that this amendment not only condemns the agreement which this administration negotiated, but that it ties the hands of our negotiators when the next round of negotiations come up.

It was the President who announced many months ago that our nuclear arsenal should be determined by the concept of sufficiency. But the sponsor of the proposed amendment which he asks we adopt, refers to sufficiency as something he does not understand; sufficiency, whatever that is, said the Senator from Washington.

Sufficiency, to me, and I believe to the men who negotiated the accords, means that there is a limit to the need to have capacity to kill.

The chairman of the Armed Services Committee told us a few days ago that one U.S. nuclear submarine could destroy 25 percent of Soviet cities which have a significant industrial potential. Surely 20 or 30 times that amount is sufficiency.

But the thrust of the Jackson amendment—the thrust which the administration does not seem to comprehend, is that sufficiency is no longer to be the undergirding of our negotiating posture. The new word is superiority.

If we are to base our negotiations on the concept of superiority, we might as well save the time and effort of our negotiators because the other side will believe Mr. JACKSON, not the President, and will see us moving once again toward the concept of a first strike.

If the administration has not seen the writing on the wall, as it is revealed most skillfully in the Jackson amendment, surely they must see it in the rash of news stories in recent days which show our Military Establishment moving toward cruise missiles, not covered by the accords, and toward hardened war heads capable of a first strike designed to destroy retaliatory weapons in the hands of the Soviet Union.

The Senator from Massachusetts (Mr. BROOKE) has properly asked the President to tell the Senate what is up. I think he deserves an answer.

For months now we have been told how inferior the United States is in weapons of all kinds.

This is part of the annual rite by which the Department of Defense gets appropriations. We should be smart enough to realize that now.

We should also be wary that by approval of the language of the Jackson amendment we are not endorsing a Gulf of Tonkin resolution for renewal of the arms race.

I anticipate that if this amendment is approved, in the years to come we will be confronted, each year, with the statement, "Well, you already approved it." It will be argued that we will need more and more intercontinental ballistic missiles, and cruise missiles, and every other imaginable kind of weapons systems in order to comply with the interpretation of the language of the Jackson amendment.

I think the amendment of the Senator from Washington should be examined very carefully as to what it really means. I personally have no intention of voting for it, nor shall I vote for the resolution if it contains the Jackson amendment, even as amended—in other words, if it is not changed to become meaningless during this debate.

I think the administration should be absolutely clear on the meaning of every word. The President has himself, so far as I know, never given a definitive statement on his position on the Jackson amendment.

It was suggested by some committee members that it would help if the minority leader would get a letter signed by the President making his position quite clear. This was not done, and we were told it could not be done.

It is not enough to issue vague statements through a press secretary, as was done recently.

Are Members of this body to accept a statement from Mr. Ziegler that "We"—and I do not know who "we" is—"We endorse the Jackson amendment but we do not endorse the separate elaboration of the amendment."

This, I think is, at best, a very ambiguous or ambivalent statement.

WAFFLING ON THE JACKSON AMENDMENT

First. In early August, a version of the Jackson amendment was circulated and sponsors were invited to join it on the ground that it was endorsed by the White House. That was the amendment which stated that Congress would consider action on deployment by the Soviet

Union, having the effect of endangering the survivability of the strategic deterrent forces of the United States, whether or not such action or deployment was undertaken within the terms of the interim agreement referred to in section 2, to be contrary to the supreme national interests of the United States. This was an invitation to the Soviet Union to denounce the agreement.

Second. When the White House read this fine print, and received word that a number of Senators were appalled by this language, the White House found it necessary on August 7 to abandon this language and to approve some substitute language. On that date the White House stated in a press conference that "the Jackson amendment is consistent with the undertakings in Moscow."

Third. Two days later, on August 9, the White House found it necessary once again to clarify its attitude toward the Jackson amendment and Mr. Ziegler said:

We endorse the Jackson amendment and feel that that is consistent with our position but we do not endorse separate elaborations of that amendment. We feel the amendment, as offered, speaks for itself.

Mr. President, I once again emphasize these are the words of Mr. Ziegler. The words which I have quoted in other parts of my statement indicating support for the agreement as negotiated were, in many instances, the words of the President of the United States. He stated directly that this was a good agreement, and that it was in our interest and that it was quite adequate for our safety. Also Dr. Kissinger at the White House in the presence of about 100 Members of Congress was introduced by the President who said, after he had made a statement of his own:

I authorize Mr. Kissinger to speak on my behalf about this.

The President said:

I have another engagement, but Mr. Kissinger will speak for me.

I consider these statements to be more significant than those made at a press conference by Mr. Zeigler.

In any case, in view of this controversy, I find it strange that the President has not seen fit to issue directly, over his own signature or in person, a definitive statement about the situation in the Senate with respect to this agreement.

Fourth. One must ask, "What goes on?".

Who interprets Mr. JACKSON's language—Mr. JACKSON, or the White House?

Confusion has been so rampant that it has been necessary for the Soviet Union to issue a clarifying statement.

Confusion about the meaning of the Jackson amendment led to stories in the press suggesting that the amendment by Mr. JACKSON had either been submitted to, or cleared by, the Russian Embassy. But the Soviet Embassy, in order to clarify the situation—this is rather unusual, I may say—issued the following statement, and circulated it to a number of Senators, I being one of them, although I know that others have received it as well.

It was a simple statement, on one page, which read as follows:

In connection with the reports published in the American press to the effect that Soviet diplomats were consulted on Senator Jackson's resolution and allegedly gave "their acquiesence" to it the Embassy of the Soviet Union would like to state that there is no truth in these reports.

That is a rather unusual statement to be issued by any foreign embassy that I know of. I do not recall any precedent quite like it from the Soviet Union.

Mr. President, there have been some very good discussions about the significance of overkill, the significance of the development of the enormous capacity for destruction that exists in nuclear weapons, and the distinction which should be drawn between ordinary conventional weapons which we are accustomed to fighting with, such weapons as we had in World War II, for example, and nuclear weapons. So I shall address myself for a few minutes to this subject.

WHAT IS AT ISSUE

Over the weeks since Mr. Nixon visited Moscow to sign the strategic arms limitation agreements, the Senate has gone to great lengths to learn as much as possible about these agreements and their implications. Now the Senate must decide whether to support those agreements or not—and, if it chooses to support them—what the nature of that support will be. Will the Senate express unequivocal support for a limitation of the arms race Or will the Senate qualify its support by appending an ambiguous statement of philosophy heavy with suspicion and distrust? The Jackson amendment is an amendment with serious implications and it deserves therefore the serious consideration of every Senator. With the knowledge, born of experience, that such resolutions may well acquire even greater importance as time passes, the Senate should not now give voice to a statement of philosophy without first judging carefully its full implications.

The Jackson amendment hinges upon its contention that a stable strategic balance is difficult to preserve. The amendment implies that we must be ever vigilant, else the other side suddenly emerge one day with a power that renders us "inferior." Is this a possibility? If it is not, then the Jackson amendment should be rejected: for the assumption that we are threatened by inferiority leads inevitably to far-reaching conclusions. We are quickly led to believe that we must be satisfied in future arms agreements only with some kind of measurable equality. And we are quickly convinced that, in the meantime, we must continue to purchase every available weapons system not specifically limited by agreement. Those are weighty and expensive conclusions. If the assumption from which they are drawn is faulty or misconceived, then we will have erred seriously. So that assumption must be carefully examined: Could we become "inferior?"

BACKGROUND

Beginning back in the mid-1950's, after the Soviet Union had acquired a nuclear delivery capability, we began to realize that our ability to deter an attack upon us rested in our ability to convey to any opponent an absolute certainty that any attack, however massive, would be answered by an unacceptably devastating reprisal. We began to appreciate that if a combined bomber and missile strike against us could succeed in decimating our nuclear forces to the point of virtual uselessness, we would in fact have no deterrent. That realization had a revolutionary impact on the pattern of our strategic thinking. We began to reassess some of the assumptions underlying our defense posture and we decided that the American deterrent was in need of some drastic revisions. The ultimate outcome of this reassessment was the far-reaching decision to expand, disperse, and protect the American retaliatory force, a decision made during the latter years of the Eisenhower era and carried through under the aegis of the Kennedy administration.

By the midpoint of the 1960's, the attainment of an invulnerable deterrent posture by the Soviet Union had changed things a great deal. Despite the repeated political crises and conflicts which beset it, the Soviet-American relationship had come to assume a remarkable degree of stability at the strategic level. The mainspring of that stability was, and still is, the mechanism of mutual deterrence, created and maintained by the existence of credible second-strike nuclear forces in the strategic arsenals of each side. These forces, in the form of hardened land-based ICBM's and submarine-deployed medium-range missiles, gave both countries the assured ability to ride out a premeditated nuclear first strike with enough residual arms to guarantee a crippling reprisal against the attacker. The paradoxical result was that each country, though totally vulnerable as never before, now assumed an unprecedented degree of security from its opponent's certitude that starting a general nuclear war would be suicidal. As a consequence, nuclear weapons had become both self-negating and substantially devoid of political exploitability.

The recent advent of ABM and MIRV technology and the continued expansion of the Soviet ICBM force throughout the past half decade, however, have aroused widespread fears among some Americans that the Soviet Union is now somehow set on a course of acquiring something called strategic "superiority." In its more alarmist variations, this argument maintains that the Soviet Union is moving dangerously close to achieving a nuclear first-strike capability against the United States, that Moscow's apparently counciliatory conduct in the SALT talks has been only a ruse to lull us into a false sense of security, and that we are now in jeopardy of having our deterrent capacity compromised.

THE DURABILITY OF MUTUAL DETERRENCE

All of these apprehensions are built upon the assumption that there are certain inherent qualities in such weapons as MIRV's and ABM's which make them fundamentally different from existing weapons systems. The idea has emerged that, because MIRV's provide their possessors with at least a fourfold increase

in deliverable warheads, either side might be able to almost completely disarm its opponent's land-based missile force by attacking it with a skillfully planned MIRV barrage. If the attacker also had an effective ABM system, according to this conception, it could blunt any small retaliatory strike that the attacked country might still be capable of. Thus the advent of ABM's and MIRV's have revived the specter of a first-strike possibility. If both sides, by deploying an appropriate ABM–MIRV combination, developed such a first-strike capability, then we would be returned to the "delicate balance of terror" which existed in the 1950's.

But the ABM–MIRV first-strike threat is deceptive. For the U.S. retaliatory capability consists of a good deal more than just land-based missiles. It includes also a sizable number of manned bombers on continuous, quick-reaction alert status and a fleet of 41 nuclear submarines, each of which carries 16 medium-range Polaris missiles over half of which remain constantly on operational patrol. Each of these additional force categories would complicate the Soviet Union's war-planning effort enormously. The B–52 bomber contingent has the capability of being launched on sufficiently short warning to stand a good chance of evading destruction on the ground by any incoming missile attack, and these aircraft still possess a respectable capability for penetrating Soviet air defenses and getting through to their assigned targets. The Polaris fleet, for its part, is virtually invulnerabel to attack and will remain so until the Soviets can acquire an antisubmarine capability, a development which, according to all testimony, lies far beyond any foreseeable technological horizon. Thus the Soviet Union's defense would have to depend solely upon ABM's to sustain the brunt of retaliation. And so the fear that either side might, through an ABM–MIRV combination, suddenly emerge wtih a first-strike capability is still ill-founded. Even if either side undertook to acquire that vastly expensive combination, it would still be vulnerable. It is ironic that the Senate has, by approving the ABM treaty, now removed even the assumptions behind this illusory ABM–MIRV first-strike possibility; but we are still left with the climate of fear engendered by the advent of MIRV and ABM technology.

Eventually, what all Americans must be brought by their leaders to recognize is that the United States and the Soviet Union have long since reached a plateau in their strategic relationsip. The terms "mutual deterrence" and "nuclear stalemate" both describe it appropriately. From a strategic nuclear perspective, both sides are now inexorably equal, regardless of the further numerical additions or qualitative improvements in either side's arsenal. This is a fundamental and critically important point: we are equal not because we have numerically equivalent arsenals; our equality arises from the fact that we are alike in being deterred. This equality is not subject to sudden change or gradual erosion in the foreseeable future. It cannot be altered by the deployment of additional weapons today, nor is there foreseeable technology that could alter it.

THE "SUPERIORITY" FALLACY

Somehow, the notion that the United States should maintain strategic "superiority" over the Soviet Union, or that we should live in anxiety about the possibility that they will attain "superiority," has for years enjoyed an almost mystical fixation in our thinking. Perhaps this fixation can be partly explained by the natural psychological and chauvinistic satisfaction that Americans traditionally have drawn from being "stronger than," "better than," or "ahead of" their Communist adversary. For the most part, however, it seems to have arisen from a genuine belief that "superiority" somehow would give us advantages—either political or military or of some other sort. Indeed, even some strategic analysts have been quick to assume that U.S. "superiority" has been the determining factor in various American foreign policy successes against the Soviet Union. Such an assumption demands closer examination.

It is widely agreed, of course, that nuclear weapons perform a deterrence function: They deter a premeditated attack directly upon one's homeland. This is a rather undemanding function; the weapons do not have to do anything but merely exist—in sufficient quantity to guarantee that we can retaliate against anyone else's first strike upon us. For this function, as has been discussed, relative numbers in the respective strategic arsenals are, by and large, unimportant. All one needs for deterrence is "enough" strength, even if that strength is less, in quantative terms, than that of the adversary.

But some people have adopted the belief that nuclear weapons can perform a second function: That, even without a first-strike capability, they can provide a sort of lever as we act in pursuit of our foreign policy objectives. In this view, we can get some extra utility out of our nuclear weapons, over and above their primary role of deterring an attack on our homeland, by making our adversaries fearful that, if they interfere with our global activities, they will subject themselves to the possibility of suffering incredible losses, either because we retaliate massively against their interference or because the confrontation could escalate out of control. Now, it is possible that this kind of function could have been performed by nuclear weapons during that period when the United States was the only nation to possess them. It was probably believable to other nations in the immediate postwar years—after we had shown ourselves willing to drop two atomic bombs on the cities of Japan—that we might use such weapons against those who confronted us around the world. But today is far different. Now that other nations possess these weapons, any threat—implied or otherwise—that we would resort to their use to support our objectives would certainly be met with incredulity, with utter disbelief. We have, to be sure, shown ourselves willing to wreak massive destruction upon a country which cannot strike back—as in Vietnam—but it is unlikely that anyone in the world believes we would do such things—in Vietnam or anywhere else—if there were any possibility at all that we would be attacked, even a small attack, with nuclear weapons.

Now, to be sure, there have been many occasions when the Soviet Union has backed away from crises when confronted with American diplomatic and military pressure. The question, however, is whether it was some kind of strategic "superiority" or really other factors which were the deciding elements in our favor. The Cuban missile crisis is the classic example often cited. In his famous nationwide television address, President Kennedy did indeed state that it would be our policy to regard any nuclear missile launched from Cuba against any nation in this hemisphere as an attack by the Soviet Union on the United States, requiring a full retaliatory response against the Soviet Union. Kennedy did not, however, promise or threaten the Soviets with a nuclear retaliation if they failed to remove their missiles from Cuba. On the contrary, he only threatened such retaliation in the event that the missiles were actually fired. His threat may or may not have been believable—perhaps it was. But the main point is that his threat concerning our retaliating was not directed toward the objective of getting the Soviet missiles physically removed from Cuba. If he had threatened a nuclear attack against the Soviet Union if they did not remove their missiles, they surely would not have believed him. However greater our nuclear forces may have been in terms of numerical quantity, they were not enough to perform a successful first strike. The Soviet Union even with far less numerical strength, still possessed a second strike capability, and everyone on both sides knew it.

Of course, it can be asked: why, then, did Khrushchev back down? And for the explanation, we must look to other factors—apart from so-called American nuclear superiority. First of all, the crisis took place virtually within an arm's reach of our own borders; we had a preponderance of conventional power in this area. From the Soviet point of view, once they saw that we were concerned about the missiles, there was no guarantee that we would not use this conventional capability to remove the missiles from Cuba forcibly. That would have been a serious humiliation to the Soviet Union, much worse than that which occurred when they removed the missiles on their own decision under the terms of an understanding.

A second factor was that we had the force of resolve on our side. The Soviet Union had created the problem by altering the status quo; we had responded by making it clear that we found that the presence of Soviet weaponry in the Western Hemisphere posed a direct threat to our interest. The burden of responsibility for ending this tension was thus placed upon the Soviet Union. And third, when we placed a naval quarantine around Cuba and threatened to launch an air strike against the missiles already there, we placed the onus of decision directly upon the Soviets: any Soviet ship attempting to run the blockade would have to face the possibility of being sunk by

our naval forces. While Khrushchev may have wanted the missiles in Cuba to start with, he was certainly under no obligation to risk armed conflict of any kind to keep them there.

So it is in these more conventional, less apocalyptic factors that the explanation of that classic and often cited episode must be found. It was a case not where nuclear "superiority" triumphed, but where the United States was able, by threatening the Soviet Union with the prospect of conventional war, to make the Soviet Union change its plans. The whole episode would very probably have occurred in the same way even if nuclear weapons did not exist. Afterward, although there was a good deal of self-congratulation about how our nuclear superiority had scared the Soviets off, President Kennedy was more realistic about the outcome. He said that the Soviets had backed down, in the final analysis, simply because they were wrong and that, at some future time, if they thought they were in the right and had vital interests to protect, they might very well not back down. In other words, they might choose to fight, even with a so-called nuclear inferiority, if the circumstances were different. Kennedy, much to his credit, realized that we had been lucky in the Cuban crisis. Under other circumstances, he realized, with mutual deterrence preventing either side from employing nuclear weapons, the Soviets might have felt that they had conventional superiority and that the battle was worth fighting. I would say that that is probably true with respect to their exploits in Eastern Europe.

To underscore this point, we need only recall the success of the Soviet Union in occupying Hungary in 1956 and in building the Berlin Wall in 1961. In both cases, the United States had a so-called "superiority" in nuclear power, and it did not change a thing. The Soviets had the force of resolve and conventional superiority on their side, and we were unwilling to risk war in order to avert their plans. In none of these crises—Hungary, Berlin, Cuba, or, I might add, Czechoslovakia—did the strategic nuclear equation really play any significant role in shaping the outcome of events. Indeed, it is one of the greatest ironies of the nuclear age that while enthusiasts in both Washington and Moscow have often lauded "superiority" as a goal, neither side has ever behaved internationally as though it mattered. The meaning of this is profoundly important: unless a nation uniquely possesses a first-strike capability—something no longer a possibility—then nuclear weapons give no advantage. Our nuclear weapons serve only one real function—to deter any potential enemy from using his.

THE REAL REASONS FOR ARMS CONTROL

Now the question might be asked: If mutual deterrence is so durable and mere numerical superiority gives no advantage, then why have SALT agreements at all? That is a question worth considering carefully. The administration, of course, has to its credit the achievement of having negotiated these agreements. Regrettably, however, they have given a sort of distorted justification for having done so. According to the administration, we needed these agreements to keep the Soviet Union from rushing ahead and gaining "superiority"—as if that were something they could actually do. By giving credence to the idea that there is such a thing as "superiority," the administration has, indirectly, given support to those in our country who are unhappy about the agreements and suspicious of the Soviet Union. For now that the notions of superiority and inferiority are abroad in the land, many people are doing a lot of mathematics and coming to alarming conclusions. They are saying that, in negotiating these agreements, we lost. We are in danger, they say, because even with the agreements, the Soviet Union may be able to acquire "superiority." Of course, the administration has its reasons for wanting to keep the specter of superiority alive. In this way, they can frighten the Congress and the people into paying billions more for new weapons systems—the Trident, the B–1, and so on—as the only way, even with the agreements, of preventing the Soviet Union from acquiring "superiority."

So it is worthwhile to look carefully at the reasons for having and supporting a limitation on offensive weapons. This agreement should be supported not because it offers a technique of keeping the Soviet Union from acquiring a nuclear "superiority;" the possibility of "superiority" is an illusion. There are other reasons far more sound for supporting such agreements:

First. Rationality and economy. First, there is the very rational justification that the agreement provides each side with a systematic, fear-reducing method of cutting back its vast expenditures on new weapons. As it is, each time either side spends billions of dollars on a new weapons system, that expenditure proves to have no significance other than waste. We are on a treadmill. Each side has already gained from its nuclear weapons as much security as life in this age will allow. Thus the new weapons which each side continues to acquire, each in emulation of the other, provide no gain. Like Alice in Wonderland, it takes all the running we can do just to keep in the same place. If we stood still, we would get just so far. And if these new strategic weapons have nothing to offer, then it is patently wasteful to expend the gargantuan amounts of our national resources which are necessary to produce and maintain them. As everyone now knows, modern weapons systems are enormously costly to create, develop, and deploy. If we spend our moneys and our energy on them, then we cannot do other things. President Eisenhower understood this perfectly:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. The world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children. The cost of one modern bomber is this: a modern brick school in more than 30 cities. It is two electric powerplants, each serving a town of 60,000 population. It is two fine, fully equipped hospitals. . . . We pay for a single fighter plane with a half million bushels of wheat. We pay for a single destroyer with new homes that could have housed more than 8,000 people.

These astounding sacrifices of needed food, housing, and social services are now being made on both sides, so much so that there are probably no two countries in the world in greater need of a radical shift in economic priorities than the United States and the Soviet Union. A truly rational decision by either side would be to step off the nuclear arms treadmill unilaterally, for each side already has enough. But that kind of supreme rationality on either side is unlikely in the real world. This is why the SALT agreements are so valuable and so deserving of our unequivocal support: they offer both sides a calm, calculated method of stepping off the treadmill together.

Second. Nuclear proliferation. The second reason for supporting the offensive-weapons limitation has to do with the rest of the world. Today, as both the United States and the Soviet Union have apparently recognized, we live in a world that is not very easy to control. People everywhere are nationalistic; they care more about themselves and their own countries than about the ideologies of the two so-called powers. They are, as they should be, intractable—going their own way in the world. But it is a world in which nuclear weapons technology has become virtually a free-market commodity. And many of the countries on the threshold of acquiring a nuclear capability have made it abundantly clear that a precondition of their acceptance of nonproliferation must be a demonstrated willingness on the part of the superpowers to modulate their own nuclear arms race. When the United States and the Soviet Union signed the nonproliferation treaty, they acknowledged that precondition. Now we are obliged to follow through with substantive action. To do otherwise—preaching the virtues of nonproliferation while at the same time continuing on as we have—would be seen, and rightly, as a kind of double dealing. It could only serve to aggravate the probability that those nations with the scientific ability to develop nuclear weapons will do so.

Third. The value of dialog. A third cogent reason for supporting the SALT limitations is that these continuing negotiations, and the contact they provide, afford us an opportunity to get to know the Soviet Union better. And likewise for them to know us better. Not nearly enough attention has been paid, either by scholars or government officials, to the persistent mutual misperceptions and misunderstandings which have continually plagued Soviet-American relations. More often than not, these misperceptions and misunderstandings have been substantially due to distorted images generated by insufficient information. Much of this groping in the dark can be significantly reduced in the course of the continuing dialog we have now begun. While the subject matter will often be weapons interactions and strategy trade-offs, which are technical matters, we eventually in such discussions begin to learn a great deal about the

fears, calculations, and motivations which move the two sides. These continuing talks give us the opportunity to learn from experience, in a way that no preaching or theorizing can teach us, what the other side is really like.

Fourth. Tension reduction. Finally, we should support the SALT agreements because our own country, and surely the Soviet Union as well, needs some psychic relief from the breathtaking pace and continuing tension of the nuclear arms race. Whether or not we have in recent years been secure in any objective sense, we have certainly not behaved like a nation which felt secure. Perceptions of security are, at bottom, rooted in obscure processes of the mind; surely they do not come from the logical deductive schemes of the strategic theoretician. The arms race, as it continues, may not alter the security of either side at all—objectively, it almost surely would not—but the race does tend to maximize each side's inner feeling of insecurity and to heighten the compulsions which we feel: to be "vigilant" and ever watchful of new danger, unseen but just around the corner. Arms control, as we begin slowly to perform it with these first agreements, can help us to begin to eliminate the sources of these perceived insecurities. And by doing that, arms control can reduce the tension, both within each of the two superpowers and between them.

CONCLUSION

Twice in the past 20 years, we have had to accommodate, in our thinking and planning, qualitative changes in our strategic nuclear position. The first came in the early 1950's, when the Soviet Union initially acquired an air-deliverable nuclear capability, and we were confronted for the first time with the realization that an unrestricted war could now mean unimaginable destruction to both sides. We had lost our nuclear monopoly.

The second change, described earlier, came in the later 1950's, as the Soviet Union attained a large enough strategic capability to place our vulnerable retaliatory forces in possible danger of being destroyed by a surprise first strike. We realized that such situation was unstable, and we moved to harden and disperse our strategic arsenal so as to provide a guaranteed nuclear second-strike capability. The Soviet Union followed suit shortly thereafter with a similar hardening and dispersal program of its own, and the nuclear era evolved from its second phase—a delicate balance of terror—into its third and present phase of stable mutual deterrence.

Somehow the heightened activity of recent American and Soviet weapons-development programs has led many Americans to fear that the East-West nuclear equation is once again on the verge of a qualitative shift. But, particularly in light of the open abandonment by each side of the attempt to shield itself with antiballistic missiles, there is simply no reasoned basis for this fear. The Soviet-American strategic relationship has become firmly immobilized—at least for any foreseeable future—by the durability of mutual deterrence; and while new weapons deployments by either or both superpowers may induce numerical fluctuations in the strategic balance, neither the stability of that balance nor the security it provides will be significantly affected in the process.

Viewed with this perspective, it becomes clear that the current Senatorial debate over the Jackson amendment represents a very fundamental choice. The argument is not between those who advocate American strength and those who think we can get by with weakness. The argument is not between those who trust the Soviets and those who do not. The argument is between those who still believe that security in the nuclear age depends upon the numerical measurement of destructive power and those who realize that we have entered an era in which such measurements no longer have any meaning. In sum, we can choose now between continuing to deploy newer and ever newer weaponry in a perpetual yet illusory pursuit of additional security and additional advantage or we can render firm and unequivocal support to a meaningful and productive arms-limitation dialog with the Soviets.

Much of the importance of the SALT agreements arises from their symbolism. They represent the realization by both sides that arms spending is inherently wasteful and that neither side, with all its astronomical spending, is achieving anything by it. The creation of that symbolism is actually the most important aspect of what has thus far been accomplished; for neither side has yet agreed to give up a great deal in substance. We have, however, made a beginning—which symbolizes a new way of thinking about weapons and represents an important first step in bringing them under control. But that symbolism is delicate. It could still be destroyed, and with it the spirit of trustful negotiation for mutual benefit which has now been born. Were the Senate to approve the Jackson amendment, it would not only jeopardize that spirit, it would compound our mistake by giving voice to outmoded notions of nuclear superiority that can only lead to the further purposeless waste of our resources, energy, and national spirit.

Mr. President, in connection with my earlier comments on the mutual sufficiency we and the Russians have to destroy each other, on September 7, there was an interesting report from the International Institute for Strategic Studies in London. I wish to read an article entitled "Nuclear Aggressor Doomed, Study Finds," published in the Washington Post on September 8, 1972 It reads as follows:

NUCLEAR AGGRESSOR DOOMED, STUDY FINDS

LONDON, September 7.—The International Institute for Strategic Studies said today that nuclear parity has made it impossible for the United States or the Soviet Union to launch a nuclear war without incurring "obliteration."

Neither superpower can disarm the other by a "first strike" and each has enough delivery vehicles and weapons "to destroy any conceivable combination in a second-strike targets within the other's territory," the institute said in a survey report entitled "The Military Balance 1972–73."

"Whatever detailed calculations may be constructed, neither superpower can consider itself to have any significant advantage over the other in terms of freedom to engage in nuclear war without incurring obliteration," it concluded.

The Institute said 1972 could be viewed as a "turning point" because of the SALT agreements between the United States and Russia.

The Institute, founded in 1958 as a research center on problems of defense, security and arms control, describes itself as independent of governments. It has an international council and staff.

Mr. President, I might add that that institution over the years has had a reputation for being extremely conservative in these matters. This report conforms with my earlier remarks about our nuclear deterrent.

Mr. President, there is another item that I wish to draw to the attention of the Senate.

The House of Delegates of the American Bar Association has passed a resolution firmly supporting the interim agreement between the Soviet Union and the United States on the limitation of strategic offensive arms.

The association urges that the Congress authorize approval by the President of the agreement and the associated protocol. The association also asks that—

The Government of the United States . . . seek promptly to reach agreement with the Soviet Union on further measures limiting and reducing strategic offensive arms, and on general and complete disarmament, in accordance with the provisions of the preamble and Article XI of said treaty and of Article VII of said interim agreement.

I ask unanimous consent that the telegram from the Secretary of the American Bar Association be printed in the RECORD.

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

SAN FRANCISCO, CALIF.,
August 17, 1972.

Hon. J. W. FULBRIGHT,
Chairman, Senate Foreign Relations Committee, New Senate Building, Capitol Hill, D.C.:

On Wednesday afternoon, August 16, 1972, the House of Delegates of the American Bar Association adopted the following resolutions:

Whereas, the United States has undertaken by the terms of article VI of the nonproliferation treaty of 1968, to which it is a party, to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control", and expressed a similar intention in the preamble of the limited test ban treaty of 1963; and

Whereas, it has for some years been a major objective of the United States to reduce the risk of military confrontation with the Soviet Union, particularly if involving the use of strategic or nuclear weapons; and

Whereas, it has also been a major objective of the United States to slow down and arrest the escalation of armaments, in particular in the field of strategic weapons; and

Whereas, the needs of the people, in the United States and elsewhere, require the allocation of greater financial and other resources, some of which might not be available if increased military expenditures occur; and

Whereas, the United Nations and various of its committees have for many years urged strategic nuclear arms control and disarmament measures; and

Whereas, the United States and the Soviet Union have sought since 1967 to begin ne-

gotiations on agreements to limit strategic weapons, and began such negotiations in November 1969, and have reached certain agreements expressed in a proposed treaty and interim agreement, both signed in Moscow on May 26, 1972, by President Nixon and General Secretary Brezhnev; and

Whereas, the Senate, on August 3, 1972, advised and consented to the ratification of the said treaty; and

Whereas, negotiations on further agreements will be facilitated by approval by the Congress of the said interim agreement as well; and

Therefore, be it resolved, That the American Bar Association urges the Senate and House of Representatives to authorize approval by the President of the United States of the interim agreement on certain measures with respect to the limitation of strategic offensive arms, and the associated protocol, all of which were signed at Moscow on May 26, 1972 by President Nixon and General Secretary Brezhnev; and

Be it further resolved, That the President or his designee be authorized to appear before the appropriate committees of the Congress in support of such action; and

Be it further resolved, That the American Bar Association urges the Government of the United States to seek promptly to reach agreement with the Soviet Union on further measures limiting and reducing strategic offensive arms, and on general and complete disarmament, in accordance with the provisions of the preamble and article XI of said treaty and of article VII of said interim agreement.

KENNETH J. BURNS, Jr.,
Secretary of the American Bar Association.

Mr. FULBRIGHT. Mr. President, I have, of course, submitted an amendmen to the Jackson amendment on behalf of myself and, I believe, nine other cosponsors. As I said at the beginning of my remarks, the Foreign Relations Committee has long felt that this resolution approving the Interim Agreement should not have any amendments whatever to detract from its significance.

The House of Representatives, I understand, has passed a resolution in that form. I offer my amendment to the Jackson amendment regretfully because I would not have offered a clarifying amendment of any kind except for the doubts the Jackson amendment has created as to the serious intent of the President to negotiate further nuclear weapons limitations. I want to make that very clear.

If my amendment is agreed to, its effect would be to clarify the significance of the whole question. I believe that the Jackson amendment is ambiguous. It has been packaged and sold so that many people understand that its purpose is to provide guidelines for future negotiations requiring our negotiators to seek equality of strategic nuclear forces with the Soviet Union. This seems reasonable. Who could be against equality?

However, the implication is quite clear from the way it was phrased that the Interim Agreement is not based upon a one for one equality of strategic forces. The real meaning of the Jackson amendment calling for equality is not that there be overall strategic equality of nuclear force, but numerical equality and, one could say megatonnage equality, if he wishes. However, if there is required to be one for one specific numerical equality with respect to ICBM's, submarines, and other items which are covered in the language of the Jackson amendment's reference to "intercontinental strategic forces," then there is inequality or superiority on our part, because we are far ahead of the Russians when one takes into account MIRV weapons, geographical factors, war heads, et cetera.

But in any case I believe it is the overall equality in strategic nuclear weapons that the President had in mind as a basis for the agreement. In fact, I am convinced of that. The agreement was negotiated on that basis. It did not include such items as aircraft carriers and forward based nuclear attack weapons and bombers. At this stage, those factors were too difficult to reconcile. But this agreement is a first step, achieved with great difficulty.

It has been suggested by some of those supporting the Jackson amendment—suggested privately; I am not sure I heard it publicly—that after this long period of nearly 3 years of negotiations with no agreement having been achieved, the President, for his own purposes, this being an election year, was determined to get an agreement. It has been suggested by some in my presence that the President went to Moscow and accepted an improper, improvident, and unwise agreement, because of his anxiety to obtain an agreement now, so that it could become a foreign policy asset in his election this year. I have heard this suggested in the last 2 days.

This is the kind of statement or suggestion that I guess is intended to appeal to Democrats and persuade them to support the Jackson amendment. I reject that. Obviously I am not a greater supporter or confidant, politically speaking, of the President. I do not believe he went to Moscow, not having achieved an agreement in Helsinki or Vienna, and insisted on an agreement against the interests of the United States. After long and thorough study of the agreement I do not believe it is against the interest of the United States, and I do not think there is any real substance to the argument that we have an inferior position.

It is incredible to me that there are people in this body who on one occasion brag about the technical superiority of the United States, about the efficiency of our private enterprise system—people who state we are the most advanced country in the world in the field of industrialization, that we have done the most in the highly sophisticated realm of computers and guidance systems, and so forth, and they brag on it; and then, when we come to an argument like this, suddenly we become inferior, and suddenly, although we have spent far more money on weapons than the Russians, we become inferior. They cannot have it both ways.

Mr. President, one cannot in 1 day engage in self-adulation and brag about our superiority—as a matter of fact I subscribe to our superiority. If we had not wasted our resources on the war in Vietnam we would have outdistanced all countries. We still are the most industrialized Nation. But you cannot, on the one hand, say we are far ahead in our technological capacity to produce and then turn around and say that we are inferior by 3 to 2. We cannot say we have a far more sophisticated populous, people trained in the sciences and mathematics, and so forth, and far superior to the Russians, and then say we do not get our money's worth when we buy weapons.

Mr. President, these arguments do not pan out. We are either efficient or we are not. I believe we are. We have more and better weapons than any nation in the world, including Russia. I do not mean by that they do not have the capacity to build weapons; of course, they do. But we are told the implication of the Jackson amendment is that we are inferior and rapidly deteriorating.

We made deliberate choices in past years and I think they were correct. We made these choices when there was not an ulterior motive. We were told that a choice between the Minuteman and the Titan was a good choice; that it was efficient to make smaller weapons rather than larger weapons. Even small and large are not good descriptions because a small nuclear weapon is so large it can wreak havoc on any city in the world, and destroy tens of thousands of people if dropped in the middle of New York or Moscow. But we were told we made a deliberate choice to have small weapons. So far as I can see it is a good choice. Data supplied to the committee still substantiates that.

But what of the future? What is the motive for continuing the arms race? What could be the possible objective of sabotaging our effort to approve the first phase of the SALT talks? What can possibly be accomplished by raising doubt that the first agreement made in this area by the President of the United States is a dubious agreement and that it does not provide for the security of this country, and that in the future we have to resume the concept of superiority, phrased in the terminology of equality in certain areas? It can mean nothing else but that we are not content with overall equality, or parity, or sufficiency, such as the President stated, but that we are to return to negotiations based on the concept of superiority. We already have superiority. As I said, with respect to aircraft carriers and bombers, there is no prospect whatever that the Russians plan to build aircraft carriers, because they are very vulnerable. No other country in the world in recent years has built them. The British have stopped it.

But in any case this interim agreement is one of the most important matters we have to deal with this year. If we cannot make any progress in this area, I see no end to the arms race. This would be a most serious setback if at this late date, after all the attention given to this matter we should be qualified in our approval of this agreement.

As I said in my prepared remarks about symbolism, there are many implications. Many things indicate the reaction of the Russians. If we adopt the Jackson amendment, unamended, the Russians will take it to mean we are not serious about further negotiations on arms control. They would take it to mean that Congress is still determined to go forward to acquire new superiority or possibly even resumption of the concept of trying to acquire a first-strike capability.

That concern is strengthened by both the Jackson amendment and the recent discussion of further steps to create weapons to destroy hard-site missiles. However, the Senator from Massachusetts (Mr. BROOKE) has an amendment dealing with this subject.

I ask unanimous consent to have printed in the RECORD at this point an article from the New York Times of September 5, 1972, entitled "Soviet Says Pentagon Violates Arms Spirit."

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

SOVIET SAYS THE PENTAGON VIOLATES ARMS-PACT SPIRIT

Moscow, September 4.—The Soviet Union accused the Pentagon today of violating the spirit of Soviet-American agreements limiting their strategic arsenals and jeopardizing their effectiveness by pressing for accelerated development of new American offensive military systems.

Izvestia, the Government newspaper, pointed to the next round of negotiations this fall and said that possibilities for broadening the agreements "will be determined, in many respects, by the degree to which the sides observe not only the letter but also the spirit of the understanding reached."

Its primary criticism was directed at the position of Defense Secretary Melvin R. Laird that the Pentagon could not support the agreements signed in Moscow last May unless funds were voted by Congress for accelerated development of the new longer-range Trident underwater missile and the B–1 strategic bomber.

FIRST ATTACK ON POSITION

Although the commentary did not mention Mr. Laird by name, this was the first time that his position had been so forthrightly attacked in the Soviet press since President Nixon's visit here in May.

The lengthy Izvestia commentary also renewed earlier Soviet objections to Senator Henry M. Jackson's effort to attach conditions to a Congressional resolution approving the interim agreement to limit offensive nuclear arsenals.

It was seen as an effort by Moscow to discourage support for the Washington Democrat's maneuver when the resolution comes up for a vote in the Senate. The House has already overwhelmingly approved the resolution.

Senator Jackson is trying to attach a rider that would require future agreeemnts to be based on the principle of equality of forces because of his objections to certain numerical advantages granted to Moscow under the current formula.

Today's commentary was directed not only against such a move, which it dismissed as an unwarranted re-interpretation of the agreement, but also against the longer-term programs of the Pentagon although they do not abrogate any specific terms of the accords.

"Opposition to the Soviet-American agreements, mostly coming from the Pentagon and industrialists linked with it, stands in the way of limiting the arms race and general prospects for disarmament," Izvestia said.

The commentary told Soviet readers that expenditures sought by the Pentagon for the new bomber and the underwater missile were being justified not so much because of their desirability but on the contention that they were necessary "to force the U.S.S.R. to take further steps" to curb the arms race.

"It is evident," Izvestia asserted, "that without apparently formally violating the letter of the Moscow agreements, one can still fundamentally violate the general spirit of the agreement by unilateral acts, thus jeopardizing the effectiveness of the agreement itself."

Mr. FULBRIGHT. Mr. President, this is simply an indication of the first reaction, to my knowledge, on the part of the Soviets to both the enormous increase which we have just authorized in our new weapons systems, specifically the Trident and the B–1, and the Jackson amendment.

I wish to make this record as complete as I can, because I anticipate this will be the last primary discussion of this matter, and I ask unanimous consent to have printed in the RECORD an article by Chalmers Roberts in the Washington Post on the 16th of August, entitled "Promise of SALT: What's Happening?" which I think is an interesting observation.

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

BACKWARD OR FORWARD?—PROMISE OF SALT: WHAT'S HAPPENING?

(By Chalmers M. Roberts)

Less than three months ago Richard Nixon and Leonid Brezhnev signed their names to "basic principles of relations" between the two superpowers, a sort of codification of the President's pledge that the United States would move from "an era of confrontation" to an "era of negotiation." The Nixon-Brezhnev "principles" included a statement that "differences in ideology and in the social systems" are not a bar to normal relationships, that both nations "will always exercise restraint in their mutual relations" and that both recognize they should eschew "efforts to obtain unilateral advantage at the expense of the other, directly or indirectly."

Three days earlier the two leaders had signed the strategic arms limitation (SALT) agreements. In assessing the Soviet-American atmosphere at the end of the Moscow summitry Henry Kissinger remarked that "I think trust has developed but not the point that it could survive a major challenge that one side would put to the other that affects its own estimate of its vital interests."

It is against this background, it seems to me, that one should assess the Jackson amendment to one of the two SALT pacts, that limiting offensive weapons. The fate of the amendment is far less important that what the discussion of it disclosed about the post-summit attitudes in Washington. The same is true of the related new, more accurate and more powerful American missile warheads that the administration has requested. Like a summer lightning storm the discussion suddenly illuminated the landscape in this capital, both in the Senate and in the White House and elsewhere in the executive branch.

"Confrontation" and "negotiation" are not, of course, mutually exclusive and that is just as true in Moscow as in Washington. Mr. Nixon last July 27 said that "the decision with regard to the SALT agreements involved a fight between the hawks and doves" in his own administration. On July 15 Kissinger remarked at a congressional briefing that during the SALT negotiations "we were acutely conscious of the contradictory tendencies at work in Soviet policy"—in other words, the hawk-dove problem in the Kremlin.

In asking both for congressional approval of the two SALT pacts and for money for the Trident submarine and B–1 bomber programs the President said Brezhnev and his colleagues "made it absolutely clear that they are going forward with defense programs in the offensive area which are not limited by these agreements." Soviet sources in a position to know about those conversations, however, contend that Mr. Nixon's version stretched Brezhnev's remarks for his own purposes. But American sources, equally in the know, contend Brezhnev left no doubt about what Mr. Nixon said he said. Jackson commented that he was "disturbed by the report of the President" on Brezhnev's remarks.

What the Jackson amendment affair plus the revelation of the new missile warhead program demonstrates is the limited meaning being applied by the Nixon Administration to the Moscow "basic principles of revelations" and that we can expect to see a lot more "confrontation" along with future "negotiation." Indeed, the "trust" about which Kissinger spoke seems close to non-existent.

Jackson made his own motivation clear enough. He considered the offensive weapons agreement put the United States at a disadvantage and he used the amendment device to lock the administration into a SALT II posture of accepting nothing less than what he termed "a restoration of parity." The gloss he supplied on what constitutes "parity" made it clear he meant what those Americans who negotiated the agreements and many others consider old fashioned "superiority." What Jackson could not do by direction—defeat the agreement in the Senate—he sought to do by indirection—tie the administration's hands in the negotiations ahead that are designed to turn the five year agreement into a permanent treaty.

The Kremlin reaction to all this is unclear but not difficult to imagine. Quite probably the Moscow hawks have gained a point in their continuing suspicion of arms agreements with the United States. Whatever chance there was for both Washington and Moscow to exercise mutual restraint by not doing what they legally could do within terms of the SALT pacts has been diminished.

The history of the action-reaction phenonemon in the Soviet-American arms race clearly indicates that the dominant pressure in both capitals is to build those arms not forbidden by agreement out of fear that the other side will do so to its own advantage.

The tragedy is that the long history of the Cold War, of Soviet-American ideological differences on top of clashes of national interest, makes mutual restraint exceedingly difficult to achieve. As Jerome H. Kahan of the Brookings Institution put it to the Senate Foreign Relations Committee on June 28: "In theory, both nations ought to exercise unilateral restraint and pursue purely stabilizing strategic policies. But experience shows that neither nation has taken such initiatives."

The promise of SALT was more than just the important limitations for the first time on both offensive and defensive strategic weapons. The hope of Mr. Nixon's Moscow visit, in Kissinger's words, was that it would "mark the transformation from a period of rather rigid hostility to one in which, without any illusions about the differences in social systems, we would try to behave with restraint and with a maximum of creativity in bringing about a greater degree of stability and peace." Hence the language of the "basic principles" signed in Moscow. Hence Mr. Nixon's remark in his address to Congress that his Moscow and Peking trips had done away with "the kind of bondage" of which George Washington had said: "The nation which indulges toward another in habitual hatred is a slave to its own animosity."

In this larger context both the Jackson amendment and the new missile warhead program represent backward, not forward, steps.

Mr. FULBRIGHT. Mr. President, I also noticed in this morning's newspaper a significant article, which does not bear directly upon this agreement, but which revives memories of the period of Khrushchev. When Khrushchev visited

the United States, he visited the Committee on Foreign Relations. The reason why he visited the Committee on Foreign Relations was that the House of Representatives had an antagonistic attitude toward him, and the Speaker of the House refused to have a joint session for the leader of one of the most powerful nations in the world, with whom our relations are so important. So as a result, as a sop to him, the Foreign Relations Committee was asked to receive Mr. Khrushchev. He went about this country, visited Iowa, and was shown the corn-growing operations there, and so on.

As I look back on that period—not only I, but many people, astute observers, in my opinion—feel the United States missed an opportunity at that time to take steps toward the improvement of our relations with the Soviet Union which could lead to a limitation of arms, to an increase in trade, and so forth. I believed—others shared that view; I have read that—that Khrushchev was making gestures, within the climate in his own country that would allow him to do so, suggesting better relations with us, and during his trip he made many statements which the record in our committee indicated were designed, in many cases, to show that he wanted to imitate the economic accomplishments of the United States.

On the whole, we rejected any such overtures. Our reaction and particularly the Cuban affair led to the removal of Khrushchev. His polities of rapprochement with the United States had proved to the Russians that he was ineffective and futile, and he was removed. I believe that was one of the principal reasons why he was removed.

This morning in the Washington Post there is an article by Mr. Victor Zorza, who, I believe, is admitted as being an expert on the Soviet Union, entitled "Storm Brewing for Brezhnev." His article is related to the point I have discussed.

I ask unanimous consent that that entire article be printed in the RECORD.

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

STORM BREWING FOR BREZHNEV

(By Victor Zorza)

The storm clouds gathering over the Kremlin could be the first intimation of a new conflict in the Soviet leadership.

This year's disastrous harvest is being blamed on the weather, while the expulsion of the Russians from Egypt is blamed on the undependable Arabs, but a good management team in Moscow might have averted both mishaps.

This at any rate, is what would be said by those who have been kept off the team by Leonid Brezhnev, the Soviet Communist Party's general secretary, and who believe that they could have done better, as unsuccessful aspirants to high office everywhere believe.

In the West, they would have an opportunity to trumpet their claims from the election hustings every four years or so. In the Soviet Union, they have usually had to wait for an accumulation of bad luck and political errors on the part of an incumbent leader to trip him up.

The first indications of leadership trouble are usually provided by the Moscow rumor mill, and by indications between the lines of the Soviet press that not all is well.

The U.S. embassy in Moscow has now picked up enough of the background noise to send Washington a dispatch detailing the reasons Brezhnev's position might be regarded as somewhat shaky. Both the harvest and the Middle East fiasco loom large in its assessment.

The United States has made use of Brezhnev's political need for foreign grain and other goods to force him into concessions. The bombing and mining of North Vietnam just before the May summit was the stick, and the possibility of large and prompt grain supplies to avert a domestic crisis was an important part of the carrot.

Secretary of Agriculture Earl L. Butz was sent to Moscow to explore the possibilities just before the summit. On his return, he said that the Russians "understand the language of naked power—the kind of language President Nixon is now speaking."

The Soviets virtually abandoned Hanoi, and pressed it so hard to make a deal with the United States as to cause the North Vietnamese press to hint at betrayal by Moscow. Soon after that American grain began to flow to the Soviet Union.

But this was before the full extent of the harvest failure became evident even to the Russians. Further indications of future food shortages have become available since then, and present sabotages are already being reported from such sensitive areas as the highly industrialized Gorky Province.

Brezhnev's need for foreign grain is likely to become greater, not less, and so is his vulnerability both to pressure from abroad, and to criticism at home.

The critics could blame him first for failing to put agriculture on its feet, which he promised to do when he overthrew Khrushchev, and then for making concessions to the United States in exchange for the grain he has failed to produce himself.

Khrushchev's own position was weakened considerably by his agricultural failures and his decision to pour Moscow's precious hoard of gold into capitalist coffers in exchange for grain.

Brezhnev's failure in Egypt is also linked with his dealings with the White House. Cairo claims that it ordered the expulsion of the Russians only after Brezhnev had committed himself at the Moscow summit to withhold the arms Egypt wanted. Brezhnev's domestic critics could thus argue that his concessions have greatly weakened the Soviet Union's position in the world.

Certainly just before the summit there were those in the Soviet leadership who were unalterably opposed to Brezhnev's intended concessions. But Ukrainian party chief Pyotr Shelest, who was dismissed on the very eve of Mr. Nixon's arrival in Moscow for precisely such opposition, is still a full voting member of the Kremlin Politburo.

The flurry of Soviet press articles after the summit to defend the Moscow accords against unidentified Communist critics made it clear that Shelest and his friends had not surrendered.

Even the agreements on strategic arms limitation are giving rise, between the lines, to a leadership debate which shows that Brezhnev's wisdom is being questioned.

Mr. FULBRIGHT. The article reads in part:

The storm clouds gathering over the Kremlin could be the first intimation of a new conflict in the Soviet leadership.

This year's disastrous harvest is being blamed on the weather, while the expulsion of the Russians from Egypt is blamed on the undependable Arabs, but a good management team in Moscow might have averted both mishaps.

Then it discusses various other matters, and the last paragraph reads:

The flurry of Soviet press articles after the summit to defend the Moscow accords against unidentified Communist critics made it clear that Shelest and his friends had not surrendered.

Even the agreements on strategic arms limitation are giving rise, between the lines, to a leadership debate which shows that Brezhnev's wisdom is being questioned.

So we have a picture in Moscow, in the Kremlin, in the Politoburo, in which Mr. Shelest, who is the Ukrainian party chief and one of the leading members, is playing a role which appears to be similar to that of the junior Senator from Washington. He is raising questions about Mr. Brezhnev and making the assertion that Brezhnev has made an agreement which is unsatisfactory to the Soviet Union. So we have a tit-for-tat operation. Obviously in a country like the Soviet Union, which is a big country, just as ours is, there are going to be differences in the Politburo and the Central Committee, which corresponds, in a vague sort of way, as nearly as it can, to the differences going on in the Congress and the Executive in this country.

What is so unfortunate and tragic is that these gentlemen on both sides of the world and in both nations do not believe in rapproachment; they believe in force; they have no confidence whatever in diplomacy or negotiation between great countries; they believe the only way they can preserve their safety is through more and more military power. This type of suspicious personality is coming to the fore in both countries. They are criticizing the men who reached this agreement. In the case of the United States, the proposal is before the Senate to qualify the agreement made by President Nixon. It is alleged that the agreement fixes an inferior status for us. In Moscow it is Mr. Shelest and his friends who are saying Mr. Brezhnev did not look out for the security of Moscow.

So we have a repetition of our inability to reach agreement with Russia years ago, and, in my opinion, it will be a great tragedy if, 10 years from now, we look back, after we have spent perhaps $500 billion on more sophisticated weapons, and then try again to reach some accommodation.

I think it is significant that they are now questioning Mr. Brezhnev, and I assume and I suspect, on much the same grounds that the Senator from Washington is questioning the agreement made by Mr. Nixon.

Of course, I hasten to add the Senator from Washington is not making a personal attack on the President, because he is on very good relations, so far as I know, with the President; but the effect of it is to question the President's handiwork, in much the same way as questions are being raised about Mr. Brezhnev.

Mr. President, I do have a related matter. It is not directly on this, but it is material which should be made available because it is an aspect of the cost of the war, because the arms race is a major part of the contributing causes of inflation and the distortion and disruption of our own economy.

It should be perfectly evident, I think, to anyone that the exorbitant amount of money, which is now in the neighborhood of $1,000 or $300 or $400 billion on military operations, hardware, and re-

lated costs since World War II, has undermined our economy and has created inflation which has made us noncompetitive in international trade. That is one aspect of the arms race.

I have prepared, also, some material more directly on the cost of the war in Vietnam, which I think fortifies the conclusion that we simply can no longer afford to carry on the policies we have of relying so exclusively on military force and on the exertion of our power abroad, as in Vietnam, and the preparation for military activities in the future, and the maintenance of bases abroad. I wish to put those into the RECORD.

TIME FOR AN ACCOUNTING—THE COST OF NIXON'S WAR

Mr. President, four and a half years ago Richard Nixon, launching his campaign for President, said:

If in November this war is not over after all of this power has been at their disposal, then I say that the American people will be justified to elect new leadership and I pledge to you the new leadership will end the war and win the peace in the Pacific and that is what America wants.

Mr. President, I wish to reiterate that this is, to the best of my knowledge, an accurate quotation. I say that because in the New York Times, there were two articles questioning whether the President had campaigned on the basis of a secret plan for ending the war.

I have not, and no one that I know of has, seen a secret plan, but this is a major quotation which certainly indicates President Nixon's committment at that time to end the war, and on other occasions as well he pledged himself to end the war.

Mr. Nixon has had 3½ years to end the war. Yet the killing continues unabated, his pledge to end the war unfilled. In 1964 the voters of America elected a President who said he would keep them out of war. In 1968 they elected a man who said he would get them out of the war they did not want to get into. The voters were duped both times. And they will be deceived again unless they hold the President accountable for his failure.

Is there any wonder that the public is disillusioned with their political leaders, that they despair at their Government's failure to respond on so basic an issue as ending a senseless war? A recent Harris poll reported that 79 percent of the American people want "to bring all U.S. ground, naval, and air forces home from Vietnam." Yet, at the same time, 88 percent expected U.S. involvement to continue. In other words, they had given up hope that their Government would do what they wanted it to do. For Washington, as a commentator in the New Yorker magazine observed recently—

. . . the war has become part of America's business as usual.

We are now in the 12th year of this unconstitutional, undeclared war, the longest war in our history, with the prospects for ending it more dim than on January 20, 1969. As of August 5, since Mr. Nixon became President, 19,898 Americans, 88,949 South Vietnamese, and 441,955 enemy soldiers have died in the conflict—more dead than the population of five of our States. And since his inauguration, 107,695 more American servicemen and 423,920 South Vietnamese soldiers have been wounded. Thus, American dead and wounded have added 127,593 names to the casualty lists under the Nixon war policy.

Administration officials have repeatedly paid lip service to the plight of American prisoners of war and those missing in action. But the rolls of the POW's and the MIA's lengthen each day American involvement continues. Seventy-six more Americans have been taken prisoner and 466 more are missing since this administration took office. According to press reports, 84 Americans have been lost over North Vietnam since last March; in all 175 fliers are missing, 72 have been killed, and 55 wounded. The President cannot bomb the North Vietnamese into releasing the prisoners and accounting for the missing; they will do this only if he carries out his tattered and faded pledge to end the war. To try to make the American people believe that somehow the prisoners may be released before the fighting stops is sheer demagoguery. Until the President carries out his 1968 pledge, the POW and MIA lists will continue to lengthen.

The toll of the suffering of the unfortunate people of Southeast Asia is incalculable. The few estimates available of civilian casualties, refugees created and homes destroyed do not begin to convey the horror that has been inflicted upon innocent civilians trapped in the middle. The bits and pieces we do know are horrible enough, but how does one measure in mathematical terms the destruction of a social structure or the delicate balance in the ecology of an entire region. The Senate Subcommittee on Refugees estimates that in South Vietnam alone the cumulative total of refugees is now about 8,000,000, nearly half of the country's population—more than four times the population of my State.

The Library of Congress reports that before 1969 an estimated 3 to 3½ million refugees, excluding Laos, had been generated by the war. In comparison, as many as 4½ million have been generated in the Nixon years. Before Nixon Cambodia was relatively free of the ravages of war. Now, as a consequence of the President's initiative, it, too, has become a battleground. In the last 2 years as much as 30 percent of Cambodia's population has fallen victim to the conflict he thrust upon them.

It is estimated that since 1965 there have been nearly 1,300,000 civilian war casualties in South Vietnam—including some 400,000 dead. An estimated 537,153 civilians have been killed or wounded in the Nixon war years. The bloodbath the President so readily conjures up is not some dim future possibility, it is happening every day to thousands of innocent people throughout Southeast Asia.

On August 29 the President announced that U.S. troop strength in Vietnam would be reduced to 27,000 by December 1, the smallest reduction rate announced to date. What the President did not say was that there are now 45,000 Americans in Thailand compared with 32,000 5 months ago; that the naval forces off Indochina have grown from 15,000 to 39,000; and that many thousands more American servicemen are engaged in the war from bases on Guam and other parts of the Pacific.

The President would like the American people to believe that only the 37,000 Americans in Vietnam are involved in the war. But in truth there are some 150,000 in the Far East involved, either directly or in support operations. According to the Defense Department, 148,200 members of the Armed Forces received hostile fire pay—combat pay—in June 1972. Although a small number may be on the list because of service on the DMZ in Korea, the total involved in direct action in Southeast Asia is far higher than the President wants the American people to know.

According to recent news reports, air units, which were moved earlier from Vietnam to Thailand to meet withdrawal targets, are actually operating out of the Danang, South Vietnam, air base on a commuter basis. For everything except official counting purposes they are still stationed in Vietnam. The deception typified by "protective reaction," "mobile maneuvering," and other artful Pentagonese continues to be the hallmark of the President's Vietnam policy.

Instead of keeping his commitment to end American involvement in the war, Mr. Nixon has only shifted the principal means of killing from the ground to the air. During the Nixon years 3,632,734 tons of air munitions—bombs, rockets, and bullets—have been used to devastate the people and landscape of Indochina, far more than was used in World War II and the Korean war combined; 767,826 tons above the total for the Johnson war years; and more than 180 pounds of destruction for every man, woman, and child of North and South Vietnam.

The stepup in the air war is also reflected in the number of sorties flown. As of June, 30 percent more fixed wing and helicopter sorties had been flown in South Vietnam during the Nixon war years than were flown in the Johnson years; 21,400,507 compared with 16,654,842. Air raids over North Vietnam are now being carried out at a level of intensity unequaled during the pre-Nixon period. A few months ago the captain of the aircraft carrier *Coral Sea* operating in the Tonkin Gulf, was quoted as saying:

"This time we're not pulling our punches. We've told the world we're going to be the winner. . . . We've never done anything before on this scale in Asia."

It has been reported that 4,000 tons of bombs a day are being dropped over North Vietnam. If all were 500-pound laser-guided bombs, at an estimated cost of $3,324 each, the daily bomb load alone would cost the taxpayers $53,184,000, enough to build and equip three 300-bed hospitals. It would take the entire annual income of 5,318 average American families to pay the cost of a day's bombing with laser bombs. For each of the 3,000 pound television-guided bombs being dropped over North Vietnam, a low-cost, two-bedroom housing unit could be built.

During the Nixon years a total of 3,529 aircraft—fixed wing and helicopter—have been lost in Southeast Asia. Eighty-

four aircraft have been lost over North Vietnam since the resumption of the bombing in April. And the cost of each F–4 shot down over North Vietnam would pay for an annual salary of $9,000 to 30 school teachers. Ten B–52 sorties would provide $2,000 scholarships to 210 needy students or build a 22-bed nursing home.

By the end of this fiscal year, using the executive branch's conservative criteria of "incremental" costs, the American taxpayers will have funneled more than $112 billion down the Indochina rathole, $147 billion if the full costs, the more realistic figure, is used. Using incremental costs, by the end of the current fiscal year the Nixon administration will have spent more than $54.5 billion on the war, only slightly less than the amount spent in the Johnson war years, or $260 for every man, woman, and child in the United States.

What would the $54.5 billion do here at home? It would:

Bring all of America's 25.5 million poor above the poverty line, $11.4 billion;

Eliminate hunger in the United States, $4 to $5 billion a year;

Pay for the construction of the Washington Metro subway system, $3 billion;

Construct 36,000 low-cost houses, $1 billion;

Finance all unfunded applications for HUD water and sewer grants, $4 billion;

Construct 500 high schools, $8 billion;

Meet the hospital needs of urban areas, $18 billion; and,

Expedite rebuilding of blighted urban areas. $3 billion.

This is only scratching the surface of needs here at home. Instead of using our resources to build a better society here, the Nixon administration has squandered the taxpayers' money on bombs and bullets to tear down ancient, established societies in primitive countries halfway around the world. Under the Nixon administration's concept of priorities billions of dollars more for a stepped-up bombing campaign in Indochina is sound and prudent spending. But it sees Congress action to expand education, health, and manpower training programs by $1.8 billion this year as reckless spending, justifying a Presidential veto of the appropriation bill.

President Eisenhower once said—

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed.

Every day this war continues, more than $16 million is being taken from the wallets and pocketbooks of Americans.

To add to the tragedy, much of the cost of the Nixon war will be paid for by the children and grandchildren of current taxpayers in the form of interest on the debt, veterans' benefits, and social consequences such as the drug addiction of veterans. There have been authoritative estimates that the overall costs will ultimately reach $350 billion or more. The Library of Congress calculates the budget deficit in the Nixon years due directly to the war at $36 billion and, when the current year is added, it will top $42 billion.

But probably the most devastating impact on the lives of everyday Americans has been from the inflation created and nurtured by the war. From January 1969 to June 1972 the Consumer Price Index rose 17.2 percent. Every housewife knows what has happened to the price of a pound of hamburger even though she may not point the finger of guilt where it belongs, at the war.

The pockets of all Americans have been picked by President Nixon's failure to keep his campaign pledge. When he came to office, the average American worker was earning $118.13 per week, measured in 1967 dollars. By June 1972 the Nixon war and economic policies had reduced workers' real weekly earnings to $108.31. The Nixon war policy has taken a $10 bill out of every worker's pay envelope.

In announcing the invasion of Cambodia 2 years ago, and expansion of the tragedy to yet another country, President Nixon said:

> During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home. I promised to end this war. I shall keep this promise. I promised to win a just peace. I shall keep that promise.

None of those promises have been kept. There are 150,000 American servicemen in Southeast Asia engaged in the war, although only 37,000 are officially listed in Vietnam. The announced policy is to keep a residual force in Vietnam indefinitely. Far from ending, the war has entered a new and bloodier phase. More Vietnamese, North and South, Cambodians, and Laotians have been killed during the Nixon years than were killed in the Johnson years. Where is the "just peace" he promised? Peace is more distant today than when Mr. Nixon took office.

The President is running on his record. This is as it should be. He was elected to end this war. He has not done so. On October 9, 1968, in bidding for election to the Presidency, he said:

> Those who have had a chance for four years and could not produce peace should not be given another chance.

I could not agree more. The American people should hold him to that standard.

I ask unanimous consent that certain accompanying data which I have accumulated be printed in the RECORD.

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

LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE—CASUALTIES IN VIETNAM, 1961–72

	Jan. 1, 1961–Jan. 18, 1969	Jan. 18, 1969–Aug. 5, 1972
A. U.S. military personnel:		
Combat deaths [1]	30,991	14,852
Noncombat deaths [2]	5,200	5,046
Wounded in action [3]	195,601	107,695
	1964–68	1969–Aug. 5, 1972
A. U.S. military personal:		
Missing [4]	779	466
POWs	448	76
	1961–68	1969–Aug. 5, 1972
B. South Vietnamese military personnel:		
Combat deaths	85,410	88,949
Wounded in action [3]	185,386	[6] 423,920
	1966–68	1969–June 1972
B. South Vietnamese military personnel:		
Missing	8,083	16,367
	1964–68	1969–Aug. 5, 1972
C. Other allied forces (South Korea, Australia, New Zealand, Philippines, Nationalist China, Spain, and Thailand):		
Combat deaths	2,682	2,452
Wounded in action	6,045	[7] 5,624
	1966–68	1969–June 1972
C. Other allied forces (South Korea, Australia, New Zealand, Philippines, Nationalist China, Spain, and Thailand):		
Missing	27	27
	1961–68	1969–Aug. 5, 1972
D. Enemy forces (North Vietnamese and Vietcong):		
Combat deaths	430,864	441,955
Wounded in action	[8]	[8]
Missing	[8]	[8]

[1] Killed in action, died of wounds in combat, and died while missing in action or captured.
[2] Died of illness, homicide, accident, aircraft accident, and other noncombat causes.
[3] Both hospitalized and nonhospitalized cases. Somewhat fewer than half of those wounded in action required hospitalization.
[4] Both "missing in action" and "missing not as a result of hostile action." Of the 1,245 listed as missing as of Aug. 5, 1972, 124 were in the latter category.
[5] Only those seriously wounded and hospitalized.
[6] Through May 1972.
[7] Through May 1972.
[8] No reliable estimates.

Source: DOD Public Affairs Office.

U.S. MILITARY PERSONNEL MISSING IN ACTION/PRISONERS OF WAR

	Missing [1]	POW's
1964	4	3
1965	54	74
1966	201	97
1967	226	179
1968	294	95
1969	176	13
1970	86	12
1971	79	11
1972 [2]	125	40

[1] Both "missing in action" and "missing not as a result of hostile action."
[2] Through Aug. 5, 1972.

Source: DOD Public Affairs Office.

U.S. troop strengths in Southeast Asia

[Estimates as of Aug. 15, 1972]

South Vietnam	42,000
Offshore/Vietnam	39,000
Thailand	45,000
Laos (Jan. 1972)	1,200–1,300
Cambodia (Jan. 1972) U.S. Govt. personnel	less than 100
Okinawa	40,000
Guam	10,000
Taiwan	9,000
Philippines	18,000

For troop strengths at various times during the 1961–68 and 1969–71 periods, the most reliable and complete source is Charles H. Murphy. U.S. Military Personnel Strengths by Country of Location Since World War II, 1948–71. (CRS Multilith No. 72–59F) Washington, Library of Congress, Congressional Research Service, Feb. 29, 1972.

Total U.S. military personnel serving in Vietnam since December 1965: Approximately 2.5 million. (These figures are not available by specific time periods.)

Source: DOD Public Affairs Office.

Estimated number of refugees generated by the war

Prior to January 1969:

Vietnam: 3–3½ million.

Cambodia: Few, if any.

Since January 1969:

Vietnam: 2–2½ million.[1]

Cambodia 1–2 million.[2]

Laos: 700,000–800,000 (cannot be broken down into time periods.[3]

[1] Information obtained by phone from Dr. J. U. Hoeber, Agency for International Development.

[2] There is no reliable information on Cambodian refugees. A report by the General Accounting Office in early 1972 indicated that more than two million people in Cambodia had been displaced by the war, but that figure is considered by many to be high. U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Problems Connected with Refugees and Escapees. War Victims in Indochina. 92d Cong. 2d sess., 1972: 84.

[3] U.S. Congress. Senate. Committee on Foreign Relations. Impact of the Vietnam War. 92d Cong., 1st sess. Committee print, U.S. Govt. Print. Off. 1971. 36 p.

AIR-DELIVERED MUNITIONS IN INDOCHINA [1]

Year	Tons	Year	Tons
1966	496, 319	1969	1, 387, 259
1967	932, 119	1970	977, 436
1968	1, 437, 370	1971	763, 160
		1972 [2]	504, 879
Total	2, 865, 808	Total	3, 632, 734
Total for 1966–72 (January–June)			6, 498, 542

[1] Data are not broken out separately for South Vietnam, North Vietnam, Laos, and Cambodia.

[2] January through June 1972.

Source: DOD Public Affairs Office.

CIVILIAN CASUALTIES IN SOUTHEAST ASIA

	Prior to January 1969	Since January 1969
South Vietnam	725, 000	[1] 525, 000
Cambodia	Few	[2] 1, 500
Laos	8, 158	[3] 10, 653

[1] Senate Subcommittee to Investigate Problems Connected with Refugees and Escapees, as reported in The Washington Post, June 16, 1972. State Department figures confirm only 133,226 civilian casualties hospitalized in South Vietnam in 1967–68, and 187,583 in 1969–72.

[2] 1,500 casualties were reported by the Washington Star on May 26, 1971. Other reports only indicate that casualties have been in the thousands. The State Department can provide no official figures.

[3] Information obtained by phone from Office of Laos and Thailand Affairs, Agency for International Development.

SORTIES IN SOUTH VIETNAM

	Fixed Wing	Helicopters
1965	7, 258	37, 651
1966	170, 780	2, 994, 537
1967	226, 156	5, 517, 625
1968	281, 686	7, 419, 149
Total—16,654,842	685, 880	15, 968, 962
1969	257, 209	8. 441. 509
1970	131, 464	7, 563, 826
1971	39, 457	4, 213, 835
1972 [1]	54, 787	698, 420
Total—21,400,507	482, 917	20, 917, 590

[1] January through June 1972.

Note: Sorties in North Vietnam are available on a daily basis but are not tabulated on a monthly and yearly basis. A compilation would require a time-consuming study.

Source: DOD, OASD (Comptroller), Directorate for Information Operations. Statistics no Southeast Asia, table 6, 1966–7.2

FINANCIAL COST OF THE WAR

(All figures are in millions of dollars, except interest rate; by fiscal year)

	Total involvement costs [1]	Federal funds deficit [2]	Estimated deficit attributable to involvement in Vietnam [3]	Average annual interest rate on public debt (percent)	Estimated interest on debt attributable to involvement in Vietnam
1965	615	3, 864	615	0. 03678	23
1966	6, 631	5, 085	5, 085	. 03988	204
1967	18, 968	14, 944	14, 944	. 04039	611
1968	20, 537	28, 379	20, 537	. 04499	951
1969	21, 917	5, 490	5, 490	. 04891	315
1970	17, 877	13, 143	13, 143	0. 05557	748
1971	12, 076	29, 866	12, 076	. 05141	659
1972	[4] 7, 805	28, 933	[4] 7, 805	[5] . 05093	431
Total	106, 423	119, 704	79, 695		3, 942

[1] Includes funds for Economic Development, Food for Peace, Military Assistance and Incremental War Costs.

[2] The change in the national debt is closely associated with the surplus or deficit in the Federal funds budget which excludes trust funds.

[3] For years when involvement costs were less than the Federal funds deficit; the estimated deficit attributable to involvement in Vietnam equals involvement costs. For years when involvement costs exceeded Federal funds deficit; the estimated deficit attributable to involvement costs would be the same as the Federal funds deficit.

[4] Estimate.

[5] Figure is for June 1972; annual average not available at this time.

Sources: DOD, OASD (comptroller), July 18, 1971, Budget of the United States, various years U.S. Department of Treasury, Annual Report of the Secretary of the Treasury, fiscal year 1971 and the Treasury Bulletin, June 1972.

FUNDING OF U.S. PROGRAMS IN SUPPORT OF SOUTH VIETNAM, FISCAL YEAR 1953–72

Fiscal year	Economic assistance	Food for peace	Military assistance	Incremental war costs	Total
1953–61	$1, 469, 900, 000	$78, 300, 000	$508, 800, 000		$2, 057, 000, 000
1962	124, 100, 000	31, 900, 000	204, 200, 000		360, 200, 000
1963	143, 300, 000	52, 600, 000	258, 400, 000		454, 300, 000
1964	165, 700, 000	56, 700, 000	181, 800, 000		404, 200, 000
1965	225, 000, 000	51, 700, 000	234, 900, 000	$103, 000, 000	614, 600, 000
1966	593, 500, 000	143, 000, 000	94, 300, 000	5, 800, 000, 000	6, 630, 800, 000
1967	494, 400, 000	73, 700, 000		18, 400, 000, 000	18, 968, 100, 000
1968	$398, 200, 000	138, 500, 000		20, 000, 000, 000	20, 536, 700, 000
1969	314, 200, 000	$99, 300, 000		$21, 500, 000, 000	$21, 913, 500, 000
1970	365, 900, 000	110, 800, 000		17, 400, 000, 000	17, 876, 700, 000
1971	387, 700, 000	188, 000, 000		11, 500, 000, 000	12, 075, 700, 000
1972 [1]	385, 000, 000	120, 420, 000		7, 300, 000, 000	7, 805, 420, 000
Total	5, 066, 900, 000	1, 144, 920, 000	$1, 482, 400, 000	102, 003, 000, 000	109, 697, 220, 000

[1] Estimate.

IMPACT OF INFLATION SINCE 1969 *

Since January, 1969 (to June, 1972) the consumer price index has risen 17.2 percent. (Bureau of Labor Statistics)

DECREASE IN REAL WAGES SINCE 1969 *

Average gross weekly earnings in 1967 dollars for January, 1969 were $118.13. For June, 1972 (preliminary figure), average gross weekly earnings in 1967 dollars were $108.31, a decrease of $9.82 (Bureau of Labor Statistics.) **

*The trends reflected in figures above are due in part to the Vietnam War. The precise percentage is problematical.

**Bureau of Labor Statistics now uses 1967 dollars in all computations requiring constant dollars.

UNIT COSTS OF MAJOR WEAPONS AND MUNITIONS

B–52D—$6.5 million.

F–105D—$2.1 million.

F–4E—$2.8 million.

A–7—$3.48 million.

UH–1H medium helicopter—$315,000.

Artillery rounds (point detonating fuse):

105 mm howitzer—$25.79.

155 mm howitzer—$54.67 (white bag, charges 5–7).

8-inch howitzer—$94.54 (white bag, charges 5–7).

Anti-tank mine, M–15 (heavy)—$19.00 (estimated). Last buy 1953.

2.75-inch rocket, heavy warhead—$45.34 (FY 70 money).

NOTE.—All figures in FY 72 dollars except as noted.

SOURCE.—DOD Public Affairs for aircraft figures, Office of the Chief of Staff Army for the remainder.

ESTIMATED DAILY COST OF THE WAR

A frequent inquiry from Members of Congress concerning Vietnam involves the daily cost of the war. A rough estimation of the average daily cost of the Vietnam War can be made by dividing the incremental war costs for the fiscal year by the 365 days in the calendar year. Applying this formula to the estimated incremental war costs of $7.3 billion for fiscal year 1972 indicates a daily incremental cost of $20 million. Applying the same formula to the $21.5 billion spent in incremental war costs during fiscal year 1969 reveals that the war was then costing almost $59 million a day. During FY 1970

the daily cost was about $47 million and during FY 1971 about $31 million. In June 1972, the Defense Department estimated that the Defense budget for FY 1973 would have to be increased by $3.3 billion if the North Vietnamese offensive continued at its then current level through September 1972 and by an extra $5 billion if such conditions continued until the end of the year. These estimates reflected the costs of increased bombing and artillery support of the South Vietnamese forces, increased logistical operations, and replacement of military equipment.[1] Based on the Defense Department's July 18, 1972, estimate of incremental war costs for fiscal year 1973 as $5.8 billion, the daily cost during FY 1973 would be just under $16 million, a figure equal to the daily war cost in FY 1966. This estimate allows for measures being taken to counter the invasion of South Vietnam by North Vietnamese forces, which began in April of this year.

COST PER B–52 AND FIGHTER-BOMBER MISSION

On the basis of currently available information, it is not possible to determine the cost of the air war in Vietnam during the present offensive. With regard to the earlier air operations over North Vietnam in the 1965–1968 period, however, there are official data on the average costs per sorties by B–52s and fighter-bombers engaged in Indochina. According to testimony before the Defense Subcommittee of the House Committee on Appropriations in 1969, the cost of an average B–52 sortie was then more than $41,000, of which $22,500 was the cost of the average munitions drop of 27 tons. In other official sources the cost of an average fighter-bomber sortie in the 1965–1968 period was given as more than $8,000.

Most of the cost estimates which have appeared in the press in recent months are based on these official figures as reported in "The Air War in Indochina," a widely-circulated report compiled by the Air War Study Group at Cornell University last year and reprinted in a revised edition by Beacon Press in March 1972. Although these estimates may be valid for the air operations of the 1965–68 period, they are not entirely appropriate to the current phase of the air war. Since the numbers and types of aircraft and munitions being currently employed over North Vietnam are significantly different, the costs of the present campaign cannot be accurately calculated by extrapolating from figures pertaining to the earlier period. For example, there are indications that the present campaign against North Vietnam is characterized by a much greater reliance on fighter-bomber aircraft than on B–52s. Moreover, to the extent that the more accurate "smart" bombs are being used today, fewer planes and munitions are required, although the bombs themselves are much more expensive.

With regard to the current phase of the air war, only fragmentary cost data have been made public by the Defense Department. The Pentagon's Public Affairs Office has disclosed (1) that the average hourly operating cost of a B–52 is $1,300 while the average operating cost of an F–4 fighter-bomber is $800 per hour, and (2) that a sortie flown to Vietnam from Guam averages 13 hours, a sortie from Thailand takes about 4 hours, and missions out of Danang and from offshore carriers take an hour or less.

According to authoritative sources, the costs of the various types of "smart" bombs being used in Vietnam at present are as follows: (1) $3,324 for a laser-guided 500-lb bomb, (2) $4,900 for a laser-guided 3,000-lb bomb; and (3) $16,800 for a television-guided 3,000-lb bomb.[2] However, since the numbers and types of aircraft operating out of various bases have not been disclosed and there is no detailed information on the types and quantities of munitions delivered, it is not possible to derive cost estimates from these data comparable to those available for the earlier period.[3]

COST OF REHABILITATING DRUG ADDICTS FROM THE VIETNAM WAR

1. General. Hard facts on this subject are scarce. A cohesive cost estimate therefore is not feasible. The following data may be of use.

2. Number of users. a. The Assistant Secretary of Defense advises that urinalysis tests are available only from mid-November 1971 through July 31, 1972. 436,540 tests were administered to men coming home from Vietnam, going on R & R or leave, being transferred, being treated under exemption programs and so on. The number of drug users (not necessarily addicts) identified was 14,283, or 3.3 percent. How many were returned to duty as "cured" and how many were discharged with varying degrees of dependency on drugs is not known.

b. Dr. Marc J. Musser, Chief Medical Director for the Veterans' Administration, estimates that some 50,000 to 75,000 veterans are drug addicted. This includes all veterans, not only Vietnam veterans.

c. According to Senator Alan Cranston (California), Chairman of the Senate Veterans' Affairs Subcommittee on Health and Hospitals, there are currently 100,000 or more addicted Vietnam veterans. Senator Cranston reported that only 5,600 of these veterans are currently undergoing treatment by the Veterans' Administration. (*Washington Post*, June 17, 1972)

3. Cost of treatment.

a. The cost of treating these addicted veterans depends, of course, on the kind of treatment program and the amount of time needed to achieve rehabilitation for each addict. In a report to the Ford Foundation, "Dealing With Drug Abuse," released this year, the following estimates are given for the cost of various types of treatment programs:

(1) Civil commitment programs—cost estimates are $10,000 to $12,000 per year per addict while the addict is in the institution.

(2) Therapeutic communities—costs range anywhere from $3,000 to $10,000 per year per resident.

(3) Methadone maintenance—the cost of the program is roughly between $500 and $2,500 per patient per year, dependent on a number of factors. Methadone itself can be procured for about $.05 per day per addict, but there are a great many variations which account for the wide cost estimate. At present, $500 per addict per year is about the minimum for a program that uses standardized dosages, out-patient induction, fairly cheap urinalysis, and no services except those supplied by the addicts themselves. A reasonable estimate for a program with individual doses, some inpatient ancillary services (such as group and individual therapy, job training and placement, family counseling, medical care and education) is $2,000. The cost for each patient who has finished the induction stage and is stabilized in the program is about $1,000 per year.

(4) a. Antagonists—the two basic antagonists currently in use for treatment of heroin addicts are cyclazocine and naloxone. So far, the costs have been high—$3,000 to $5,000 per addict per year—partly because of the need for inpatient care common to experimental programs and partly because of the scarcity and high prices of the drugs.

b. The Veterans' Administration fiscal 1972 budget for drug programs was $17.5 million. Since January of 1971, it has opened 32 clinics to treat drug addicted veterans. Another twelve clinics, costing an additional $10 million, are scheduled to open during this fiscal year.

c. During consideration of H.R. 12846, a bill to authorize treatment programs for drug-dependent servicemen, the House Armed Services Committee estimated that the costs for the drug programs would be about $67.4 million in fiscal 1972 and $90.5 million in fiscal 1973, with costs after that leveling off.

d. Two private laboratories have been awarded contracts worth more than $1 million for screening out GI drug users through urinalysis testing. These firms have already been paid over $1.6 million since the screening program began. (Washington Post, June 26, 1972)

4. Cost of crime. According to the Bureau of Narcotics and Dangerous Drugs, heroin users in Vietnam can support their habits for as little as $2 to $6 per day. Here in the United States, drugs are harder to get, considerably less potent, and far more expensive. BNDD estimates that the average heroin habit costs $30 per day in the United States. Few addicts, including veterans, have the means to pay for such an expensive habit, and many, therefore, stand a good chance of turning to crime, thus adding to the ever-rising crime rate here at home. According to a report of the House Select Committee on Crime, "Heroin and Heroin Paraphernalia," addicts who turn to crime must steal either cash or goods, and when they steal goods, they must steal goods worth five times the cost of their habit. According to the report of a special study mission of the House Foreign Affairs Committee ("The World Heroin Problem"), the current cost of crime committed by addicts to sustain their habits could be in excess of $8 billion per year. Some experts calculate that the actual social costs of addiction—the costs of crime and punishment and attempted rehabilitation—already surpass $25 billion a year.

5. Spread of addiction.

1. Director John Ingersoll of the Bureau of Narcotics and Dangerous Drugs has stated that the problems of heroin addiction are being spread to small cities and towns throughout the United States by returning Vietnam servicemen. (Washington Star, April 5, 1971)

2. Dr. Judianne Densen-Gerber, Executive Director of Odyssey House in New York City, has called heroin addiction a "communicable disease," which, she says, through a "natural ripple effect" will cause 75,000 new addicts from Vietnam to produce an additional 250,000 to 750,000 new addicts in the United States within a year. (New York Times, June 27, 1971)

PROJECTED COSTS OF VETERANS' BENEFITS FOR VIETNAM ERA

1. The Veterans' Administration has no estimate of projected costs for benefits authorized military personnel who served in the United States armed forces between 1961 and 1971, nor are its analysts willing to undertake any such project.

2. There are two reasons, primarily:

a. Costs constantly fluctuate.

b. There is no way to anticipate accurately how many Vietnam veterans will elect to take advantage of authorized benefits. Experience factors from earlier wars are unapplicable.

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[1] Washington Post June 6, 1972. pp. A1, A10.

[2] Aviation Week and Space Technology. May 22, 1972, pp. 16–17.

[3] According to a committee print issued on June 29, 1972, by the Senate Foreign Relations Committee, a total of 7,662 B–52 sorties had been flown in 1972 through May 27—4,833 in South Vietnam, 2,047 in Laos, 649 in Cambodia, and 83 in North Vietnam (all during April 1972). U.S. Senate. Committee on Foreign Relations. Vietnam: May 1972; A Staff Report Prepared for the Use of the Committee on Foreign Relations of the United States Senate, June 29, 1972. Washington, U.S. Govt. Print. Off., 1972, p. 12.

3. The following data may be of some use, but great care should be taken in applying these costs against raw strength figures reflecting total numbers of military personnel who served during the Vietnam Era.

a. Medical care: The average monthly cost of care in a VA hospital is $1323.70. A Vietnam Era veteran has an average hospital stay of 13.5 days.

b. Educational assistance: 5.885 million veterans of the Vietnam Era are eligible for educational assistance as of April 1972. Forty percent have already entered draining at a cost of $15.3 billion. The average yearly cost per trainee (as of April 1972) is $1,015. The average length of training is 6 months. The Senate passed educational amendments to the GI Bill, which would have a five year cost of $3.812 billion in direct benefits, not counting administration.

c. Compensation: The average monthly compensation payment to each Vietnam veteran is $122.50. As of June 1971, 244,567 veterans of the Vietnam Era were receiving compensation. Compensation was also being paid to 39,972 survivors of Vietnam veterans. The average payment monthly for survivors is $191.06.

d. Pension: Only 2,298 veterans of the Vietnam Era currently are collecting pension benefits. The average monthly payment is $128.28. However, 5,556 survivors also collect pensions with a monthly payment of $70.16.

NOTE.—Those who served after 1964 receive greater benefits than those served earlier; that fact further complicates estimation problems.

SOURCE.—Veterans' Administration.

Mr. FULBRIGHT. Mr. President, I am ready to yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, first, I ask unanimous consent that the following staff members be permitted to be present on the Senate floor during the consideration of the interim agreement and during votes relating thereto: Richard Perle, Dorothy Fosdick, and William Van Ness.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I would just like to make some very brief remarks at this time. I shall speak later, in more detail.

First, let me say that from the beginning I have urged early and expeditious action on both the ABM treaty and the interim agreement. I suggested the unanimous-consent agreement on the ABM treaty which was agreed to. I suggested a unanimous-consent agreement—in fact several of them, a long list—in connection with the pending interim agreement, and the various suggestions were not agreed to. Without going into all the details, let me simply say for the record that yesterday I did agree on three different occasions to a unanimous-consent agreement that would be limited only to my amendment and amendments thereto, but that was objected to.

From the outset, I made it clear that I would support cloture and that I would sign a motion for cloture in order to expedite the action of the Senate. I will say that I have signed the cloture motion, and I strongly support it, so that the Senate can work its will. I commend the distinguished majority leader and the distinguished minority leader for taking this action in the form of a cloture motion—an action of last resort—in order to dispose of the very important matter pending before the Senate.

Mr. President, I want to get at the heart of the amendment that I have offered. I think we all understand what we mean by equality of intercontinental strategic forces. I am referring, of course, to landbased ICBM's, seabased ballistic missiles, and intercontinental bombers.

Some are attempting to argue that I am advocating an expedition of the arms race. I would point out that under my amendment, with its 44 cosponsors, the Soviets could stop building modern nuclear submarines. The Soviets could halt their program at 41 boats, which would be a number equal to ours. They could dismantle a portion of their ICBM's, which now number 1,618 to our 1,054. We are in the process of dismantling our ABM site in Montana.

Our amendment offers a golden opportunity, Mr. President, for a U.S.-U.S.S.R. agreement by which we can reduce forces. This is what we mean by emphasizing equality in intercontinental strategic forces.

The interim agreement is not at issue in these discussions. The issue, Mr. President, is what our future policy will be, and what advice the Senate of the United States will give to the President and the executive branch of the Government in connection with the SALT II talks regarding the limitation of strategic arms.

I say that this amendment does give us an opportunity, a golden opportunity, to begin a process of reduction in strategic arms. This is the way we could save money on both sides.

We are talking about entirely different things when we talk about my amendment and when we talk about the interim agreement. The interim agreement is an effort to freeze both sides where they happened to be—or might be expected to be—at a given moment in time.

I know of no spokesman for the administration who has responsibility in this area of strategic arms, and who will be involved one way or another in the follow-on SALT talks, who is supporting the view that the disparities in numbers agreed to in the interim agreement are acceptable as a basis for a final treaty.

When one talks about the great expenditures, which I want to see cut back, one should also talk about the enormous expenditures of the Soviet Union which are involved in an unbelievable buildup of intercontinental strategic forces—far in excess, Mr. President, of anything that we have attempted. In fact, the United States has not moved on adding numbers of land-based missiles or submarines to our forces since 1965. So I want to zero in on the heart of the issue, which is the issue of equality in intercontinental strategic forces which all Americans understand.

The AFL–CIO Executive Council met in Chicago on August 28 of this year, and adopted a statement in support of the Jackson-Scott amendment, which speaks for itself. Let me just quote a part of it:

The Moscow agreements limit defensive weapons by a permanent treaty and offensive strategic weapons by a five-year interim agreement. But while the treaty on defensive weapons is based on the principle of U.S.-Soviet equality (with each country having the same number of weapons and equal size limitations), the interim agreement on offensive weapons departs from this principle. We are concerned that the significant Soviet advantage—in numbers of strategic offensive launchers and their size—granted in the interim agreement for five years not become the basis for a follow-on treaty.

Under the terms of the interim agreement the Soviet Union is permitted 1,618 land-based ICBM's to 1,054 for the United States. At sea, the Soviets are permitted to build up to 62 modern nuclear submarines while the United States is frozen at 44. Moreover, the combined payload capability of the Soviet strategic offensive missile forces is four times that of the U.S. force. If these disparities were made the basis for a follow-on treaty in this period of rapidly developing technology, the United States would be placed in a position of strategic inferiority.

American labor is firmly opposed to a treaty on offensive weapons that would limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

That is the nub of the AFL–CIO statement endorsing the Jackson-Scott amendment. I ask unanimous consent that the entire statement be printed in the RECORD at this point.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON JACKSON-SCOTT AMENDMENT TO SALT AGREEMENT

The AFL–CIO Executive Council meeting in May called for a strategic arms agreement that would ". . . place simultaneously inviolable limits on the number, size and variety of both offensive and defensive strategic weapons."

The Moscow agreements limit defensive weapons by a permanent treaty and offensive strategic weapons by a five-year interim agreement. But while the treaty on defensive weapons is based on the principle of U.S.-Soviet equality (with each country having the same number of weapons and equal size limitations), the interim agreement on offensive weapons departs from this principle. We are concerned that the significant Soviet advantage—in numbers of strategic offensive launchers and their size—granted in the interim agreement for five years not become the basis for a follow-on treaty.

Under the terms of the interim agreement the Soviet Union is permitted 1,618 land-based ICBM's to 1,054 for the United States. At sea, the Soviets are permitted to build up to 62 modern nuclear submarines while the United States is frozen at 44. Moreover, the combined payload capability of the Soviet strategic offensive missile forces is four times that of the U.S. force. If these disparities were made the basis for a follow-on treaty in this period of rapidly developing technology, the United States would be placed in a position of strategic inferiority.

American labor is firmly opposed to a treaty on offensive weapons that would limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union.

The AFL–CIO supports the amendment offered, on a bipartisan basis, by Senators Jackson and Scott, to the resolution approving the interim agreement. The Jackson-Scott amendment serves notice that if the threat to the survivability of U.S. strategic forces is not limited by a follow-on agreement within five years, U.S. supreme national interests could be jeopardized.

The amendment calls upon the President to seek numerical equality in intercontinental weapons, in such a future treaty. We would hope the Soviets could be persuaded to reduce their forces to U.S. levels. The Jackson-Scott amendment also calls for vigorous research, development and force modernization.

By calling for an equal balance in intercontinental weapons the Jackson-Scott amendment seeks to protect those U.S. weapons based in Europe and dedicated to the defense of our democratic NATO allies from being compromised in the continuing SALT II negotiations. Soviet insistence on "compensation" in intercontinental strategic weapons for U.S. tactical forces in Europe under our alliance obligations is a device to divide and weaken the NATO alliance.

We must not submit to this Soviet demand. We believe that negotiations to achieve a European nuclear balance must take place in a manner that permits the full participation of our allies. These negotiations should deal with Soviet as well as comparable allied weapons.

We make these proposals in the interest of the security of our country. As we declared at our Ninth Constitutional Convention:

". . . our existence in freedom and as a free trade union movement depends on the strength and the determination of the American people to safeguard their national survival, protect their free way of life, and assure the maintenance of world peace. These vital aims and interests of our country's foreign policy are beyond bargaining or compromise."

Mr. JACKSON. Mr. President, there has been a lot of editorial comment relating to the SALT accords. It is rather interesting that the Russians, through their literary spokesmen, have made all sorts of comments against my amendment. It is rather unusual, is it not, that we are getting advice from the Soviet Union on amendments pending before the Senate? In fact, Soviet journalists and representatives have been rather active in this community, indicating their views of Senate amendments, which is a rather unusual precedent, I must say, for a country that does not permit any opportunity at all for our journalists or our representatives to visit the Supreme Soviet or meet with the Presidium or the Politburo.

Mr. President, I want to refer to and ask unanimous consent to have printed at this point in the RECORD a number of editorials that I think are representative of views around this country.

One is an editorial published in the Wall Street Journal of August 7, entitled "A Grain of SALT"; another is an editorial published in the Jacksonville, Fla., Times-Union of August 9, 1972, entitled "SALT: The Letter and the Spirit"; one is a commentary published in the Atlanta Journal of August 9, 1972, entitled "Limiting Missiles"; another is an editorial in the St. Louis Globe-Democrat of August 9, 1972, entitled "Intelligently Peppering SALT"; another is an editorial in the Seattle, Wash., Times of August 9, 1972, entitled "Arms-Pact Safeguard"; and so forth.

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

[From the Wall Street Journal, Aug. 7, 1972]

A GRAIN OF SALT

Thanks to the flare-up over the Strategic Arms agreement in the Senate last week, we apparently will after all have a debate commensurate with the seriousness of the steps being taken. In the end the agreements will be approved, but by then both the Senate and the nation ought to have a better understanding of what they are doing.

Just when the agreements appeared to be headed for rubber-stamp approval, Senator Jackson and Senator Scott proposed to attach a statement of congressional intent setting forth certain limiting principles. The Senate approved the treaty part of the agreements limiting antiballistic missile systems, but postponed action on the separate "interim agreement" on offensive weapons pending further consideration of the Jackson-Scott resolution.

The Jackson-Scott proposals would not be reservations changing the text of the treaty or agreements, but would put Congress on record on three points: That the United States is committed to the principle of numerical equality in the follow-on treaties the U.S. and Soviets have pledged to negotiate. That a strong research and development program is needed to strengthen the American position in these negotiations. And that if the Soviets deploy weapons that threaten to wipe out a major part of our deterrent forces, it would jeopardize our "supreme national interests" and, presumably, be grounds for abrogating the agreements.

These points neatly stress the seriousness of the potential strategic and political problems with the interim agreements. The United States has agreed to give the Soviets a 3–2 superiority in missile numbers, and their missiles are also much larger. For the moment we can more than offset these Soviet advantages because our lead in multiple warhead technology gives us more deliverable warheads. But the agreements preclude our matching the Soviet advantages in numbers or size. The agreements do not preclude the Soviets' matching or overtaking our lead in multiple warheads.

Deeply serious strategic problems could arise if the Soviets deployed multiple warheads large enough and accurate enough to attack our Minuteman missiles. For with their advantages in launcher numbers and size they could theoretically develop the capacity to destroy nearly all our landbased missiles, most of our bombers and at least a few of our missile submarines, all the while retaining enough missiles to wipe out American cities if we dared to retaliate with our remaining forces. One does not have to think the Russians are madmen lusting to push the button to see that this would be a portentous change in the nuclear balance.

Even if this worst possibility does not develop, there are serious political problems in an agreement giving the Soviets a numercial lead. It is one thing to argue, as the administration has, that we have no programs that could prevent them from gaining a lead in this particular time period. It is quite another thing to formalize this inequality and seem to give it a stamp of approval. If the world gets the idea that the United States is willing to accept an inferior position, political balances will tip in favor of the Soviet Union in any world trouble-spot.

Thus the agreements carry decided risks for the United States unless a satisfactory follow-on agreement is reached in SALT II. The administration recognized these risks when it declared during the negotiations that failure to reach further limitations would jeopardize supreme national interests and provide grounds for abrogating the otherwise permanent treaty when the interim agreements expire. Thus it is not surprising, except apparently to Senator Fulbright and other Senate doves, that the administration does not oppose the Jackson-Scott initiatives.

The risks will have been more than worth taking if SALT II does produce a comprehensive agreement reducing the level of strategic arms and, even more importantly, laying the basis for Soviet-American political understandings that would enhance the security of both sides. But while taking a calculated gamble on that outcome, we ought to remember that history warns that such hopes prove illusory more often than not.

Frankly, we doubt that the odds in this gamble justify as high a level of risk as the American negotiators have been willing to accept in these agreements. But at this point we cannot start over to seek a better agreement; it is too late in the game to turn back on the gamble. But at least the Senate can make it clear that it understands the risks, that while it is willing to take these agreements it takes them with a grain of salt.

[From the Jacksonville, Fla., Times Union, Aug. 9, 1972]

SALT: THE LETTER AND THE SPIRIT

It is difficult to see why the so-called "Jackson reservations" on the SALT pact—as the modified version now stands after conference with the White House—could arouse the opposition even of highly arousable J. W. Fulbright and his Senate Foreign Relations Committee.

For all the Jackson wording specifies, in effect, is simply that the spirit of the agreement, as well as the letter, is to be honored by the Soviet Union, as well as the U.S., during the five years of the interim agreement on offensive weapons.

In fact, according to United Press International reports from Washington, no serious objections have been raised by Soviet representatives when the matter was discussed with them by U.S. officials.

The exact wording of the (revised) Jackson amendment should be examined. The key phrase is "were the survivability of the strategic deterrent forces of the United States to be threatened . . . . this could jeopardize the supreme national interests of the United States" and hence would be cause for voiding the agreement.

This only means that if the Soviet Union were to uphold the letter of the agreement, yet work within this limitation to reach a "first strike" capacity, in utter contrast to the "balance" which is the key to the spirit of the treaty, then the U.S. would no longer be bound.

As a point of fact, there already is a similar "escape clause" in the agreement as originally drawn; the agreement could be abrogated at any time that new Soviet developments actually endanger U.S. security.

The only difference in the Jackson reservation and what's already "on paper" is that Sen. Jackson spells it out unmistakably, brings it into the open. The U.S.S.R. is simply told in no uncertain terms: This is an agreement for balance, not to be a "cover" for any Soviet effort to honor the letter, but not the spirit, of the treaty.

Such a reservation makes no change in the basic agreement. The White House deputy press secretary, Gerald Warren, stated in no uncertain terms that the spelled-out notice was entirely "consistent with our understanding in Moscow."

But, while such a reservation does not change, but only makes more specific the "parity" concept of the agreement, there is a very pragmatic reason for its point of emphasis.

The "balance" of the interim SALT agreement, which covers the next five years until a more permanent pact can be worked out, basically leaves the Soviet Union more missiles in almost every category, while the U.S. has more warheads due to its technological capability (which the Russians don't yet have) of clustering several independently targetable warheads in a single nose cone.

Doubtlessly, during the covered period, the U.S.S.R. will develop its own version of multiple warheads. No harm, as such. But if it were to employ this on all its missiles, it would have a sweeping superiority which was never intended by either the good faith agreement or spelled-out terms of the SALT pact.

Since "balance" is based on one side having more missiles and the other side having more warheads, any basic change in this condition—such as the mass use of multiple warheads on Soviet missiles—would obviously upset the balance.

What objection can be raised simply to stating, in plainer English, that the spirit as well as the letter of the treaty is to be observed?

[From the Atlanta Journal, Aug. 9, 1972]

LIMITING MISSILES

(By John Crown)

No rational person wants to see the United States and the Soviet Union embroiled in a military conflagration and no rational person wants a never-ending arms race between the two nations.

Thus it was that President Nixon's summit agreements in Moscow drew a sigh of relief from a great many people. And thus it was that Senate ratification last week of the limitation on defensive missiles brought on another sigh of relief.

But those sighs of relief have been far from unanimous. There is a sizable segment of the citizenry who view with grave doubts the agreements on arms limitations.

A realistic view of Russia's record of adhering (or of not adhering) to past treaties has been one cause for concern.

But the principal fear is that we have been outmaneuvered within the treaty provisions. This has been the one voiced the most often.

And it was to redress this to some degree that Sen. Henry M. "Scoop" Jackson, D-Wash., has initiated an additional provision in a treaty resolution, one that is expected to lead to heated controversy on the Senate floor.

How anyone could in good conscience take exception to Sen. Jackson's prudent provision defies all reason. And underscoring the noncontroversial aspect of the provision is that President Nixon, the man who came up with the original resolution, has endorsed the inclusion of Sen. Jackson's provision.

What we had last week was Senate ratification of a treaty between the United States and the Soviet Union limiting defensive missiles. This is well and good.

But limiting only defensive missiles without similar limitations on offensive missiles is ludicrous. To only limit defensive missiles and to permit the unrestricted and unrestrained development and deployment of offensive missiles serves no useful purpose at all.

The other way around would make more sense—limiting offensive missiles and placing no restrictions on defensive missiles.

So all we have done thus far is agree to limit defensive missiles.

In order to balance the thing out, before the Congress is a resolution dealing with limitations on offensive missiles. There is nothing permanent about this. It is of temporary nature only.

President Nixon worked out with the Russian leaders a temporary agreement which would limit offensive missiles while the two superpowers seek to arrive at a permanent arrangement. The temporary agreement is for a maximum of five years.

This is where Sen. Jackson's prudent provision enters the picture.

He proposes that should the temporary agreement run its course without the two nations establishing a permanent limitation on offensive missiles, that this would be grounds for abrogating the limitations on defensive missiles.

This is rational and logical and pragmatic.

It would be the height of folly for us—or them—to be bound by defensive missile limitations when there is no prospect of similar limitations on offensive missiles. The two go together, which is why President Nixon successfully sought the temporary agreement to accompany the permanent agreement on defensive missiles.

To limit defensive missiles and leave offensive missiles to chance is to invite a first strike.

But there are members of the Senate who fear that adding the provision would endanger the agreement. They fear Soviet capriciousness, that the Russians would seize on this as grounds for spurning what has been accomplished.

The Senate has more than its share of the fainthearted who think the way to deal with Communists is to crawl and beg.

Disregard the fact that the Russians have been sounded out and have no objection to Sen. Jackson's addition—which is the case.

Even if this were not true, Sen. Jackson's proposal makes sense. It is the prudent course for us to follow.

The key is a limitation on offensive missiles—or on none.

[From the St. Louis Globe-Democrat, Aug. 9, 1972]

INTELLIGENTLY PEPPERING SALT

Now that the euphoria over the United States-Soviet nuclear arms limitation agreements has subsided, it is time to take a careful second look at the proposed "interim agreement" on offensive weapons.

There was virtual unanimity on the first pact limiting defensive missile systems (antiballistic missiles). Only two opposition votes were cast.

But the interim agreement is a decidedly different matter. As proposed, it will give the Soviet Union a 3-2 superiority over the United States in offensive nuclear missiles during the time both sides try to negotiate limitations on these weapons during the next five years.

Sen. Henry M. Jackson of Washington now is wisely acting to amend the interim agreement so that it will include adequate safeguards against any Russian attempt to use the negotiating period to put the United States at a further disadvantage.

Senator Jackson points out that under the interim agreement the United States would not be adequately protected if the Russians chose to test and deploy MIRVs (multiple independently targeted warheads) on their very large 313 ICMs.

If they chose to press this advantage, our less numerous and less powerful land-based ICBM force could be threatened with total annihilation.

There is the distinct possibility that the Russians could develop a "first strike" capability that could knock out nearly all of our land-based ICBMs, virtually all of our strategic bombers and perhaps most of our submarines—and still have enough missiles to destroy our cities if the United States does not take the necessary precautions to protect itself against this potential threat.

Jackson and other Senators thus have concluded that the Senate must insist on an amendment that will do two things:

Warn the Russians that the United States will not allow the Soviets to take actions that threaten the "survivability of the United States deterrent" or jeopardize our national interest while the negotiations are in progress.

Put the Congress on record as opposing any eventual SALT treaty "in which the United States is limited to levels of intercontinental strategic forces inferior to the level accorded the Soviet Union."

When one considers the inherent dangers of any interim agreement that failed to incorporate these two points, it becomes obvious that they must be included to protect the national security.

This country simply cannot rely exclusively on the word of Russian leaders that they will negotiate at SALT II in good faith.

There must be an iron-clad, fully spelled-out escape clause that will allow the United States to end the agreement at any time it finds the Russians have used the negotiating period to put this country at a serious disadvantage in strategic nuclear weapons.

Anything less would be foolish. Without this protection, the Russians could, if they chose, greatly accelerate their missile development and the United States, under the present wording of the treaty, could not abrogate the pact until five years had gone by.

The Russians also should be put on notice that any final arms limitation agreement on offensive weapons will not be acceptable unless it provides equal strength to both sides.

This is just good common sense. It would be extremely dangerous to this country and for world peace to agree to an arrangement that gave the Russians a permanent superiority in intercontinental ballistic missiles.

The Senate should ratify the interim agreement promptly, but only after it has added the indispensable amendment proposed by Senator Jackson.

This is the only way to fully protect the nation's security while the new offensive arms limitations talks are in progress.

[From the Seattle (Wash.) Times, Aug. 9 1972]

THE TIMES' OPINION AND COMMENT: ARMS-PACT SAFEGUARD

The administration now has reached a meeting of the minds with Senator Jackson who had assumed the difficult and potentially unrewarding role of raising sticky questions about the widely hailed Strategic Arms Limitation Agreement between the United States and the Soviet Union.

With the Nixon administration and Jackson on the same track, the way ought to be clear for prompt congressional approval of the agreement setting ceilings on the number of offensive strategic weapons each nation may have.

The interim pact is widely and properly hailed as the capstone of past efforts and the cornerstone of future progress toward ending the superpower arms race.

In the euphoria induced by President Nixon's trip to Moscow, the public has been little inclined to listen to reservations such as that expressed by Jackson that:

"Simply put, the agreement gives the Soviets more of everything; more light intercontinental ballistic missiles, more heavy missiles, more submarine-launched missiles, more submarines, more payload, even more missile-defense radars. In no area covered by the agreement is the United States permitted to maintain parity with the Soviet Union."

Of course, the reason the administration felt safe in agreeing to allow the Russians "more of everything" is existing United States technical superiority in strategic weapons. Put crudely, the Russians have more weapons; we have better ones.

"But I am persuaded after careful review of this argument," Jackson said, "that we are moving into a period of rapidly changing

technology in which the advantage we enjoy by virtue of our greater technical sophistication will be narrowed . . ."

Jackson noted that the treaty covering anti-ballistic-missile defense clearly established the principle of equal limits on both countries. His revised amendment calls for this principle of equality to be applied to offensive missiles, as well, in the next round of the arms-limitation talks.

This the administration has agreed to in return for Jackson's dropping a toughly worded provision that would have called for abrogation of the Moscow pact under certain circumstances.

Thus, the stage is set, not only for full congressional approval of the existing limitations on armaments, but for further progress on a basis less likely to permit either superpower undue advantage.

[From the Chicago Tribune, Aug. 9, 1972]

COMPROMISE ON ARMS LIMITATION

The White House has agreed to a modified compromise proposed by Sen. Henry M. Jackson of Washington attaching congressional understandings to the interim arms limitation agreement with the Soviet Union. The agreement, reached by President Nixon and Soviet leaders in Moscow last May, freezes the number of offensive nuclear missiles at present levels for five years.

It is to be followed, in theory, by a treaty. The Nixon administration assented to Sen. Jackson's view that any such treaty be based on the principle of equality of nuclear forces. The senator has been worried because, he says, the interim agreement has placed us in a position of sub-parity.

In response to White House endorsement of his principle, Sen Jackson dropped a provision in his earlier resolution which would have called for abrogation of the five-year interim agreement at any time evidence supported the belief that the Soviet Union was taking steps to jeopardize United States deterrent missile forces.

Sen. Jackson and the administration agreed that if no treaty limiting offensive weapons was achieved by 1977 this would justify abrogation of the complementary treaty signed in Moscow restricting defensive antiballistic missiles to 200. Half of these could be emplaced around the national capitals of the two countries and half around offensive missile launching sites.

The Jackson compromise has been cleared with Soviet officials in Washington, who expressed no objection to it. The White House interpretation is that it does not legally affect the interim agreement on offensive weapons because it adds no reservations requiring Soviet acceptance.

Sen. John Stennis, chairman of the Armed Services Committee, and Sen. George D. Aiken, ranking Republican on the Foreign Relations Committee, welcomed the understanding reached between Sen. Jackson and the White House. Sen. Stennis said the resolution made it clear that the United States was accepting "a position of sub-parity now in order to get a position of parity in any future agreement."

The Jackson resolution requires approval of both Senate and House and probably will encounter opposition from some of the more fervent antiwar members. Nevertheless, the accord between the senator and the administration sets prudent sights for future negotiations on arms control and helps clear the air pending final action on the Moscow agreement. The treaty limiting defensive missile has already been approved 88 to 2.

[From the Sarasota (Fla.) Herald Tribune, Aug. 9, 1972]

USEFUL JACKSON RESOLUTION

It is difficult to understand why there should be the expectation of a floor fight both in the Senate and the House over the Jackson resolution concerning the SALT "interim agreement" which accompanies the Soviet-American treaty to restrict missile defenses over the next five years.

The treaty, which already has Senate approval (all it needs except the President's signature) accepts a position of mutual nuclear deterrence. Those striving for nuclear peace in a dangerous world regard it as the most significant arms control measure yet.

The interim agreement, which needs both Senate and House approval, limits the number of offensive missiles each nation can deploy during the life of the treaty.

Sen. Henry M. Jackson (D-Wash.) and others have been worried that this limitation was unfair to the United States and that the Soviet Union might take advantage of it.

His original resolution included a warning to the Soviets not to take actions (such as improving the quality or accuracy of weapons) prejudicial to American interests.

The revised Jackson resolution deletes the warning, which Sen. George D. Aiken (R-Vt.), for one, considered insulting to the Soviets, and states only that if no further treaty limiting offensive weapons (SALT II) has been reached by 1977, the expiration date of the agreement, then the agreement may be abrogated by this country. In the meanwhile, our negotiators should seek full strategic equality.

This version now has won the blessing of the Nixon administration. It will not have the effect of a legalistic restriction on either the treaty or the interim agreement but will convey congressional caution in the entire realm of nuclear accords, specifically focused on the ones now being considered.

It has taken years (since 1963) to reach the point the United States and the Soviet Union now occupy. The world still is gravely threatened by nuclear war. Each of the big powers has the capacity to wipe out the other several times over. Every step back to sanity and stability must be cherished and encouraged.

Which is why threats of floor fights on Senator Jackson's resolution or the interim agreement itself are so hard to comprehend.

But Sen. John Sherman Cooper (R-Ky.), one potential opponent, thinks that appending any clarifying language at all to the agreement is to imply that the United States has made a bad bargain and apparently believes no further "tag ends" should be put in the same barrel—certainly none that imply the United States really should maintain nuclear superiority rather than parity, for then, he says, "there will be no end to the arms race."

Senator Cooper, a member of the Foreign Relations Committee, is unquestionably one of the Senate's brighter luminaries, but this time we must beg to disagree with him. As it stands now, the Jackson resolution implies a certain unease in the presence of a momentous accord—and it is an unease not restricted to Capitol Hill but widely shared throughout the country.

If putting it in words helps in any way to get the substantive agreement through, it is probably a wise move.

We don't think it will perversely spur the arms race, particularly since the Soviets themselves have been consulted on the revised Jackson language and have no objections.

The point of President Nixon's mission to Moscow and all the subsequent effort to get the treaty and the interim agreement OK'd has been to move "with all deliberate speed" away from global incineration before it is too late. Quibbling over side-effects at this point is not moving in the right direction.

If Congress acts promptly, and minimizes irrelevant floor fights, the SALT II preparations can start in October. Most Americans, we believe, hope that they will.

This has become a scruffy old world, full of ills and aches, and perhaps not the prize planet in the universe we once thought it to be. But it is the only one we have.

[From the Denver, (Colo.) Post, Aug. 15, 1972]

SETTING SALT FOR PHASE II ADDS TO ARMS CONTROL HOPE

Agreement by the United States and the Soviet Union to undertake the second round of the strategic arms limitation talks (SALT) in Geneva this fall provides encouragement for future disarmament progress by the two super powers.

The SALT 2 discussions will center on more permanent limitations on missiles than those developed in the SALT 1 accords, and will also consider limitations on bombers and forward base systems.

The historic first-phase agreements, worked out by President Nixon and Soviet leaders earlier this year, provided a foundation for still more comprehensive disarmament pacts.

The solidity of that foundation, however, depends in large measure on Congress.

The Senate has given solid support to the first part of the SALT 1 accords—a treaty establishing limits on defensive missile units.

It now remains for both the House and the Senate to approve an interim agreement setting restrictions on offensive nuclear arsenals.

Debate on the interim agreement has centered on an amendment offered by Sen. Henry M. Jackson of Washington, and supported by Colorado's Sen. Gordon Allott.

The proposed amendment would seek assurance at SALT 2 that the United States would be guaranteed parity with the Soviet Union on strategic weaponry.

Specifically, Jackson is concerned that U.S. superiority in multiple warhead systems may be wiped out by Soviet gains in this area which, coupled with Soviet advantages in other aspects of nuclear weaponry, might give them the capacity for a decisive first strike.

The Nixon administration has given its backing to the proposed Jackson amendment—at least in a version calling for general U.S.-Soviet parity on strategic arms.

The administration would prefer approval of the interim agreement without any amendments, but has accepted the amendment to calm fears about the Russians gaining a strategic advantage.

Passage of the Jackson amendment could conceivably be beneficial to SALT 2 if it leads to strong approval of the interim agreement in both houses of Congress.

[From the Savannah (Ga.) Evening Press, Aug. 17, 1972]

NUCLEAR EQUALITY

For trying to compromise with reasonable critics of its Moscow arms agreement, the Nixon Administration has been severely attacked by Sen. Frank Church and Sen. J. William Fulbright. The position taken by the two Senators is difficult to understand.

Last week the focus of the Church and Fulbright attacks was an amendment Sen. Henry Jackson offered in an effort to assure that the Moscow pact would not jeopardize U.S. security.

Sen. Jackson has maintained that treaty should contain language calling for equality in nuclear arms when the United States and Russia negotiate a permanent deal to succeed this temporary agreement.

The Washington senator, an expert on defense, believes the five-year temporary pact, which gives Russia a sizable advantage in numbers of missile launchers, could be risky if the Soviets use the five years to develop new technology in the MRV (multiple reentry vehicle) field.

Should this happen, says Sen. Jackson Russia could end up with a 50 per cent ad-

vantage in numbers of missiles and a 40 per cent advantage in the permissible size of their warheads—as well as a superiority in numbers of warheads.

In a compromise with Sen. Jackson and other critics, the White House agreed to accept an amendment and even helped Sen. Jackson rewrite the amendment in order to satisfy him and at the same time express his goal in terms compatible with Administration goals.

Sen. Church and Sen. Fulbright leaped into the fray declaring they wouldn't accept any amendments of this type. "I for one do not want to be party to another Tonkin Gulf resolution," said Sen. Fulbright in a comparison that boggles the mind. The amendment had about as much to do with Tonkin Gulf type resolutions as National Cucumber Week has to do with welfare reform.

Sen. Church's criticism was even more interesting, if that's the word. "I suggest that this administration . . . is beginning the slow process of scuttling its own nuclear agreements with Moscow." Let's be reasonable. If the Administration didn't want the agreement, it didn't have to reach it in the first place. If it was so devious it wanted to pretend to reach the agreement, then have Congress defeat it, the Administration didn't have to do anything except not battle for the pact. And if it wanted to scuttle the agreement, it would have done a better job by accepting the first Jackson amendment instead of getting the Senator to rewrite it.

What was really being argued, and pursued, by Sen. Church and Sen. Fulbright was a theory that often draws the label of new isolationism. It is advocacy of nuclear inferiority. Their objection to the Jackson amendment was that it called for nuclear equality. It is a view that is quite dangerous.

[From the New York Daily News, Aug. 17, 1972]

SALT Will Pass With a Caution on Phase II

(By Jerry Greene)

Washington, Aug. 16.—The fiddle-faddle in the United States Senate over approval of the interim agreement with Russia on limitation of strategic offensive weapons stems from a deep belief by some members that the Soviets suckered the Americans during the SALT talks.

What the opposing senators want in the campaign led by Sen. Henry (Scoop) Jackson (D-Wash.) is a little written warning, or assurance, that more of the same won't happen in SALT Phase 2, slated to begin this fall.

Jackson and most of his colleagues favor the SALT agreements—the interim offensive weapons five-year pact as well as the ABM treaty, already okayed, and there is no question the pending measure will be approved.

But Russia ran way out ahead of the U.S. in the number of key items during the three years SALT was under negotiation, producing more missiles while talking limitations, and it is this situation that senators would like to prevent next time, as if a few phrases would do it.

The senators heard some powerful supporting testimony during the SALT hearings. Adm. Elmo R. Zumwalt, Navy chief of staff, assured them that 'the objectives of SALT are inseparable from and fully consistent with, national security requirements. I believe that the deterrent capability of our strategic forces will not be impaired by the agreement so long as we vigorously press forward with necessary programs which are permitted under its terms."

But there was one witness who opposed the whole thing, whose views attracted scant attention. His testimony was worth noting, for he was an adviser to the U.S. SALT negotiating delegation. He was William R. Van Cleave, associate professor at the School of Politics and International Relations at the University of Southern California.

Van Cleave thinks we got jobbed during the negotiations, largely because our delegation proceeded on the assumption that the Russians operate on the same concepts and have the same objectives of a peaceful world as we.

His thoughts as expressed before the senators are worth consideration just in case the hopes and the prospects don't work out quite the way they should if there is to be any real success in restricting and perhaps eventually banishing weapons that could destroy the earth.

Van Cleave told the senators that the agreements, the ABM treaty and the interim offensive pact, "are in fact a light-year removed from the outcomes contemplated in the studies and planning for SALT in 1969. . . . These agreements do not resemble those deemed acceptable in 1969 or 1970."

The negotiators kept trying to get better agreements, the witness said, and the Soviets kept saying "nyet."

The Van Cleave contention was that the offensive weapons accord allows the Russians a distinct and dangerous superiority over the U.S.

His testimony, like Senate debate on the subject, was filled with numbers and sizes, yards and yards of statistics and comparative data with which almost anything can be proved.

A REMINDER ON PREDICTIONS

The witness had an unhappy reminder for his audience: "Our projections of Soviet objectives and future capabilities have been seriously in error many times, a fact that should make us a bit humble about current projections and expectations.

"In 1965, even after the Soviet ICBM build-up had begun, Secretary of Defense Robert McNamara publicly stated that the Soviets clearly had no intention of trying to close the gap in strategic forces or to compete quantitatively with the U.S."

He recalled that as late as 1970, Secretary of Defense Melvin R. Laird acknowledged that we had not responded to the Russian growth in intercontinental missiles because we believed all the Soviets had in mind was to achieve numerical parity with the U.S. Well, they got the numerical parity they wanted, and kept right on building. At last account—we promise these will be the only statistics we use—the U.S. had 1,054 ICBMs deployed, while Russia's land-based total was 1,550.

Van Cleave had a thought or two about reading the Russian mind.

"UNCERTAINTY REMAINS GREATER"

"Our uncertainty concerning Soviet strategic concepts remains greater than our knowledge, yet we continue to assume in our strategic and SALT planning that Soviet concepts and objectives are similar to our own. The weight of available evidence, I believe, strongly suggests the opposite.

"For some time in the U.S. it has been commonly believed that there are certain truths about strategic stability and the optimum strategic relationship which only need to be learned to be accepted. We have tried to read our truths into Soviet activities. Where they did not fit, it was a matter of Soviet error or misunderstanding, rather than a deliberate, considered or even final rejection of these truths."

What the witness, what Jackson and the questioning senators have been saying is that in their opinion, perhaps in haste to get some sort of an arms treaty on the books this election year, the U.S. has succeeded in outtrading itself. An extension of this situation for another five years—the life of the interim offensive limitation agreement—might well prove fatal.

[From the Tacoma (Wash.) News-Tribune, Aug. 21, 1972]

Watching That Pact

We thank the United States Senate and especially Sen. Henry M. Jackson for amendment to the strategic arms limitation treaty with the Soviet Union.

Apparently the Congress shares with many Americans some qualms about the treaty, and even President Nixon is said to have approved the Jackson amendment.

Apart from all the complexities and defense algebra of the treaty itself, with its limitations on missiles, there is in the minds of Americans a question as to whether we can trust the Soviet Union, which is known to pursue its self interest vigorously.

The answer of the Senate in the Jackson amendment is that we cannot; that we must be vigilant and continue to match Soviet development.

The Jackson amendment says in diplomatic language that if the Soviets take advantage of the arms agreement to seek overwhelming nuclear superiority, all bets are off.

[From the Winston-Salem (N.C.) Journal and Sentinel, Sept. 10, 1972]

The Right Priority

There is a contradiction in the defense policy of the United States—an ominous contradiction—that sooner or later we must resolve.

On the one hand the nation continues to fight a war in Southeast Asia as if our national existence depended on the outcome.

On the other hand the agreements that President Nixon signed in Moscow concede to the Soviet Union a 50 per cent superiority over the United States in numbers of strategic nuclear weapons, which could put an end to our national existence.

Does this make sense? Is it reasonable to go on fighting year after year, to pour vast resources of air and sea power and money into a struggle against a feeble little Communist country which can do us no harm while giving a decisive advantage to a powerful Communist country that can indeed do us mortal harm?

Under the patient coaching of Sen. Henry M. Jackson, the U.S. Senate is gradually becoming aware of what President Nixon gave away in Moscow. The facts are clear.

Under the interim agreement on offensive weapons . . .

The U.S. may have 1,054 land-based intercontinental ballistic missiles, the Soviet Union 1,618.

The U.S. may have 710 submarine-launched ballistic missiles, the Soviets 950.

The U.S. may have 44 missile firing submarines, the Soviets 84.

The U.S. may have no heavy intercontinental missiles of 25-50 megatons or more, the Soviet Union 313.

We say, "The facts are clear," but that may be a misstatement. For these figures represent only what the U.S. government *understands* to be the agreement. What the Soviet Union understands may be a different matter.

For example, the agreement as our government understands it provides that the U.S. may have 1,054 land-based intercontinental missiles and the Soviets 1,618. That figure of 1,054 is an official U.S. government figure. But the figure of 1,618 for the Soviets is only a U.S. intelligence estimate of what the Soviets had last July 1. The Soviet government has never officially acknowledged it. Consequently, the Soviets are free to say in a year or two that they actually had 1,800 or 2,000 land-based missiles on July 1 and are therefore free to maintain that number.

Rather slipshod, isn't it?

But to go back to the contradiction in our defense policy. As we have argued for at least four years, we believe that the U.S. must reorder its priorities. It makes absolutely no sense to go on squandering our resources on a war in Vietnam that, no matter how it comes out, can have no effect on the strategic balance in the world.

What does make sense is to concentrate our resources where they *can* affect that strategic balance. In particular we must be sure that

the Soviet Union does not surpass us in strategic weaponry.

We say this not because we are militarists or chauvinists or because we believe that the U.S. has always used its power wisely. We say it because we believe that some kind of external check must be maintained on the Soviet leaders, for they are subject to no internal checks of any kind.

We say it too because under the American nuclear umbrella most of the peoples of the world have made considerable progress during the past 25 years—progress in nationhood, progress in individual liberty, progress toward economic self-sufficiency. And we would hope that given the same kind of protection they might continue that progress for the rest of this century.

For these reasons we support Sen. Jackson's amendment to the interim agreement saying that the U.S. will not accept on a permanent basis the inferiority in numbers and weight of nuclear weapons that Mr. Nixon conceded in Moscow.

As Sen. Jackson has argued, the purpose of the amendment is not to give the U.S. an excuse to build up to the Soviet level but to give the Soviets a good reason to cut down to ours.

In that way, the amendment may help do what the Moscow agreement was actually supposed to do—put a brake on the arms race without endangering our national security.

Mr. JACKSON. On March 18, 1970 the Subcommittee on SALT of the Senate Armed Services Committee held a hearing at which the noted historian Richard Pipes gave important testimony on salient themes of Russian history that bear on her foreign and defense policy. Dr. Pipes is professor of history and director of the Russian Research Center at Harvard University.

Professor Pipes' testimony deals with issues bearing on past and future SALT negotiations. I believe the insights of this distinguished historian will be of great interest to Members of the Senate, in connection with our current discussions.

I ask unanimous consent that Professor Pipes' statement of March 18, 1970, be printed at this point in the RECORD.

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

STATEMENT OF DR. RICHARD PIPES, PROFESSOR OF HISTORY, DIRECTOR, RUSSIAN RESEARCH CENTER, HARVARD UNIVERSITY, WEDNESDAY, MARCH 18, 1970

(U.S. Senate, Subcommittee on Strategic Arms Limitation Talks of the Committee on Armed Services)

The desire to seek explanation of a country's conduct in its history is a natural and justifiable one, since clearly every nation's outlook and behavior are in some measure influenced by its past experience. But the procedure is always fraught with danger. It is all too easy to fashion an image of another people's national character, to assume that it is eternal and immutable, and from this assumption to draw completely false deductions. In reality, "national character" is an elusive and transient thing. In the seventeenth and eighteenth centuries, for example, the French were generally regarded as the most aggressive nation on the European continent, whereas the Germans were viewed as impractical dreamers, sovereigns of the "realm of clouds," as Voltaire called them. Then, in the second half of the nineteenth century the roles were neatly reversed, and the Germans, descending from their clouds, turned into a nation of Huns. The Japanese who were once thought to have inherited from their samurai ancestors an unquenchable thirst for blood, have recently become a nation of frenetic businessmen, at the same time that the Jews, whose unfitness for warfare had been proverbial, created in Israel a military machine of unsurpassed efficiency. Such examples could be multiplied many times over.

As every historian knows, that which is loosely called "national character" represents the spirit not of an entire nation, but only of that social group which at a given time happens to control the instruments of power and the organs of opinion, and manifests itself only as long as that group enjoys this control. The problem, therefore, is one of identifying the elite and ascertaining its particular experiences, interests, and expectations. Such knowledge is particularly useful in dealing with countries that have authoritative forms of government because there the ruling elite is relatively immune to public pressures.

In considering the elite which rules today's Russia and its possessions, four facts relevant to its conduct of foreign policy demand emphasis: its cultural background, the nature of its claim to authority, its class interests, and its colonial experience. Only when all four of these factors have been taken into account is it possible to understand something of that peculiar mixture of aggressiveness and caution which has distinguished Soviet foreign policy since 1917.

1. THE CULTURAL BACKGROUND OF THE SOVIET ELITE

The Soviet elite is not the same one that had ruled Russia in the imperial period, that is, from the accession of Peter the Great in 1689 to the Revolution. The imperial elite, composed largely of landed and service gentry, was thoroughly Westernized; it considered itself part of Europe and in its majority emulated European models. This class was overthrown in 1917, and replaced by a new elite formed of elements that had never been much exposed to Westernization: the lower bureaucracy, small tradesmen, provincial intelligentsia, clergy, skilled labor, and peasantry. The cultural roots of these groups lay not in the Westernized Russia of Peter and his successors, but in the pre-Petrine culture of old Moscow, and even beyond it, in Byzantium and the Turkic tribes of the Steppe.

In imperial Russia, the ancestors of the Soviet elite had been kept out of the chambers of power. They always viewed the Western culture of the St. Petersburg court and of its gentry with distaste and suspicion. Though not averse to borrowing Western technology, especially of a military nature, they rejected the spiritual foundations on which this technology had grown. Their whole attitude toward the external world was decisively influenced by the teachings of the Orthodox Church which more than any other Christian establishment resisted innovation and persecuted heresy. The xenophobia which this Orthodox Church inculcated in its flock impressed itself very deeply on the mind of the Russian lower classes; and so did the belief that the Orthodox alone are pure and fit for salvation. This faith, in a secularized form, has remained very much part of the outlook of the Soviet elite; for although this elite professes militant atheism it has no other culture to fall back on than the xenophobic, anti-Western culture of old Moscow.

The practical consequences of this fact are considerable. The group ruling the Soviet Union is not predisposed by its cultural background to regard itself as part of a broader international community; nor does it tend to think in terms of a stable world order which accords every nation a rightful place. Such an outlook is widespread in communities with a Protestant and a commercial culture, but it is rather rare elsewhere. The Soviet elite tends to think in terms of a perpetual conflict pitting right against wrong, from which only one side can emerge victorious. Needless to elaborate, Communist ideology with its stress on class warfare culminating in a vast revolutionary cataclysm neatly reinforces this inherited religiously-inspired outlook.

2. THE QUESTION OF LEGITIMACY

The elite which rules Soviet Russia lacks a legitimate claim to authority and this fact has critical bearing on its conduct of both domestic and foreign policy. Lenin, Trotsky, and their associates seized power by force, overthrowing an ineffective but democratic government. The government they founded derives from a violent act perpetrated by a tiny minority. Furthermore, this power seizure was carried out under false pretenses. The *coup d'etat* of October 1917 was accomplished not on behalf of the Bolshevik party but on behalf of the Soviets—a fact which survives today mainly in the name "Soviet Union." The Soviets were representative bodies of soldiers, workers, and peasants which, for all their structural looseness and lack of regular procedure, did in a fashion express the will of the people. But although the Bolsheviks claimed to overthrow the Provisional Government in order to transfer power to these Soviets, in reality they used them from the begininng as a facade behind which to consolidate their own authority, and the transfer was never accomplished. And, finally, the Soviet government has never dared to seek a mandate from its population. The one and only post-1917 election in which the Bolsheviks ran in competition with other parties—the election for the Constituent Assembly held in the winter of 1917–1918—gave them a quarter of the national vote, whereupon they ordered the assembly dissolved. No elections giving the voter a choice even from among Communist candidates have been held since that disagreeable experience.

Now it is sometimes said by friends of the Soviet Union abroad that one must not apply to its government standards of democracy derived from the West. And, indeed, it is perfectly possible to exercise authority without recourse to the Western idea of popular sovereignty or by twisting it out of all semblance as Hitler had done when he claimed that the will of eighty million Germans fused and became one with his own. But as a matter of record, the Soviet government makes no such claim on its own behalf: its constitution and legal system claim to rest on democratic principles indistinguishable from our own, and hence it cannot escape being judged by them. A government which came to power by force in the name of slogans which it did not and had no intention of honoring, and which has never dared to seek popular sanction, such a government cannot be said to be democratic no matter how broadly the term is defined. And herein lies its tragedy and insoluble inner contradiction. The yawning gap between constitutional promise and political reality stares in the eye of all but the most obtuse or cynical of Soviet citizens.

Legitimacy of some kind is essential to every political authority to justify the right of some men to order others about. The Soviet government is no exception. Unable to obtain a popular mandate, it seeks to obtain it in a variety of other ways, of which nationalism is the handiest. By appearing as the protector of Russian national interests from internal and external enemies, the regime can identify itself with the people. But to be able to do so, it must have enemies; and it conjures them up as the need arises. The atmosphere of a crisis is essential to the Soviet elite and can be counted on to remain an instrument of Soviet policy as long as the present elite remains in power. In the 1930's and 1940's it was often said that Soviet behavior is motivated by fear. This is correct as far as it goes: only the fear is not of other peoples but of its own, and for that reason it is incapable of being allayed by concessions. Fear breeds insecurity which in turn ex-

presses itself, in nations as in individuals, in aggressive behavior.

(And it may be noted parenthetically that the one time the Soviet Union confronted a genuine menace rather than one of its own making, namely Nazi Germany, it reacted by appeasing; its most determined reactions have always been reserved for imaginary enemies.)

3. CLASS INTERESTS OF THE SOVIET ELITE

All elites have vested interests, or they would not be elites. But as a rule, the disparity between the interests of the elite and of the rest of the citizenry is wider in poor countries than in rich ones, and the dread of losing status is proportionately more acute. And Russia is still a desperately poor country, with a standard of living below that of some countries in the preindustrial stage of development. The bulk of the wealth created by Soviet industry since the inauguration of the first Five-Year-Plan in 1928 has gone into armaments and those branches of the economy of greatest direct benefit to the military. Agriculture has been ruined to pay for this most up-to-date military machine; and consumer industry has been forced to operate on a shoestring. This situation has not significantly changed since the death of Stalin, periodic promises of a vast outpouring of consumer goods notwithstanding—(for example, Khrushchev's confident boast that by 1970 the Soviet Union would exceed the United States in the production of meat and milk). The Soviet citizen today is poor not only in comparison with his counterpart in other European countries, but also in comparison with his own grandfather. In terms of essentials—food, clothing, and housing—the Soviet population as a whole is worse off than it was before the Revolution and in the 1920's. If one considers such intangibles as access to information and the right to travel as elements of the standard of living—as they should be—then, the Soviet citizenry is positively destitute.

This cannot be said of the Soviet elite which enjoys a fairly decent standard of life. The closer a member of this group stands to the inner sancta of the bureaucratic-military-police establishment, the readier his access to the country's very limited store of goods and services, to the sources of objective information, to a passport authorizing travel abroad. No wonder therefore that the Soviet elite vigorously protects its privileged position and the political system which makes it possible; that it dreads democracy which would inevitably sweep away its status and force it to share the indescribably drab life of the ordinary Soviet citizenry; that it supports the regime in its nationalism and crisis-mongering.

4. THE COLONIAL EXPERIENCE

The Moscow state, that is, the ancestor of the Imperial and Soviet states, emerged on the fringe of Asia. In order to create a national state, its founders had not only to impose their authority on rival Russian principalities, but also to repel, subdue, and integrate the Turco-Mongol and Finnic populations with which they were surrounded. As a consequence, in Russia, the process of nation-building took place concurrently with that of empire-building, rather than before. The two processes, so distinct in the history of western states, in the case of Russia, cannot be readily separated either chronologically or geographically. In the second half of the 16th century Moscow already administered a sizable colonial population of Tartars and Finns. To these were added in the 17th century the natives of Siberia and the Cossacks, in the 18th the nomads of Central Asia, the Crimean Tartars, the Ukrainians, Byelorussians, Poles, Jews, and Baltic peoples, and in the 19th, the Caucasians and Muslims of Turkestan.

As a result of these acquisitions, the Moscow government acquired early a great deal of expertise in handling foreigners; but this expertise it gained from administering subject peoples, western and Oriental, not from dealing on equal terms with other sovereign states. The Office of Ambassadors in Moscow knew less, comparatively speaking, about foreigners than did the various administrative offices charged with responsibility for administering immense territories inhabited by peoples of different races and religions. In some measure this also held true of the Imperial government and of the Soviet government; for techniques of administration tend to survive change of elites.

The implications are not far to seek. A country whose governing apparatus has learned how to deal wtih foreign peoples from what are essentially colonial practices is not predisposed to think in terms of a stable international community or of balance of power. Its natural instincts are to exert the maximum use of force, and to regard absorption as the only dependable way of settling relations with other states, especially those located along its own borders. There is little need here for theory, because the options are narrow, and concern tactics rather than objectives or strategy.

To anyone acquainted with the rich literature on the international relations of the Western powers it must come as a surprise to learn that there is no definitive or even comprehensive history of Russian foreign relations. The literature on the theory of Russian foreign policy is so meager that it may be said not to exist. That Russians have felt no need to compile the record of their external relations or to investigate its principles is in itself a significant fact, illustrative of their general attitude toward the outside world.

These four factors impel the elite which rules Soviet Russia to conduct a dynamic and inherently aggressive foreign policy, very different from that pursued by such predominantly commercial countries as the United States, whose principal aim is international stability. If the Soviet elite were not inhibited by other factors, which it is helpless to change, the Soviet Union very likely would conduct a policy of reckless external expansion such as Germany and Japan had pursued in the 1930's. But fortunately, such inhibiting factors do exist, and these must be taken into account to provide a rounded picture of Soviet foreign policy.

The most important of these is the spirit and mood of the ordinary people: not only the people of Great Russian stock but also those belonging to the numerous ethnic minorities inhabiting the Soviet Union.

The Russian people have no tradition of glorifying war, perhaps because they never had a feudal culture in the proper sense of the word. Its great medieval epic celebrates not the victory of Russian arms but their defeat. Neither in the folklore nor in the proverbs of Russia is there much trace of militarism. The common people have always viewed war as a desperate act to defend one's home; and Russian troops, so effective on their home soil, have never shown much skill on foreign campaigns. This general attitude deserves comment even in the case of a country which allows its citizenry no say in governmental affairs, because in the long run the quality of the human material has considerable bearing on a government's freedom of action.

Even more significant, however, is the fact that the people of the Soviet Union are utterly exhausted. The country had been mobilized in 1914 and except for brief respites has not been allowed since then to return to normal life. Having dropped out of the international war in 1917, Russia suffered for the next three years an even more devastating civil war followed by several years of epidemic and famine. It barely recovered from these disasters during the New Economic Policy era, when in 1928 it was reharnessed into state service to carry out the most ambitious program of industrialization ever attempted by a nation.

To make this program economically feasible, a whole counter-revolution was inaugurated in the countryside, in the course of which the government confiscated, in the face of the peasantry's desperate resistance, its land, livestock and implements. This tragedy was not even over when the regime launched a political massacre of actual, potential, or imaginary opponents of nightmarish dimensions. And then came World War II. The losses in human lives which the population of the Soviet Union has suffered between 1914–1945 exceed those of any other people in modern times except European Jewry. They can be estimated at two million casualties in World War I, 14 million during the Civil War and the famine, ten million during collectivization, 10 million during the purges and 20 million during World War II, for a total of 56 million human lives lost. The demographic pyramid of the Soviet population bears a visible scar from these stupendous losses showing a deep indentation in the age group between 35 and 70, especially on the male side.

After such exertions and bloodletting the inhabitants of the Soviet Union are simply incapable of being mobilized once again for any sustained national effort. Their fatigue is so profound that neither exhortations nor alarms can shake them from it. They require three things of which they have been deprived for the past half a century: peace, privacy, and prosperity, probably in this order. With a population in this state it is just not possible to launch ambitious drives of external expansion.

Consideration must also be given to the fact that approximately one-half of the population of the Soviet Union consists of peoples who are not of Russian nationality. This colonial population brought under Russian sovereignty by imperial and Soviet conquest, not only shares the exhaustion of the Russians proper, but experiences a sense of national frustration as well. Neither blandishments nor persecution have had much effect on the patriotic spirit among the ethnic minorities. They constitute a volatile and unreliable element.

Thus a kind of dilemma arises before the Soviet elite: one of the principal factors inducing it to maintain an aggressive posture, namely lack of confidence in its popular support and the need for crisis, also forces it to act cautiously. The Soviet government cannot risk a protracted war because such a war always makes the government dependent on its population. All the important concessions which the Imperial government had made before the revolution were the consequence of long wars: the Crimean War, which compelled it to free the serfs and institute local self-government; the Japanese War, which forced it to grant a constitution; and World War I, which caused it to abdicate. These historic lessons have not been lost on the Soviet government and in large measure account for the prudence which it has always shown in the face of firm resistance by other powers.

The same factor explains the haste with which the Soviet elite exploits any opportunity abroad where serious opposition seems unlikely. Guided more by the prospect of success than by any consideration of "national interest," Russian expansion follows no discernible pattern. The whole concept of "national interest" in the sense in which the term is used in the West, is altogether alien to the Russian mind. Most writings on the subject come from the pens of foreigners who seek to locate behind Russian foreign policy patterns of a kind they are familiar with in their own countries. In Russian literature, prerevolutionary and Soviet, hardly anything is said on the matter. As for Communist theory, it too provides no guide-

lines for the conduct of a rational foreign policy insofar as the whole assumption of Communism is that the forces of "progress" and of "reaction" are split along class lines, not national ones.

By and large, Russian expansion tends to focus on targets of opportunity. Historians have long noted what may be called the "pendulum" effect in nineteenth century Russian expansion, meaning rapid shifts from one area to another in response to encountered resistance. Thus, frustrated by its defeat in the Crimean War from subjugating the Ottoman Empire, the Imperial government promptly sent its forces into Central Asia which it conquered in a series of rapid expeditions. But as soon as the British, alarmed for the security of India, threatened to stop Russian advances in that region, St. Petersburg shifted its attention to the Far East. Defeated in Korea and Manchuria by Japan, it returned to the Balkans.

Such pendular swings can also be detected in Soviet foreign policy: For instance, the shift in 1948 from expansion in Europe where it was halted by determined U.S. resistance, to East Asia. This evidence suggests that Russian expansion is motivated less by needs than by opportunities, less by what its elite wants than by what it can get. For this reason it is impossible to determine control over which areas would satisfy the Soviet government and induce it to assume a cooperative international stance. Russia has all the territory and all the resources it needs; its external security is assured by its military power and by vast buffer zones separating it from potential enemies. If it nevertheless keeps on expanding it is precisely because its expansion is in large measure determined by internal rather than external factors, above all, by the tragic relationship of the government to its people.

Developments which have occurred in military technology since the end of World War II, and particularly the emergence of a strategy based on rocketry and nuclear weapons, have significantly affected the situation.

In some respects, the changes in warfare have had a positive effect on world peace. Scientific and technological warfare requires a large scientific and technical intelligentsia, whose outlook is bound to be very different from that of the traditional class of field or staff officers. That which has been learned of this intelligentsia through personal contacts during the past 15 years suggests that it differs indeed from the rest of the Soviet elite of which it is a member by virtue of its privileged status. Soviet scientists and technicians think of themselves not only as Russians but also as citizens of the world, for they are better aware than administrators of common human problems. They are more objective and less emotional. Their whole temper is more liberal than that of the rest of the Soviet elite. Their emergence is undoubtedly a healthy phenomenon, good for Russia and the rest of the world.

In other respects, the development of highly technical warfare has had a very deleterious effect on the prospects of peace. If it is true, as argued above, that the principal deterrent to a recklessly aggressive Soviet foreign policy is the unreliability of the Soviet population, then clearly any development which frees the regime from dependence on its population reduces the effectiveness of that deterrent. The more mechanized warfare becomes, the briefer and more devastating war tends to become, the less the Soviet elite needs to make allowances for the spirit of its population, the less it is afraid of war. The scientific-technical intelligentsia, of course, gains in status under these conditions; but its actual influence on government policy in Russia, as elsewhere, is questionable. It is a curious fact that the most liberal among American scientists, who have been so frustrated in their attempt to influence their own government on such issues as ABM, are most sanguine about the power of their Soviet counterparts. But if they tried and failed to exert political power in a country where it is possible to appeal over the head of the administration to the mass of citizens, how can the Soviet scientific elite succeed in a country where no such opportunities exist?

On balance, the development of modern military technology will probably intensify the expansionist tendencies of the Soviet elite. It is likely to increase its self-confidence and encourage it to pursue targets of opportunity wherever they present themselves with greater boldness than before.

Mr. JACKSON. Mr. President, I hope that cloture will be voted tomorrow so that the Senate can move to final consideration of the proposed amendments and final action on the Interim Agreement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. 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. FULBRIGHT. Mr. President, I do not wish to speak any further about the merits of the agreement. I did not say anything about cloture. My position is that I shall vote against cloture. I still think that the proper procedure in a matter of this importance is to follow the regular procedure that we normally follow in the Senate, and that is that the resolution is open for amendment.

I had hoped that the Senator from Washington would offer his amendment and that we could debate it on the merits. I would hope that some Members of the Senate might be present and that it could be developed in the regular order.

Whatever happens to his amendment would be handled without a strict limitation of time, because I think it is a matter of sufficient importance to warrant thorough consideration.

I will not reiterate what I have said already about equality, other than the fact that I believe there is a misunderstanding on the part of many people in and out of the Senate as to what equality consists of. The amendment which is at the desk, offered by myself and some nine other cosponsors, simply undertakes to make clear what equality we are in favor of. The word "equality" is a word with many possible interpretations. I do not know of anybody who is not in favor of equality of strategic nuclear weapons as between the United States and the Soviet Union. The question in issue, of course, is the nature of that equality.

If I understand him correctly—and I believe I do—the amendment of the Senator from Washington restricts that to equality of intercontinental nuclear forces, and this is the crux of the matter; whereas, we believe—and I believe—that overall equality in all nuclear weapons is what is desirable and what the President's agreement intended to deal with, and not a specific kind of weapons system.

The matter as to what this amendment means is the very crux of the matter, and I hope it can be developed in a free and open debate in the Senate, without the restriction either of cloture or a unanimous-consent agreement. I hope that the Senate will not impose cloture on a matter of this kind.

The PRESIDING OFFICER (Mr. CHILES). The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, in view of the fact that there seems to be no desire on the part of any other Senator to speak on the pending business, I ask unanimous consent that it be laid aside temporarily so that the Senate may proceed to the consideration of other business on the calendar.

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

U.S. SENATE OFFICE BUILDING, LAND ACQUISITION, AND PARKING FACILITIES PLANNING ACT OF 1972

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 997, S. 3917.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3917, to authorize the construction of the completion of the New Senate Office Building on the east half of square 725 in the District of Columbia, to authorize the acquisition of certain real property in square 724 in the District of Columbia, to authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities to be constructed on square 724 and an architectural design competition to be conducted in connection therewith, and to authorize the acquisition of all publicly or privately owned property contained in square 764 in the District of Columbia as an addition to the United States Capitol Grounds, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with reference to S. 3917, that there be a time limitation thereon of 30 minutes, to be equally divided between the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Kentucky (Mr. COOPER); that time on the amendment to be offered by the distinguished Senator from Kentucky (Mr. COOPER) be limited to 30 minutes, to be equally divided between the Senator from Kentucky (Mr. COOPER) and the Senator

from West Virginia (Mr. RANDOLPH); that time on any other amendment be limited to 20 minutes, to be equally divided between the mover of such and the Senator from West Virginia (Mr. RANDOLPH); and that time on any debatable motion or appeal be limited to 10 minutes, to be equally divided between the mover of such and the distinguished manager of the bill.

Mr. JAVITS. Mr. President, what bill is that?

Mr. ROBERT C. BYRD. The bill now before the Senate, S. 3917, to authorize the construction of the completion of the new Senate Office Building on the east half of square 725 in the District of Columbia.

Mr. JAVITS. I thank the Senator very much.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none and it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

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

The assistant legislative clerk proceeded to call the roll.

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

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

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS

The Senate continued with the consideration of 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.

CLOTURE MOTION

Mr. SCOTT. Mr. President, at this time I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending joint resolution, S.J. Res. 241, the authorization of the President to approve an interim agreement between the United States and the Union of Soviet Socialist Republics.

1. Hugh Scott
2. Mike Mansfield
3. Robert Griffin
4. Charles McC. Mathias
5. Walter Mondale
6. John Tower
7. Clifford P. Hansen
8. Marlow W. Cook
9. James B. Pearson
10. Peter Dominick
11. Robert Dole
12. J. Glenn Beall
13. Robert Stafford
14. Richard S. Schweiker
15. Daniel K. Inouye
16. William Proxmire
17. Henry Jackson
18. Robert C. Byrd
19. Ted Stevens
20. Carl Curtis
21. Jennings Randolph

Mr. SCOTT. Mr. President, I ask unanimous consent that the cloture motion which I have just filed remain at the desk for the remainder of the day so that other Senators may have an opportunity to add their names to the cloture motion.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour of debate under rule XXII on tomorrow morning—having to do with the vote on the motion to invoke cloture on Senate Joint Resolution 241—be equally divided between and controlled by the distinguished Senator from Washington (Mr. JACKSON) and the distinguished Senator from Arkansas (Mr. FULBRIGHT).

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

MESSAGES FROM THE PRESIDENT

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

REPORT OF ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHURCH) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

I herewith transmit the 1971 Annual Report of the St. Lawrence Seaway Development Corporation. This report has been prepared in accordance with Section 10 of Public Law 83–358 and covers the period January 1, 1971 through December 31, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *September 13, 1972.*

REPORTS OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION—MESSAGE FROM THE PRESIDENT

The message from the President is as follows:

To the Congress of the United States:

This Administration has serious and growing concerns about the tragic number of traffic accidents that each year exact a heavy toll in human life and suffering and economic loss in our society.

Nearly half of the 115,000 annual accidental deaths in America are due to transportation accidents, and regrettably most of the transportation accidents occur on our streets and highways.

To these 55,000 annual traffic deaths must be added the nearly four million injured each year in traffic accidents. Many of the injured suffer permanent disabilities.

The traffic death and injury toll is alarming enough. But when we add to this the $46 billion annual drain on our economy from lost wages, medical expenses, legal fees, insurance payments, home and family care, and other expenses, we realize that we must do more to cut our human and economic losses.

The Federal Government is providing leadership and some financial assistance to reduce the losses. And much has been done by States, communities, industry and private organizations. But we must all resolve to do even more to cut this tragic waste of human life and economic drain.

The Reports of the National Highway Traffic Safety Administration transmitted with this letter have been prepared in accordance with the Highway Safety Act of 1966, as amended, and with the National Traffic and Motor Vehicle Safety Act of 1966, as amended. They describe basic causes and effects of this problem and efforts of Federal, State and local governments to alleviate it.

Much progress has been made in recent years. For example, the rate of death per 100 million vehicle miles driven has declined from 5.5 in 1967 to 4.7 in 1971. This is an annual decrease of 3.85 percent and a 5-year decrease of 14.55 percent. Had the old rate continued, 65,000 persons would have died in traffic accidents in 1971, 10,000 more than the actual number. We can also take some comfort that traffic deaths have decreased in spite of the fact that we now have more cars, more drivers, more cyclists and more pedestrians on our roads.

But progress is no cause for complacency. We must work even harder to make our highways and cars safer, to educate drivers and pedestrians and to clear our roads of drunken drivers, who are the cause of approximately half the traffic deaths each year.

The three volumes of these reports taken together map our progress in this important area, and I hope they will be read closely by Members of the Congress. Your continued support will be required to back up our national commitment to make our highways and vehicles safer for all Americans.

RICHARD NIXON.

THE WHITE HOUSE, *September 13, 1972.*

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that a message at the desk, received from the President of the United States today on highway safety, be jointly referred to the Committee on Public Works and the Committee on Commerce.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 16188) to amend the Immigration and Nationality Act, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 698) directing the Secretary of the Senate to correct the title of the bill, S. 3442, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 7375. An act to amend the statutory ceiling on salaries payable to U.S. magistrates; and

H.R. 12638. An act for the relief of Sgt. Gary L. Rivers, U.S. Marine Corps, retired.

The PRESIDENT pro tempore subsequently signed the enrolled bills.

HOUSE BILL REFERRED

The bill (H.R. 16188) to amend the Immigration and Nationality Act, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION 698—DIRECTING THE SECRETARY OF THE SENATE TO CORRECT THE TITLE OF THE BILL, S. 3442

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 698.

The PRESIDING OFFICER (Mr. CHURCH) laid before the Senate House Concurrent Resolution 698, as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 3442) to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes, the Secretary of the Senate shall correct the title so as to read: "An Act to amend the Public Health Service Act to extend and revise the program of assistance under that Act for the control and prevention of communicable diseases."

The PRESIDING OFFICER. Without objection, the concurrent resolution (H. Con. Res. 698) is considered and agreed to.

AUTHORIZATION OF CONSTRUCTION OF A NEW SENATE OFFICE BUILDING

The Senate resumed the consideration of the bill (S. 3917) to authorize the construction of the New Senate Office Building on the east half of square 725 in the District of Columbia, to authorize the acquisition of certain real property in square 724 in the District of Columbia, to authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities to be constructed on square 724 and an architectural design competition to be conducted in connection therewith, and to authorize the acquisition of all publicly or privately owned property contained in square 764 in the District of Columbia as an addition to the United States Capitol Grounds, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of either side.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. RANDOLPH. Mr. President, at this time I yield to the able chairman of the Subcommittee on Buildings and Grounds of the Public Works Committee, the Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I yield myself as much time as I may require.

Mr. President, I thank the distinguished chairman of the committee for yielding to me. I was delayed because we have just completed a hearing. I had before me the distinguished chairman of the Appropriations Committee, followed by the distinguished chairman of the Finance Committee. I think the Senator can appreciate why I was tardy in getting here.

Mr. President, I do not think the pending matter is terribly complex. I think that every Senator is acquainted with the problem in question concerning the new Senate Office Building.

I do not feel it is a problem for the more senior members. However, I think that anyone who is a junior Member of the Senate certainly feels the terrible, terrible pinch of space. And I do not know of any intelligent, effective business in this community that would house its employees as shoddily as we in the Senate; house our employees and ourselves. Certainly anyone doing the public business is entitled to have space in which to do so, just as private business and the executive agencies in this country provide ample space for their employers. There is no reason why we should treat ourselves and our employees in the manner we do. Although Senators are insulated in their own particular offices from this problem, the matter is impeding our staffs because of the way we have had to house them under the conditions we have.

I could recite a litany of what I think are the atrocious physical surroundings that our staffs are subject to.

I think it impairs their effectiveness. I think it impairs the use of their time in the best interests of the Senators whom they serve and, of course, their constituencies.

The estimated project cost is in the area of $47 million, $47,935,000. This is an increase over what was projected for the cost when the item first came up, due to the rapidly escalating cost indices since that time. In 1967 the cost was projected to be $26 million. There is no question that if we delay the undertaking of this project, the cost will continue to increase.

I think that the cost of this measure is not as extensive as the cost we pay in terms of inefficiency, lack of service, and inability to do the best job possible for the people we represent, and of course the best job possible for the Members of the Congress in their role as a coequal branch in the triumvirate system of this Nation.

I think the balance of the issue is self-explanatory. If any Senator has a statement to make I would be happy to yield.

Mr. RANDOLPH. Mr. President, if it is agreeable at this point, and with the concurrence of the ranking minority member of the committee and the subcommittee, I would like to make a very brief comment on this matter and then go back to the conference on the clean water amendments. As the Senator from Kentucky knows, that conference is in progress. I know he has need to be there. I am offering an amendment in conference which may help reach agreement with respect to thermal pollution. So I will make a brief comment at this time, if that is agreeable to my colleague from Kentucky.

Mr. RANDOLPH. Mr. President, the Senator from Alaska (Mr. GRAVEL), has provided us with a detailed description of S. 3917 and has presented argument as to why this legislation should be enacted.

The need for additional facilities is valid. It has been 17 years since the New Senate Office Building was begun. Our country has grown considerably, and I believe the responsibilities of Members of the Senate have increased at a more rapid rate. The increasing magnitude and complexity of our duties has necessitated an increase in staff. The Senate has been unable to take advantage fully of equipment that is available to it in our highly advanced and technological age. This is so because, frankly, we have insufficient space to place this equipment. A walk through the Senate Office Buildings indicates the need. Members of the Senate have pleaded with our committee to provide more space for their offices. Meetings are held in hallways, toilets are converted into offices, and one Senator has his staff on a split-shift in an attempt to alleviate crowded working conditions.

The Senate should provide itself with adequate facilities to properly conduct its portion of our national affairs. The legislation before us would finish the job that was started in 1955 and complete the New Senate Office Building as originally planned.

The growth in personnel employed by the Senate has brought with it corresponding pressure for additional parking facilities. I hope that this pressure will be somewhat alleviated when the Washington subway system begins operations in a few years, but there exists today and will continue to exist, a demand for parking space that cannot be met. Requests for parking space already exceed by several times the number of spaces available.

The committee recognizes its obliga-

tion to help supply convenient, safe facilities for its employees. We recognize that a parking facility of the size needed must be properly planned and constructed so that it will not only serve its primary function, but also will fit harmoniously into the Capitol Hill neighborhood as a positive addition. Consequently, the bill before us authorizes only the acquisition of land not already owned by the Senate in the block immediately north of the new Senate Office Building. It also directs the conduct of studies to determine how we can best provide the needed parking facilities.

Recognizing that available land at reasonable cost is becoming increasingly scarce, this legislation also provides for the purchase of the site of the former Providence Hospital. For many years the Congress has considered construction of a building providing housing and school facilities for Senate and House pages. While funds for this structure have not yet been appropriated, it would be judicious to purchase the needed land while it is available and before the price increases.

Members of the Senate are aware of the inflationary trends that have influenced our legislative activities in recent years. The pattern has been for steadily increasing prices that make project cost estimates outdated before projects can be fully implemented. Given the recent history of development costs, I believe we should act now. We must have these facilities eventually, and it would seem wise to provide them. Prices will not come down.

Members of the committee were diligent in their attention to this legislation. Under the leadership of the chairman of our Subcommittee on Buildings and Grounds, Senator GRAVEL, the issues and implications of this legislation were thoroughly reviewed. The concern of the Senator from Texas (Mr. BENTSEN) helped us to focus on many diverse aspects of the severe space problem that impairs Senate operations.

Mr. President, this bill represents a carefully conceived approach to the next stage of development for Capitol Hill. We have had the benefit of advice from the Architect of the Capitol and other Government agencies with experience in this field. The committee believes it is a proper way to proceed and that the facilities authorized can be provided at reasonable cost.

That is all that I wish to say at this time except to express the hope that Members will follow the debate, listen to the arguments and consider the amendments very carefully. One amendment which will be offered by the Senator from Kentucky (Mr. COOPER) is very important for the Senate to judge and pass on.

Mr. President, with those remarks I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I thank the distinguished chairman of the full committee for the leadership he has provided in this area. I yield to the ranking minority member, the Senator from Kentucky (Mr. COOPER), if he wishes time at this time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized. How much time does the Senator yield?

Mr. COOPER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER (Mr. ALLEN). The Senator is recognized.

Mr. COOPER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 2, on line 9 and on line 14, after the word "Commission" insert the following: "and by the Senate Committee on Public Works,"

On page 3, after line 2 insert:

"(c) During each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take such steps as are necessary to insure its economical contruction."

On page 8, line 22, strike out "such amounts as may be necessary" and insert in lieu thereof "$53,500,000."

The PRESIDING OFFICER. The Senator is yielding time on his amendment rather than on the bill.

Mr. COOPER. Yes. I thank the Presiding Officer.

Mr. President, as has been explained, the bill before us would authorize the construction of the completion of the new Senate Office Building, the acquisition of certain real property, authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities, and it would authorize the acquisition of all publicly or privately owned property as an addition to the U.S. Capitol grounds.

I did vote against this authorization the last time it came before the Senate because I believed that considering the fiscal situation of our country there are many other matters which are more deserving than this one. I am not a member of the Public Buildings and Grounds Subcommittee but I am a member of the full committee and there I opposed construction of the building for several reasons.

I believe that great care should be taken to insure that plans for the addition to the New Senate Office Building, which in effect will be a third Senate Office Building, will incorporate an esthetic design.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. COOPER. Mr. President, the Senator from Delaware (Mr. BOGGS) and I introduced a bill, S. 3575, to assure that there would be attention paid to the need for an esthetically and architecturally acceptable design in planning future Senate facilities.

I must say the Senator from Alaska has incorporated features of S. 3575 in this bill but not in connection with the extension of the office building. That was my first reason for raising a question regarding the construction of this building.

The second point was that, if it must be constructed, I thought, from a social viewpoint, it should be designed for the area in which it would be located. Behind this building there are areas which, while they are not slums, are not beautiful, and we should take some steps in the construction of the building, to make it more beautiful and to make it acceptable to the people who live around such a building.

The third reason why I raised the question was that, if it is necessary to construct this building, it should be constructed in an economical way.

I am not able to answer in detail or accurately the charges that have been made against construction of other buildings, but we know that it has been said no one is able to maintain any oversight or control to see that these buildings are being constructed economically.

Under the present bill, the responsibility is left with the Senate Office Buildings Commission, a commission which was established first in 1904, and which has had charge of the construction of buildings for the Senate since that time.

This commission has no authority to authorize funds or appropriate funds, and I say, with all due respect, although it is made up of very fine and distinguished Members of our body, I believe their function is chiefly that of recommendation or guidance. So I think it comes finally to the fact that the architect and his staff are actually in charge of the construction of these buildings.

I have offered the amendment to provide that, in addition to the function of the commission, the Senate Committee on Public Works shall also have jurisdiction. In another section, on page 3, my amendment inserts a new subsection which states:

During each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take such steps as are necessary to insure its economical construction.

On page 8, in another section, it authorizes the amount of $53,500,000 for the purposes of the bill, rather than such sums as may be necessary. The only estimate of cost we have is that of $53,500,000.

I think we all know that the cost is going to be much more than that. By fixing the amount at least at this estimate, and by requiring that the Senate Committee on Public Works must examine the work on the building and the costs and take such steps as are necessary to insure economical construction and the authorization of additional funds or the elimination of funds, I think the Senate can remove some of the criticism made in the past about the construction of these buildings, and, beyond that, keep the cost of the building as low as possible.

Those are the points I raised: One, that if it is to be constructed, it should have some beauty and esthetic value; two, that it should be of some design that would elevate the area itself; and third, and most important, that oversight over the cost be exercised to insure its economic construction.

That is my amendment, and I hope very much it will be adopted.

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

Mr. COOPER. I yield to the Senator from Delaware.

Mr. BOGGS. I thank the Senator for yielding.

I would just briefly like to associate myself with the remarks of the distinguished Senator from Kentucky. I shall support the amendment. I think it is desirable and will be most helpful as we go along with this project.

As a member of the subcommittee, I, like the distinguished Senator from Kentucky, voted against approving this proposal at this time, on the question of priorities, although I fully recognize that such a building could be used and, one might say, will be needed sooner or later. In the full committee I joined the Senator from Kentucky in opposing it. Now, I wish to express my opposition to S. 3917 as reported by the Committee on Public Works. I believe that it is neither wise nor necessary for the Senate, at this time, to vote itself additional office space at a time when the Federal budget is deep in deficit.

Too many other public needs remain unmet to justify an expense, which the committee estimates at $53.5 million, to double the size of the present New Senate Office Building. While I might someday "benefit" from S. 3917, I believe that an extension of the present facilities lacks the necessary priority at this time.

The distinguished senior Senator from Kentucky (Mr. COOPER) and I introduced S. 3575 earlier this year. That bill authorized a national design competition to seek to better integrate the entire Senate complex into the surrounding neighborhood. It was our intention to reexamine what might be done to improve the compatibility of the design for an extension of the New Senate Office Building and other construction needs on the Senate side of Capitol Hill.

While section 4 of S. 3917 authorizes a design competition, which is commendable, the competition's scope is too limited. It would attract designs for a new garage complex in square 724, the block across C Street from the New Senate Office Building.

Such a competition, I believe, should have been expanded into an evaluation of the full Senate complex.

Mr. President, I would make one further point. The Senate, through amendments to the Clean Air Act, has mandated limitations, where necessary, on the flow of automobiles into major metropolitan areas. Such limitations, we recognize, may be inconvenient, yet necessary to relieve traffic congestion and lessen air pollution.

By contemplating the construction of a mammoth underground garage—at a cost-per-parking space of as much as $15,000—the Senate may be placing itself in a position of encouraging pollution control everywhere but on Capitol Hill.

I do not think that is our intent, so I recommend we weigh carefully any decision to build such a parking facility.

Mr. President, I wish to register my vote against passage of S. 3917.

Will the Senator yield to me for just another minute?

Mr. COOPER. I yield.

Mr. BOGGS. I want to commend the distinguished Senator from Alaska, chairman of the subcommittee, for his handling of this measure. We did go into it, we held hearings and tried to consider every aspect of it.

Finally, while I know there will be time later on, I cannot help but take this moment briefly to commend the distinguished Senator from Kentucky, who is retiring after this term, and to say what a great source of strength and wisdom he has been on our Public Works Committee. I am sure every member of the committee, on both sides, recognizes his great contributions to the work of this important committee, not only on the large measures, but on every measure, regardless of its size or its consequence. I know we are all going to miss him, and especially we are going to miss his valuable counsel and help on the committee.

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

Mr. COOPER. Mr. President, I yield myself 1 minute.

I must say the Senator from Delaware is the only working member on the minority side on this subcommittee, and we owe him a great deal. I appreciate his work and also that of the Senator from Alaska and the Senator from West Virginia.

I still doubt, to be honest, the necessity of the building at this time. I do not know just what the need is. I hope, if the building is constructed, it will be a monument and a great help to the Senate, but also that it will be constructed at a cost that will be correct, and that it will have not only some functional value but some esthetic value.

Mr. RANDOLPH. Mr. President, will the Senator yield to me so that I may ask a question of my able colleague from Kentucky?

Mr. GRAVEL. I yield.

Mr. RANDOLPH. Mr. President, the legislation, as the Senator from Kentucky knows, contemplates the completion of the building begun in 1955. There is an intention also, as was indicated in my earlier remarks, to take the first steps to provide needed parking facilities.

Does the Senator feel that we need additional parking facilities here to accommodate staff members? The reason for this question is that there are two parts of the bill, in essence, which are involved with the problem not only of working quarters for staff members, but also the actual building needs.

Mr. COOPER. Yes; I am familiar with that, and I do know that, particularly for members of the staff and for visitors, there is very little parking area, and this is a problem for them. As Members of the Senate, if we have cars, we have space for our cars; and I think it is right that these other people should have places to park their cars. I note a good many of them are beginning to ride bicycles now. I think that is probably healthy, but it does not answer the question.

Mr. RANDOLPH. I hope the Senator will not include motorcycles in that category.

Mr. COOPER. No; I agree with the Senator.

Mr. RANDOLPH. I think it is important to realize that this legislation does involve the problem of sites for parking, because, as my colleague from Kentucky well knows, in the Washington area, and perhaps particularly in the area of the Capitol, the costs of land acquisition continue to escalate, and I believe there is a need, before price increases spiral more than they already have, to move forward in this category; and I call that fact to the Senate's attention.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I yield myself such time as I may require.

First of all, I accept the amendment, which I think is a very good amendment. I associate myself with the remarks of the Senator from Delaware (Mr. BOGGS), the ranking Republican member of the committee and the subcommittee, and with the remarks of the Senator from Kentucky (Mr. COOPER), for whom I have great respect, and commend him for his contribution to the work of this committee, as well as the Senator from West Virginia (Mr. RANDOLPH).

Let me say, however, since I do not agree with their colloquy in opposition to this legislation, while it has been of the highest caliber, that first of all, by way of comparison, between now and the end of the year, we have approved and will have approved, and the construction on the properties will be underway, for the executive department a sum of $450 million for such purposes. That is what the GSA will be spending on the executive branch between now and the end of the year, not speaking of what it has already spent this year or will be spending next year or the year after.

It strikes me as an unbelievable oddity that we can sit here and strangle ourselves for space, and let the executive go full force ahead with what it needs in the way of tools and space as it does its job while we strangle ourselves. Maybe the strangulation does not occur among the more senior Members of this body, but perhaps they should take a walk through the offices of some of the junior Members.

There are no committee rooms involved, as we see it, in this extension. What we are talking about is office space for Members. I suggest that our senior colleagues take a walk, for example, to the office of the Senator from California (Mr. TUNNEY), to my office, or the office of any Senator in the lower 25 percent echelon, and see how we are packing in personnel who are paid salaries of as much as $25,000 a year; 3 or 4 of them in a room, whereas, in the more senior committees and the offices of senior Senators, we have one person of that salary level occupying the same space that three or four or five people in our offices presently occupy.

Senators could be enlightened by taking a walk, for example, through Senator BENTSEN's offices. All you have to do is walk through them, and you realize that something is wrong, that something is not working right, and of course that is the extremely limited space allocation.

There is only one way to solve that problem, and that is to expand. It may be argued that Parkinson's law will probably apply, and that we will expand our

staffs to fill the available space. There is no question but that Congress will continue to grow because as long as this Nation continues to grow there will be ever more work to be done, and we will need more expertise. Since expertise has to reside in individuals, they must of necessity occupy space to perform their jobs.

This building was expanded back in 1955. The expansion was truncated because of various exigencies at that particular time. But if it was felt then that we needed a full building, and additional space, certainly, in keeping with the growth of the executive agencies, I would hope that on the congressional side, we would seek to keep abreast, if not to control the executive branch activities at least to monitor them, and we need the space to do that.

I have no further comment. I accept the amendment. Certainly the amendment is an improvement to the bill. We have the yeas and nays ordered. If the Senator from Kentucky is prepared to yield back the remainder of his time, I am prepared to yield back the remainder of mine, and we can proceed to vote.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. COOPER. I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

HIGHWAY CONSTRUCTION—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—with the approval of the distinguished senior Senator from West Virginia (Mr. RANDOLPH), and it is my understanding that it will also meet with the approval of the distinguished senior Senator from Kentucky (Mr. COOPER)—that at such time as S. 3939, the highway bill, is laid before the Senate and made the pending business, there be a time limitation on an amendment jointly sponsored by the Senator from Kentucky (Mr. COOPER) and the Senator from Maine (Mr. MUSKIE) of 2 hours, to be equally divided between and controlled by the distinguished Senator from Kentucky (Mr. COOPER) and the distinguished manager of the bill (Mr. RANDOLPH); that time on an amendment to be jointly offered by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. WEICKER) be limited to 1 hour, to be equally divided between and controlled by the mover or movers of the amendment and the distinguished manager of the bill (Mr. RANDOLPH);

That time on any other amendment be limited to 30 minutes, to be equally divided between and controlled—with respect to amendments in the first degree—by the mover of such and the manager of the bill (Mr. RANDOLPH), and with respect to amendments in the second degree, by the mover of such and the mover of the amendment in the first degree, except in any instance in which the mover of the amendment in the first degree favors the amendment in the second degree, in which case the time in opposition be under the control of the manager of the bill (Mr. RANDOLPH); that time on any debatable motion or appeal be limited to 20 minutes, to be equally divided between and controlled by the mover of such and the manager of the bill, except in instances in which the manager of the bill is in favor of such, in which case the time in opposition thereto be under the control of the distinguished majority leader or his designee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

U.S. SENATE OFFICE BUILDING, LAND ACQUISITION, AND PARKING FACILITIES PLANNING ACT OF 1972

The Senate continued with the consideration of the bill (S. 3917) to authorize the construction of the completion of the New Senate Office Building on the east half of square 725 in the District of Columbia, to authorize the acquisition of certain real property in square 724 in the District of Columbia, to authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities to be constructed on square 724 and an architectural design competition to be conducted in connection therewith, and to authorize the acquisition of all publicly or privately owned property contained in square 764 in the District of Columbia as an addition to the U.S. Capitol Grounds, and for other purposes.

THE PRESIDING OFFICER (Mr. ALLEN). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOPER). 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 Missouri (Mr. EAGLETON), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Ohio (Mr. SAXBE), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 83, nays 0, as follows:

[No. 421 Leg.]

YEAS—83

Aiken	Eastland	Montoya
Allen	Ervin	Moss
Anderson	Fannin	Muskie
Bayh	Fong	Nelson
Beall	Gambrell	Packwood
Bellmon	Goldwater	Pastore
Bennett	Gravel	Pearson
Bentsen	Gurney	Pell
Bible	Hansen	Percy
Boggs	Hart	Proxmire
Brock	Hartke	Randolph
Brooke	Hatfield	Ribicoff
Buckley	Hruska	Roth
Burdick	Hughes	Schweiker
Byrd, Harry F., Jr.	Humphrey	Scott
	Inouye	Smith
Byrd, Robert C.	Jackson	Stafford
Cannon	Javits	Stennis
Case	Jordan, N.C.	Stevens
Chiles	Jordan, Idaho	Stevenson
Church	Long	Symington
Cook	Magnuson	Taft
Cooper	Mansfield	Talmadge
Cotton	Mathias	Thurmond
Cranston	McClellan	Tower
Curtis	Metcalf	Weicker
Dole	Miller	Williams
Dominick	Mondale	Young

NAYS—0

NOT VOTING—17

Allott	Harris	Mundt
Baker	Hollings	Saxbe
Eagleton	Kennedy	Sparkman
Edwards	McGee	Spong
Fulbright	McGovern	Tunney
Griffin	McIntyre	

So Mr. COOPER's amendment was agreed to.

The PRESIDING OFFICER (Mr. HART). The bill is open to further amendment.

Mr. GRAVEL. Mr. President, I call up my first amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, line 17, strike "General Services Administration and other" and insert "appropriate".

Mr. GRAVEL. Mr. President, this is a simple amendment. All it would do is make more general the specificity we already have in the bill. I do not believe there is any opposition to it. I am prepared to yield back the remainder of my time.

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL).

The amendment was agreed to.

Mr. GRAVEL. Mr. President, I call up my next amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 8, line 10, insert the following:

"ACQUISITION OF SQUARE 757

"SEC. 6. (a) The Architect of the Capitol is authorized to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, transfer, or otherwise, all publicly or privately owned property contained in square 757 in the District of Columbia, and all alleys or parts of alleys contained within the curblines sur-

rounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act.

"(b) For the purposes of this Act, square 757 shall be deemed to extend to the outer face of the curbs surrounding such square. Notwithstanding any other provision of law, any real property owned by the United States any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan Numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol.

"(c) Upon acquisition of such real property pursuant to this section, the Architect of the Capitol is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith.

"(d) The jurisdiction of the Capitol Police shall extend over such property, and such property acquired under this Act shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code."

On page 8, line 12, strike "6" and insert in lieu thereof "7".

On page 8, line 21, strike "7" and insert in lieu thereof "8".

Mr. GRAVEL. Mr. President, this amendment is also a simple one. All it would do is give authority to the Government to acquire square 757, which is a parcel of land in back of the new Senate Office Building as it adjoins it on Maryland Avenue, bordered by Maryland Avenue, Third Street, Second Street, and C Street. All it does is to give authority to it. There are no condemnation proceedings.

The reasoning is simple. It was not brought to our attention until after the bill came out of committee. That is why it is being offered now as an amendment.

The planning commission restricts activities that can take place on the property. Anyone who owns it cannot improve it. They cannot do anything with it. He is locked into this ownership position. Even if the Government gets the benefit of it, they do not allow anyone to do anything.

So it would seem only fair to give the Government the authority to acquire this land, and if and when people who own property on this block are willing to sell on a negotiated basis, we can acquire that property. To my mind this is really unfortunate for the property owners who live in that particular block, because I think it is in the best interest of the Government to acquire that property. And if these property owners desire to sell at a figure which will be agreed on for the sale thereof, that land ought to be acquired by the Government, because I think it is in the long-term best interests of the Capitol.

Mr. President, I have no further comments to make.

Mr. COOPER. Mr. President, since I am not a member of the Subcommittee on Public Buildings and Grounds, I do want to obtain what information I can as the ranking minority member of the full committee.

First, I ask the Senator if it is contemplated that the property to be acquired is necessary to the extension of the Senate Office Building.

Mr. GRAVEL. No, not at all. It is a contiguous block by itself.

Mr. COOPER. It is the property east of the property to be used for the subsequent addition of the New Senate Office Building.

Mr. GRAVEL. This is an authorization to acquire that whole block.

Mr. COOPER. Is the VFW in that block?

Mr. GRAVEL. The Senator is correct.

Mr. COOPER. Does the Senator know the property values? Has there been any estimate of the cost of acquiring this block?

Mr. GRAVEL. There has been no estimate. All we are granting is the authority to acquire if the people want to sell. There is no condemnation and there are no forced sales involved.

Mr. COOPER. Would the authorization that we have just included in the bill of $53.5 million be the source of funds for the acquisition of the property?

Mr. GRAVEL. No, not at all.

Mr. COOPER. What would be the source of the funds? Where does the authorization power reside with respect to the acquisition of these funds?

Mr. GRAVEL. The source would be the Congress of the United States. When and if parcels of property are acquired, they would have to go through the subcommittee and the normal process. There will be no acquisition until the matter actually comes before the Senate. All we are doing is giving them the authority to go ahead and do it.

Mr. COOPER. Mr. President, I have seen the amendment. It authorizes the Architect of the Capitol to acquire on behalf of the United States, by purchase, transfer, or otherwise, all of this property. We have to have some money to do that.

Mr. GRAVEL. No. It is not dissimilar to any other process here in the authorizing of buildings or projects. They would have to go to the Appropriations Committee to get the money. All we are doing is authorizing the project as we normally do. And when and if there is a desire to pony up the money to pay for the acquisition of this property, they will have to go through the normal procedure.

Mr. COOPER. This is an open authorization to the Architect of the Capitol to acquire the property.

Mr. GRAVEL. The Senator is correct.

Mr. COOPER. The measure provides the authorization.

Mr. GRAVEL. The Senator is correct.

Mr. COOPER. But the Senate just agreed to an amendment which would limit it to $53,500,000.

Mr. GRAVEL. That is for the construction of an extension of the New Senate Office Building. The two items are not related. They happen to be packaged in the same piece of legislation, which is something that is very ordinary in this body.

Mr. COOPER. Mr. President, as I said when I offered my amendment, I feel somewhat limited because of the fact that I am soon going to leave the Senate and will not be here after this year. I do not want to take any action which would affect the needs of the Senate. On the other hand, I am a member of the full Public Works Committee at the present time. And I have served on that committee for 18 years at different times. I have been in and out of service on that committee, I believe, on three occasions. It is a very important committee. I am proud that I have served on it. However, I must say that I do not like this practice of bringing up an amendment to authorize the purchase of property without any idea of what it will cost or what it is needed for and without any consideration by the committee.

I understand that it is desirable for Congress and for the Architect to acquire such property around the Capitol as may be needed, especially in view of the fact that at this time the costs of property are increasing. I also realize that individuals or corporations who own the property have very little market for it except through the U.S. Government. They are placed in a very bad situation. However, again I think I have my own responsibility in this matter, without being niggardly about it, that I intend to fulfill. I intend to ask for a rollcall vote on the amendment.

Mr. GRAVEL. Mr. President, before the Senator from Kentucky asks for a rollcall vote on the amendment I would like to enlighten him on one point.

This is a blanket authorization and is somewhat different from other authorizations. Usually we authorize and then the appropriations process takes place through the Appropriations Committee.

However, in this case this is an overall authorization of intent to acquire, when the money is available, this whole block of land. There will be individual authorizations that will have to come before our committee. Suppose that there is one lot in the block of land and the owner of that lot and the Architect of the Capitol have negotiated and agreed that we will buy the lot for $10,000. At that time, they must go back to the Public Works Committee and the Subcommittee on Buildings and Grounds for that authorization. We will then give them a specific authorization. They will then obviously have to go to the Appropriations Committee.

So, really nothing is impeded insofar as checks and balances are concerned. This is one additional step that does not normally exist in other legislation. A better way to put it is that this would be a directive to the Architect of the Capitol to go out and, if people want to sell, talk to them about acquiring the property. But the committee will rule on any specific authorization for a specific parcel. However, no responsibility

or future power of the Congress is given up.

Mr. COOPER. The property may well be needed. However, I can see an extension of the practice where some Senator would come on the floor and make such a request. I certainly have nothing personal about the Senator. However, suppose that we need x block. Are we authorized to purchase that x block without any further authorization? That is what I mean.

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

Mr. GRAVEL. I yield whatever time the Senator requires to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I would like to ask a question or two of the distinguished manager of this particular legislation. Does he contemplate purchasing all the property in the block? What if we have one obstinate owner who is located right in the center of this property? If we have bought all the other property around it and we do not have condemnation authority, we have spent a lot of money. What would we do with this property if some property owner refused to sell and was right in the middle of it?

This happened in New York a long time ago. This involved a very large building. There was a little bar on the corner and the owner of that bar would not sell. As a result, they had to go ahead and build the building, and they now have a big building surrounding a bar on the corner.

Mr. GRAVEL. Mr. President, of course there are examples not only in New York, but also in all parts of the country, where this has happened. In those cases we have to know beforehand what we want to do with the property, and design to conform with the situation caused by that intransigent person.

This is a different situation. We are talking about the Capital of the United States. We have no specific plans for this particular piece of property. We have acquired other parcels of land here, and we do not put anything on them except trees and grass. I cannot predict what the future need will be. However, I think we do a severe injustice to the people who own that property, because they cannot do anything with it in the meantime.

Mr. PASTORE. But as a former builder does not the Senator feel that the better way to handle this is to call upon the Architect of the Capitol to make a study and to enter into negotiations with the owners to find out if this property is up for sale, whether or not it can be purchased, what the approximate price will be, and then we come here and we get an authorization. If it becomes necessary to do it by condemnation, it can be done by condemnation. But it strikes me that it would be a reflection on this Congress if we spend millions of dollars to buy the surrounding property and there is one parcel in the middle where the owner will not sell.

What would the Senator do in that case? That is what is wrong with this, because we have so many parcels involved here. I realize the problem. The time has come when we must realize we have hundreds upon hundreds of visitors who come here every day and who cannot park their cars. We keep talking about parking space for Senators, we keep talking about parking space for staff members of Senators, and members of committees. We should start thinking about parking spaces for visitors who come here. It could be a profitable situation, or a self-supporting matter if it is not profitable. Perhaps we could have parking meters where the people could pay 50 cents or 25 cents to park their cars for an hour to visit the Capitol. We would be better off. I have had visitors from Rhode Island say, "I have been running around the block for a half hour and could not find a parking space." Of course, they could not find a parking space. If we could use this block for public parking with a nominal fee we would be making a good investment and make it a lot more convenient for many visitors to Washington. There must be a lot of visitors in the gallery who already have had the problem I am talking about.

[Applause in the galleries.]

Mr. COOPER. Mr. President, will the Senator yield so I may ask for the yeas and nays on the amendment?

Mr. GRAVEL. I yield.

Mr. COOPER. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes remaining and the Senator from Kentucky has 5 minutes remaining.

Mr. GRAVEL. Mr. President, we have already done that in block 723, which is now a parking area. We acquired that for a parking area. We will not be able to open 757 to parking to satisfy the needs my colleague so ably describes if we do not take steps of acquisition. That is what we are talking about. It does not make sense to go to condemnation and force people to sell that property if we do not need the total property. Why not go in gracefully and say, "Here is the authority." About one-third are ready to sell at this time. They will negotiate what the price should be, they will come back to us for authorization, and then we will get money from the Committee on Appropriations.

All we are doing here is talking about directions to the Architect of the Capitol. Let us do something intelligent. If a person does not want to sell, I would not say we should impair his present lease or ownership until such time as he dies or something else serious happens.

Mr. PASTORE. The Senator has just said something he has not said before. The Senator said that one-third are already willing to sell. In other words, this has been going on. These negotiations have been going on before it was called to the attention of Congress. Am I correct?

Mr. GRAVEL. Unofficially, yes.

Mr. PASTORE. That is what I am talking about. I hope we get more.

Mr. GRAVEL. We will not be able to do that without sanctions.

Mr. PASTORE. How did we get the one-third?

Mr. GRAVEL. Unofficially.

Mr. PASTORE. Let us get the rest of them unofficially.

Mr. GRAVEL. They have contacted the Architect of the Capitol.

For some reason there is a misunderstanding, and I am not correcting it. We are not talking about giving anything away in the authorization power.

All we are trying to do is to give direction to the Architect of the Capitol to go out and formally begin negotiations. Then those people wil come back with a price and we can authorize. So we are not talking about anything more than saying, "Go out and get something started."

Mr. PASTORE. Well, we are going to appropriate the money and purchase those properties in blocks where it will be convenient to do something with it. I hope we do not buy one house on this corner, one house on that corner, and one house on this corner. I mean, we should buy it in blocks, either for parking, or things of that nature.

Mr. GRAVEL. No question.

Mr. PASTORE. I hope so.

Mr. GRAVEL. This is a determination that could be made at the time of the authorization and it need not be made at this time. The Senator from Rhode Island will have another opportunity when they come forward with specific purchases of land, and at that time he can say, "That is not contiguous, let us not buy it," and I might say, "Let us acquire it."

Mr. PASTORE. The way the Senator from Kentucky read it I think you are going to authorize now. The only thing remaining is the appropriation, if it comes up. I think you have all the authorization you want. You say that the Architect is hereby authorized to buy this whole block. I do not see why the Senator has to come back here piece by piece. All the Senator would have to do would be to go to the Committee on Appropriations to buy the piece.

Mr. GRAVEL. I think it is subject to interpretation at this point in time.

Mr. PASTORE. Yes.

Mr. GRAVEL. I am prepared to yield back the remainder of my time if the Senator from Kentucky is.

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes remaining.

Mr. COOPER. Mr. President, I am at a loss to argue this matter because there are no facts before us. That is why I am opposed to it.

It is probably true that this property will be needed, but there is no evidence before the Committee on Public Works, and there is no testimony before the Senate that it is needed. There were no hearings on it and there is no record of any kind. There is no evidence about what the cost will be. As the Senator from Rhode Island stated correctly, if it is necessary to acquire this property, and we secure all but one or two parcels, you have only the power of condemnation to acquire the remainder but this bill does not provide condemnation so the Senator would have to come back again.

The chief reason I oppose it is that there was never any testimony on this matter. I do not think it is the right

practice. I do not think many committees of the Senate would follow such a practice. I think it is bad, particularly in view of the unfortunate event which is said to have occurred in connection with the purchase and construction of property around the Capitol.

Mr. GRAVEL. Mr. President, if the Senator will yield, I would be happy to clear up this matter by changing the amendment, so that rather than using the word "authorize," the Architect of the Capitol is hereby directed. That is certainly the attitude or approach I have.

Mr. PASTORE. That satisfies the Senator from Rhode Island.

Mr. COOPER. I will not object to the Senator's perfecting amendment. I still oppose it.

Mr. GRAVEL. Mr. President, I ask unanimous consent that I may perfect my amendment by changing the word "authorize" on the first line, just before the last word, to "is hereby directed".

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the modification is agreed to.

Mr. ANDERSON. Mr. President, I wish to associate myself with what the Senator from Kentucky has said. I am going to vote with him. I appreciate what the Senator from Rhode Island has said, but somebody has got to stop this sort of thing. We ought to know what we are buying.

Mr. PASTORE. Mr. President, if the Senator from New Mexico will yield to me, that is precisely what we are doing now. We are correcting it to be in conformity with the idea expressed by the Senator. All it does is direct the Architect of the Capitol to negotiate. Then we have to come back here to authorize and then appropriate. Is that not correct?

Mr. GRAVEL. That is correct.

Mr. PASTORE. In other words, all we are asking to do is to go out and find out. We are not bound in any way. We do not bind the Government. All we are saying is go out and find out. If we do not like it, we do not have to authorize it.

The PRESIDING OFFICER. All time on the amendment has been exhausted.

The question is on agreeing to the amendment, as modified, of the Senator from Alaska (Mr. GRAVEL). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Virginia (Mr. SPONG), the Senator from North Carolina (Mr. JORDAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I further announce that the Senator from Hawaii (Mr. FONG) is detained on official business.

The result was announced—yeas 28, nays 53, as follows:

[No. 422 Leg.]

YEAS—28

Bayh	Hart	Moss
Beall	Hartke	Muskie
Bentsen	Hatfield	Pastore
Bible	Humphrey	Pell
Brock	Inouye	Randolph
Byrd, Robert C.	Long	Ribicoff
Cannon	Magnuson	Stevens
Cranston	Mathias	Stevenson
Eagleton	Mondale	
Gravel	Montoya	

NAYS—53

Aiken	Dominick	Packwood
Allen	Eastland	Pearson
Anderson	Ervin	Percy
Bellmon	Fannin	Proxmire
Bennett	Fulbright	Roth
Boggs	Gambrell	Schweiker
Brooke	Goldwater	Scott
Buckley	Gurney	Smith
Burdick	Hansen	Stafford
Byrd, Harry F., Jr.	Hruska	Stennis
	Hughes	Symington
Case	Jackson	Taft
Church	Javits	Talmadge
Cook	Jordan, Idaho	Thurmond
Cooper	Mansfield	Tower
Cotton	McClellan	Weicker
Curtis	Miller	Williams
Dole	Nelson	Young

NOT VOTING—19

Allott	Hollings	Mundt
Baker	Jordan, N.C.	Saxbe
Chiles	Kennedy	Sparkman
Edwards	McGee	Spong
Fong	McGovern	Tunney
Griffin	McIntyre	
Harris	Metcalf	

So Mr. GRAVEL's amendment, as modified, was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD, a section-by-section analysis of the bill.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF BILL

Sec. 1 designates the title of the Bill.

EXTENSION TO NEW SENATE OFFICE BUILDING

Sec. 2 (a) authorizes the Architect of the Capitol, under the direction of the Senate Office Building Commission, to construct and equip a fireproof Extension to the New Senate Office Building on the east half of Square 725, including as part of the site the public alley that now separates the east and west halves of that Square, but excluding the National Womans Party Headquarters building located at the southeast corner of that Square.

This Section also authorizes structural and other changes in the existing New Senate Office Building necessitated by the Extension, together with approaches, connections with the Capitol Power Plant and public utilities, and architectural landscape treatment of the grounds.

This Section provides that the Extension shall contain office rooms and such other accommodations for the Senate as may be approved by the Senate Office Building Commission, and vests the Commission with authority to determine the plan to be adopted and followed in the construction of the Extension, subject to appropriation implementation.

When the New Senate Office Building was constructed in 1955–1958, it was designed in such a manner as to provide for construction of a future addition to the building by extension of the building to the East. The existing New Senate Office Building can be extended eastward in such a manner as to achieve a well-designed architectural composition.

The Government now owns all of the property in the East half of Square 725 except the Belmont House now occupied by the National Woman's Party as their headquarters building. Without disturbing that building, an Extension can be added to the New Senate Office Building, containing approximately the same amount of space as now provided in the existing New Senate Office Building.

Sec. 2(b) provides that, upon completion of the project, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of the Act of June 8, 1942 governing the operation and maintenance of the Senate Office Buildings and to the Capitol Grounds law of 1946, as amended, in a similar manner and to the same extent as the present Senate Office Buildings and the grounds and sidewalks surrounding the same.

ACQUISITION OF PROPERTY

Sec. 3(a) authorizes the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire, as a site for garage facilities for the United States Senate, 10 privately-owned lots and 1 government-owned lot in Square 724. Acquisition of these lots, plus those heretofore authorized to be acquired by the Architect, will place in government ownership, under the jurisdiction of the Architect of the Capitol, Square 724 in its entirety.

Square 724 contains a total of 51 lots, having a total area of 190,300 square feet. 41 of these lots are now government-owned, 37 of which were acquired by the Architect of the Capitol in 1960, 2 by the Architect in 1970, 1 by the Architect in 1972, and 1 (lot 844) by the General Services Administration in 1960. This places in present government ownership 41 lots in Square 724, having a total area of 134,100 square feet, representing 71 percent of the total square. Sec. 3(a) provides for transfer of lot 844 from the jurisdiction of the General Services Administration to the Architect of the Capitol.

The 10 privately-owned lots in Square 724, authorized to be acquired under Sec. 3(a) contain a total area of 56,200 square feet, representing 29 perecnt of the total square.

The building on lot 844, now under the jurisdiction of the General Services Administration, is occupied, under lease arrangement, by the United States Immigration and Naturalization Service.

The 10 privately-owned lots contain the following improvements:

Lot 94, located on D Street, N.E., immediately east of the former Plaza Hotel properties is occupied by a 2-story structure. Formerly part of the structure was used as a tourist home and part as a restaurant. The building, as a whole, is now occupied by the Monocle restaurant.

Lot 86, at the corner of Second and D Streets, N.E., is occupied by the Spencer Apartments, a 3-story structure.

Lot 833, located adjacent to the Spencer Apartments on Second Street, N.E., is occupied by an apartment house—a 2-story brick

structure which is also used as a tourist home.

Lot 839, located on Second Street, N.E., midway between C and D Streets, N.E., is occupied by a 2-story apartment house.

Lot 80, located adjacent to Lot 839, on Second Street, N.E., is occupied by a 3-story brick apartment known as the Tenney Apartments.

Lot 79, located on C Street, N.E., midway between First and Second Streets, N.E., is occupied by the Stanton Apartments, a 6-story structure.

Lots 805 and 806, located adjacent to Lot 79, on C Street, N.E., are each occupied by a 3-story residential building.

Lot 838, located adjacent to lot 806, on C Street, N.E., is occupied by the Senate Court Apartments, a 6-story structure.

Lot 840, located at the corner of First and C Streets, N.E., is occupied by the Capitol Hill Hotel (formerly known as the Carroll Arms Hotel), a 6-story structure.

Sec. 3 (a) also authorizes the Architect to acquire all alleys and parts of alleys in Square 724; also that part of the street which lies between the curbline and the property line.

Sec. 3 (a) provides that all properties acquired under the bill shall become a part of the Capitol Grounds and be under the jurisdiction of the Capitol Police.

Sec. 3(b) requires that, if any of the properties are acquired through condemnation, the condemnation proceedings shall be conducted in accordance with secs. 1351–1368 of Title 16 of the D.C. Code.

Sec. 3(c) provides that any real property, including alleys and parts of alleys and streets within curblines, owned by the United States, shall, upon request of the Architect, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect without reimbursement or transfer of funds. This section also requires that, upon request of the Architect with the approval of the Commission, any alleys or parts of alleys and streets within curblines shall be closed and vacated by the Commissioner of the District of Columbia.

Sec. 3(d) authorizes the Architect, under the direction of the Commission, to demolish and remove any structures on and constituting part of the lots acquired under Sec. 3 and, pending demolition, to use the property for government purposes or to lease any or all of the property for such periods and under such terms and conditions as the Architect deems most advantageous to the United States and to incur any necessary expenses in connection with such use and leasing.

GARAGE FACILITIES

Sec. 4(a) authorizes the Architect, under the direction of the Senate Office Building Commission, to provide for the construction and equipment of a semi-underground vehicle parking garage structure for the use of the United States Senate on Square 724, with roof top space for enclosed commercial installations; also for tunnel connections with the New Senate Office Building and connections with the Capitol Power Plant and public utilities, and for landscape treatment of the grounds above and surrounding the garage structure.

This section further provides that the garage structure and related improvements shall be constructed by the Arhitect in accordance with plans to be approved by the Senate Office Building Commission.

On April 21, 1971, at a hearing before the Senate Committee on Public Works, Subcommittee on Public Buildings and Grounds, at the request of the Subcommittee, the Architect of the Capitol submitted seven suggested proposals for garage facilities for the United States Senate, providing parking accommodations ranging from 865 to 2,400 automobiles. The Architect at that time expressed as his preference a proposal which would require the use of the entire area of Square 724 and provide parking accommodations for 1,725 automobiles, with individual parking by car owners. The parking spaces would be 10 feet x 20 feet in dimension. This proposal contemplated construction of a low-level garage similar to the House garage in Square 691 South of the Longworth Building, with two levels placed below grade and one above grade, and with suitable landscaping above. This original proposal did not include provision for commercial rental space above the 3 garage levels proposed. Section 4(a) of the Bill provides for the addition of such space.

The Bill adds, under Section 4(b), a feature also not considered when the Architect of the Capitol presented his proposals at the earlier hearings in April 1971.

Section 4(b) authorizes the Architect of the Capitol, in developing plans for that part of the garage structure on the upper level authorized under section 4(a) for commercial use and landscaping of the remaining roof area, to establish for the purpose of development of a basic concept therefor, a nationwide architectural design competition, in order to encourage the preparation of an imaginative design for such part of the garage structure and landscaping and to assure a pleasant transition to and mximum coordination with the surrounding residential and commercial community in that area of Northeast Washington within sight of or adjoining the Capitol Grounds.

Section 4(b) further provides that such design concept may consider and include existing and future land-use and structures in said surrounding community, and shall consider any existing model cities or other governmental planning for such Northeast area, including that of the National Capital Planning Commission. This subsection also provides that guidelines and criteria specifically defining the limits, scope, and all aspects of the competition shall be developed and promulgated by the Architect of the Capitol with the approval of the Senate Office Building Commission, and an award for the best design or designs shall be determined by a committee jointly designated for this purpose by the Architect of the Capitol and the Senate Office Building Commission, in such amount as they may deem to be appropriate.

Under Sec. 4(a) the Senate Office Building Commission is vested with authority to determine the plan to be adopted, subject to appropriation implementation. The Commission is not limited to considering proposals heretofore developed, but is free to consider any plans it deems appropriate for semi-underground vehicle parking garage structure, with roof-top space for enclosed commercial installations, authorized by the Bill.

Sec. 4(c) provides that, upon completion of the project, the garage structure and other facilities constructed under authority of Sec. 4(a), including landscaped areas, shall be subject to the provisions of the Act of June 8, 1942 governing the operation and maintenance of the Senate Office Buildings and to the Capitol Grounds law of 1946, as amended, in the same manner and to the same extent as the present Senate Office Buildings and grounds and sidewalks surrounding same.

This section also provides that, insofar as feasible, parking of automobiles on streets and roadways by Senate employees shall be discontinued after completion and occupancy of the garage structure.

Sec. 4(d) spells out that all areas of Square 724 now used for parking of automobiles by the Senate may continue to be so used until such time as those areas are required for construction purposes.

ACQUISITION OF PROPERTY—SQUARE 764

Section 5(a) authorizes the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, all publicly or privately owned property contained in Square 764, in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square.

Square 764 is bounded on the north by "D" Street, S.E., on the east by Third Street, S.E., on the west by Second Street, S.E., and on the South by "E" Street, S.E. This square is located within two blocks of the south limits of the Capitol Grounds on the House side.

This being a large vacant tract of land in the vicinity of the south side of the Capitol Grounds makes its acquisition by the Govenrment at this time, prior to the erection of costly buildings thereon, highly desirable. At the direction of the House Office Building Commission, several efforts have been made in the past several years to acquire this property under authority of the "Additional House Office Building Act of 1955." Funds for such purpose have not, however, been approved by the House Appropriations Committee. Such acquisition is again proposed.

Sec. 5 (b) requires that, if any of the properties are acquired through condemnation, the condemnation proceedings shall be conducted in accordance with secs. 1351–1368 of the D.C. Code.

Sec. 5 (c) provides that any real property, including alleys and parts of alleys and streets within curblines, owned by the United States, shall, upon request of the Architect, made with concurrent approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect without reimbursement or transfer of funds. This Section also requires that, upon request of the Architect, and with concurrent approval of the Commission, any alleys or parts of alleys and streets within curblines shall be closed and vacated by the Commissioner of the District of Columbia.

Sec. 5 (d) authorizes the temporary use of Square 764 for temporary parking facilities for the United States Senate and House of Representatives, pending its development for permanent use as a park area or a site for additional facilities for the United States Senate and/or House of Representatives.

In this regard, the Committee is advised that the House Office Building Commission recommends the use of Square 764 as the site for the John W. McCormack Residential Page School. Section 492 of the Legislative Reorganization Act of 1970, Public Law 91–510, approved October 26, 1970, authorizes the construction of a fireproof building containing dormitory and classroom facilities, including necessary furnishings and equipment, for pages of the Senate, the House of Representatives and the Supreme Court of the United States, on a site to be jointly approved by the Senate Office Building Commission and the House Office Building Commission, in accordance with plans to be prepared by or under the direction of the Architect of the Capitol and jointly approved by said Commission. That Act also provides for acquisition of a site for a Page School, to be known as the John W. McCormack Residential Page School, by the Architect of the Capitol under the direction of these two Commissions. This matter is now pending before the Senate Office Building Commission. The language of Section 5 is broad enough to permit such use, if so desired by the Congress.

Sec. 5(e) provides that the jurisdiction of the Capitol Police shall extend over any real property acquired under Sec. 5 and that such property, when acquired, shall become a part of the United States Capitol Grounds and be subject to the provisions of law governing the Capitol Grounds.

CONTRACT AUTHORITY

Sec. 6 authorizes and directs the Architect, under the direction of the Senate Office Building Commission, to enter into contracts and incur other obligations and make expenditures necessary to carry out the provisions of Sections 2, 3, 4, and 5 of the Bill.

APPROPRIATIONS

Sec. 7 authorizes the appropriation of such amounts as may be necessary to carry out the provisions of the Bill and provides that any sums so appropriated shall remain available until expended.

Mr. GRAVEL. Mr. President, I wish to commend the distinguished Senator from Texas (Mr. BENTSEN) who organized the younger Members of this body to press for passage of this legislation, first by the committee and now on the Senate floor.

I commend him as well as other Members of this body who supported him in this effort. They realize that in order to function intelligently as Senators, it is to their best interests to have adequate office space.

Mr. President, I have no further amendments to call up. I am ready to vote on the 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 and third reading of the bill.

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

Mr. BENTSEN. Mr. President, I want to lend my strong support to the passage of S. 3917. It is a measure long overdue. It will affect the efficiency and the productivity of every Member of the Senate.

Mr. President, hearings were held as long ago as August 3, 1967, on the need for additional Senate office space. Since that time, the problems have been compounded. Indeed, the population of my own State has increased by roughly 22 percent since 1958, with heavy increases in each of the last 5 years.

It is no secret that the absence of sufficient office and parking space for Senate staff members has created intolerable conditions in the Senate offices. The detrimental effects on morale and efficiency are serious.

Upon my arrival in the U.S. Senate, I knew that I would be confronted with conditions that would not be tolerated in private business. I have evaluated my situation since that time by relying on standards prepared by the General Services Administration as guidelines for planning office space for new Federal buildings.

The average amount of floor space allocated for new Federal buildings by GSA is 150 square feet per person. The average space for each person on my Washington staff is 81.1 square feet. Neither figure includes allowances for storage space; therefore, the very cramped condition created by having my automatic typing section located in the basement of the Old Senate Office Building and the overcrowded storage locker in the attic were not included in this calculation. The comparison would be even worse if these areas were included.

Even so, based on these best of comparisons, my staff is working under conditions which fall 46 percent short of the GSA standards. Are not Senators' staffs just as important to the functions of Government as the executive branch's staff? I think so. Further, the GSA standards are based on broad, private industry concepts. In general, private business standards are far larger than that provided my staff.

People on my staff who have jobs which call for creative thinking, writing, and research are continually frustrated by the din of constantly ringing telephones, the voice of their fellow staff members dictating into recording machines, the clatter of typewriters, and other noisy interruptions too numerous to name. One of the most important functions my staff members perform is conferring with constituents. They also meet with others on legislative and administrative matters. Because desks in my office are located so close together, one discussion between a single member and another person immobilizes four other people in the same room. That is the worst kind of inefficiency.

As Members of the Senate we pay good money for staff members to do work which is as important as any in Washington. Yet two of my top legislative aides are crowded in an area smaller than would be allotted two clerk typists in most Federal agencies. It is simply false economy to provide salaries sufficient to attract talent and then not provide conditions which are conducive to efficient work.

During a visit to one of my colleague's offices, I was appalled to discover that one of his staff members worked at a small table in a dimly lit closet.

In another's office, the staff was so desperate for more space that the toilet and fixtures were torn out of a bathroom to make room for an automatic typewriter and typist.

Frequently, my own staff have to hold conferences in the hallway, including meetings with constituents.

In walking through the Old Senate Office Building, I am continually amazed by similar conferences being conducted in the hallways of other offices, so the problem is not unique to my office.

I would not tolerate such conditions in private business, because such conditions have proven to be detrimental to productivity and efficiency.

Before my arrival in Washington to begin my service, I knew, to a degree, that I would be facing a situation such as this. I had no concept of the magnitude of the problem, but I knew that space allowances were inadequate. Nevertheless, I wanted to operate my office efficiently; I felt, and still feel, I owed that to the people of my State.

On my own volition, I retained a private consulting firm to develop an organization chart, job descriptions, systems, and procedures for my office. This was accomplished at considerable personal expense. My staff and I continue to search for ways to maintain an efficient operation. It is difficult, indeed impossible, to operate at peak efficiency in coping with rising constituent and legislative demands, in view of the lack of office space.

In one attempt to ease the problem, I have placed one-fourth of my Washington staff on a 4-day, 40-hour workweek. I had other reasons for implementing this program, but some of the important factors that I considered relate to the problems being considered today. The commuting time and costs of those staff members participating have been reduced by 20 percent by the 4-day workweek. Another advantage is that for 2 days a week, overcrowding is reduced in a large section of my office. The participants also must fight for a parking spot only 4 days each week. In addition, through a change in working hours, these participants begin their workday at 8 o'clock and consequently, they have a better chance to obtain a parking space.

It is my understanding that the existing New Senate Office Building contains less space than was originally planned 24 years ago.

I know that it will never be popular to vote for additional facilities, but I believe we must provide the space needed to do a good job for our constituents. It is more costly not to provide efficient operating conditions.

PARKING SPACE

Mr. President, many Senators have probably been confronted with complaints by staff members about the inadequacy of parking facilities on the Senate side of Capitol Hill.

Excessive tardiness and nonproductive time can be attributed to deficiencies in the parking situation.

The high incidence of crime around the Senate Office Buildings is of far greater concern. According to the Sergeant at Arms, during the first 3 months of 1971, nine criminal assaults were committed against Senate staff members, 43 robbery holdups, 35 other incidents involving robbery by force or violence, 19 purse snatchings, and three sex offenses occurred, all within a few blocks of the Senate Office Buildings. The nature of conditions which exist is clearly indicated by these statistics. Not only are staff members jeopardized, but also constituents and others engaged in Senate business are also threatened.

Some 1,349 Senators and Senate employees have reserved parking spaces. There are 2,027 less fortunate employees who have permits for the abominable "bullpen" parking lot which contains only 405 spaces. In other words, more than five people are competing for each parking space in the "public" lot, which contains the only nonreserved spaces on the Senate parking grounds and which is usually filled by 8 o'clock each morning.

Our present conditions are intolerable. Worse, they are subject to correction.

Ultimately, the problem will not be resolved until we can authorize the construction of a modern parking facility which can accommodate the Senate's needs in this area.

I regret that the present bill offers no immediate solution to the parking difficulties we are encountering. However, the preliminary estimates submitted by the Architect of the Capitol, were excessive in cost.

Consequently, the committee was compelled to recommend a study by the Architect of the Capitol to explore alternatives for the construction of new and cost-effective parking facilities. Moreover, the Architect is directed to report his findings and recommendations to the Committee on Public Works.

It is my hope that the study will be carried out promptly and expeditiously

and that Congress will have the opportunity to pass substantive legislation dealing with the parking problem. The present situation does not permit undue delay in acting, and it becomes more aggravated daily.

Mr. President, I am pleased to see this legislation reach the Senate floor.

With its passage, we will have taken a major step toward insuring more productive facilities to care for the needs of the citizens we represent.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRAVEL. I yield back the remainder of my time.

Mr. COOPER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Louisiana, (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I further announce that the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

The result was announced—yeas 65, nays 17, as follows:

[No. 423 Leg.]

YEAS—65

Aiken	Bible	Cotton
Anderson	Brock	Cranston
Bayh	Brooke	Dole
Beall	Buckley	Dominick
Bellmon	Burdick	Eagleton
Bennett	Byrd, Robert C.	Eastland
Bentsen	Cook	Ervin
Fannin	Long	Ribicoff
Fulbright	Magnuson	Schweiker
Gambrell	Mansfield	Scott
Gravel	McClellan	Smith
Gurney	Metcalf	Stafford
Hansen	Mondale	Stennis
Hart	Montoya	Stevens
Hartke	Moss	Stevenson
Hatfield	Muskie	Taft
Hughes	Packwood	Thurmond
Humphrey	Pastore	Tower
Inouye	Pearson	Weicker
Jackson	Pell	Williams
Javits	Percy	Young
Jordan, N.C.	Randolph	

NAYS—17

Allen	Cooper	Nelson
Boggs	Curtis	Proxmire
Byrd, Harry F., Jr.	Goldwater	Roth
	Hruska	Spong
Cannon	Jordan, Idaho	Symington
Church	Miller	Talmadge

NOT VOTING—18

Allott	Griffin	McGovern
Baker	Harris	McIntyre
Case	Hollings	Mundt
Chiles	Kennedy	Saxbe
Edwards	Mathias	Sparkman
Fong	McGee	Tunney

So the bill (S. 3917) as amended, was passed, as follows:

S. 3917

An Act to authorize the construction of the completion of the New Senate Office Building on the east half of square 725 in the District of Columbia, to authorize the acquisition of certain real property in square 724 in the District of Columbia, to authorize the Architect of the Capitol to initiate and conduct a study of alternate designs for a vehicle parking garage with limited commercial facilities to be constructed on square 724 and an architectural design competition to be conducted in connection therewith, and to authorize the acquisition of all publicly or privately owned property contained in square 764 in the District of Columbia as an addition to the United States Capitol Grounds, and for other purposes

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 "United States Senate Office Building, Land Acquisition, and Parking Facilities Planning Act of 1972".

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

SEC. 2. (a) The Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to provide for the construction and equipment of an extension to the New Senate Office Building in accordance with plans approved by such Commission and by the Senate Committee on Public Works, on the east half of square 725 including the public alley separating the east and west halves of such square, but excluding lot 885 in such square, containing office rooms and such other rooms and accommodations as may be approved by the Senate Office Building Commission and by the Senate Committee on Public Works, including structural and other changes in the existing New Senate Office Building necessitated by such construction, together with approaches, connections with the Capitol Power Plant and public utilities, and architectural landscape treatment of the grounds.

(b) Upon completion of the project, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of the Act of June 8, 1942 (40 U.S.C. 174 (c) and (d)), and the Act of July 31, 1946 (40 U.S.C. 193a–193m, 212a and 212b) in the same manner and to the same extent as the present Senate Office Buildings and the grounds and sidewalks surrounding the same.

(c) During each fiscal year, the Senate Committee on Public Works shall examine the progress and costs of construction of such building and take such steps as are necessary to insure its economical construction.

ACQUISITION OF PROPERTY IN SQUARE 724

SEC. 3. (a) In addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), Public Law 91–382, approved August 18, 1970 (84 Stat. 819), and Public Law 92–184, approved December 15, 1971 (85 Stat. 637), the Architect of the Capitol, under the direction of the Senate Office Building Commission, is hereby authorized to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, as a site for parking facilities for the United States Senate, all publicly or privately owned real property contained in lots 79, 80, 86, 94, 805, 806, 833, 838, 839, 840, and 844 in square 724 in the District of Columbia, and all alleys or parts of alleys and streets contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That for the purposes of this Act, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further,* That, upon acquisition of any real property under this Act, the jurisdiction of the Capitol Police shall extend over such property, and any property acquired under this Act shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code.

(b) Any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368).

(c) Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding square 724 shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan Numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol with the approval of such Commission.

(d) Upon acquisition of any real property pursuant to this Act, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith.

(e) Nothing herein shall be construed to prohibit the continued use of areas in square 724, acquired under authority of the Acts of May 29, 1958, August 18, 1970, and December 15, 1971, cited in subsection (a) of this section, for the parking of automobiles, until such times as such areas may be required for construction purposes.

PLANS FOR GARAGE AND RELATED FACILITIES

SEC. 4. (a) The Architect of the Capitol is authorized to initiate and conduct a study, after consultation with the appropriate Federal agencies and individuals experienced in the design of vehicle parking structures, to explore design and cost alternatives for construction, on square 724, of a parking garage with limited commercial facilities, and report his preliminary findings and recommendations to the Senate Committee on Public Works.

(b) The Architect of the Capitol, concurrently with the study authorized in subsection (a), is authorized to establish, for the purpose of development of a basic concept therefor, an architectural design competition, in order to encourage the preparation of an imaginative design for the garage structure, including limited commercial facilities and landscaping and to assure a pleasant transition to and maximum coordination with the surrounding residential and commercial community in that area of Northeast Washington within sight of or adjoining the Capitol Grounds. Such design concept may consider and include existing and future land use and structures in said surrounding community, and shall consider any existing model cities or other governmental planning for such Northeast area, including that of the National Capital Planning Commission. Guidelines and criteria specifically defining the limits, scope, and all aspects of the competition shall be developed and promulgated by the Architect of the Capitol, with the approval of the Senate Office Building Commission, and an award for the best design or designs shall be determined by a committee jointly designated for this purpose by the Architect of the Capitol and the Senate Office Building Commission, in such amount as they may deem to be appropriate.

ACQUISITION OF SQUARE 764

SEC. 5. (a) The Architect of the Capitol is authorized to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act.

(b) Any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368).

(c) For the purposes of this Act, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square. Notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan Numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol.

(d) Upon acquisition of such real property pursuant to this section, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to approval of the Senate Office Building Commission and the House Office Building Commission.

(e) The jurisdiction of the Capitol Police shall extend over any real property acquired under this section and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code.

OBLIGATIONAL AND EXPENDITURE AUTHORITY

SEC. 6. The Architect of the Capitol, under the direction of the Senate Office Building Commission, is hereby authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, and expenditures authorized by Public Law 91–646 applicable to the Architect of the Capitol, as may be necessary to carry out the provisions of this Act.

APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated $53,500,000 to carry out the provisions of this Act, and any sums so appropriated shall remain available until expended.

Mr. GRAVEL. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

EXTENSION OF LIFE OF THE COMMISSION ON CIVIL RIGHTS

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12652.

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate a message from the House of Representatives announcing its disagreement 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, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ERVIN. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. EASTLAND, Mr. MCCLELLAN, Mr. ERVIN, Mr. HART, Mr. HRUSKA, Mr. FONG, and Mr. SCOTT conferees on the part of the Senate.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 956, S. 3337, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. BUCKLEY). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3337, to amend the Small Business Investment Act of 1958, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment on page 1, line 4, after the word "of", strike out "1971" and insert "1972"; 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 this Act may be cited as the "Minority Enterprise Small Business Investment Act of 1972".

SEC. 2. The Small Business Inevstment Act of 1958, as amended, is further amended as follows:

(a) Section 103 is amended

(1) by striking "and" from paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(8) the term 'minority enterprise small business investment company', hereinafter called MESBIC, means a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

(b) Title III of the Small Business Investment Act of 1958, as amended, is further amended by designating sections 301 through 316 thereof as "PART A.—SMALL BUSINESS INVESTMENT COMPANIES".

(c) Section 301 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a MESBIC may be organized and chartered under State nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act.".

(d) Section 302 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section, or any other provision of law shares of stock or other equity or debt securities issued by a MESBIC shall be eligible for purchase by banks and other financial institutions, subject to the 5 per centum limitation of subsection (b)(1) of this section. MESBIC's shall not be deemed ineligible for any assistance under this Act because of such purchases."

(e) Title III is further amended by adding thereto a new part B as follows:

"PART B. MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 317. To encourage the formation and growth of MESBIC's the Administration is authorized to purchase the securities of any such MESBIC, subject to the following conditions:

(a) Shares of nonvoting stock (or other securities having similar characteristics), provided—

(1) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

(2) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and may require the preferred payment of the difference between dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

(3) the purchase price shall be par value and, in any one sale, $50,000 or more;

(4) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a MESBIC having combined private paid-in capital and paid-in surplus ("capital"), of less than $300,000 and licensed on or before October 13, 1971, the amount of capital invested after such date, nor (B) from any MESBIC having capital of $300,000 or more but less than $500,000, the amount of its capital in excess of $300,000, nor (C) from any MESBIC having capital of $500,000 or more, the amount of its capital.

(b) Debentures subordinated to any other debts and obligations of a MESBIC (other

than securities purchased under subsection (a) of this section), provided—

(1) such debentures are issued for a term of not to exceed fifteen years;

(2) the interest rate is determined pursuant to sections 303(b) and 318;

(3) the amount of debentures purchased and outstanding at any one time from a MESBIC having capital of less than $500,000 shall not exceed 200 per centum of its capital less the amount of preferred securities outstanding under subsection (a) of this section, nor, from a MESBIC having capital of $500,000 or more, 300 per centum of its capital less the amount of such preferred securities.

(c) Debentures purchased and outstanding pursuant to section 303(b) or this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subsection (b)(3) of this section.

(d) The Administration may require, as a condition of the purchase of any securities from a MESBIC in excess of 200 per centum of its capital, that the MESBIC achieve and thereafter maintain a ratio of loans to venture capital (as defined in section 303) determined by the Administration to be reasonable and appropriate.

SEC. 318. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a MESBIC shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such MESBIC for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No MESBIC which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to this section, and the rate of interest which would have been payable pursuant to section 303(b).

SEC. 319. The provisions of part A shall apply in the administration of this part: *Provided, however,* That the provisions of section 303(b) shall not be applicable to this part except as specifically provided in this part.

SEC. 320. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a–18), is further amended by amending subsection (k) to read as follows:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) shall not apply to such companies so long as such class of senior security shall be privately held by the Small Business Administration and not intended to be publicly distributed.".

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

Mr. TOWER. Mr. President, on August 1, the Committee on Banking, Housing and Urban Affairs reported without objection the administration's bill, S. 3337, which I was pleased to sponsor, to enlarge and improve the assistance program of the Small Business Administration to minority enterprise formation and operation. The need has long been recognized in our country for the formation of capital in disadvantaged minority communities, if the harsh cycle of poverty is to be broken and its victims are to have a chance to work their ways to decent standards of living and to the dignity that accompanies self-reliance and self-support. The Minority Enterprise Small Business Investment Act is one of the means recommended by the President to the Congress to facilitate capital formation in the minority community generally, and I think that this self-help approach to curing poverty and unemployment in the minority community is very deserving of support by the Congress.

The bill essentially provides statutorily that minority enterprise small business investment companies—MESBIC's—may be organized to receive SBA assistance and to channel financial and management assistance to minority enterprises. The bill:

First, specifies that MESBIC's may be organized under either business or nonprofit corporation statutes of the several States, in order to permit the organizers of the MESBIC the option of tapping the large assistance potential of charitable organizations, churches, foundations, and the like;

Second, authorizes SBA to acquire preferred stock in a MESBIC, within certain limits, in order to ease the debt and interest burden of the MESBIC so that it can raise more private capital;

Third, reduces the level of private capital required to qualify for third-dollar leverage from SBA, from $1 million to $500,000, so that more MESBIC's can be formed which can utilize favorable leverage provisions avaliable to SBIC's;

Fourth, provides an interest subsidy for borrowed government funds during the first 5 years of the loan; and

Fifth, permits federally regulated banks to own MESBIC's wholly or in part, within specified limits, in order to bring in the direct support of the banking community to this vital program.

Mr. President, this bill offers the minority individual who is trying to get into business an opportunity to get some of the capital and management assistance that he needs to get a successful operation going. This legislation does not propose to guarantee anybody a minimum income, or to give anybody something for nothing. This bill provides for seed money and assistance to be channeled into the potentially profitable minority business enterprise in order to get the business going. The ultimate goal is the development of a large number of self-sustaining, self-supporting minority business firms, which are owned by the minority communities, run by them, and which return the benefits of profits, jobs, and income to the presently disadvantaged minority communities. The principal ingredient of this whole capital formation process will be the particular individuals in the minority community with the ambition and the talent to run their own businesses—in a word, entrepreneurs. We merely seek here to provide a vehicle for the direction of supportive financial and management assistance to get these entrepreneurs into successful operation.

The ultimate beneficiaries of the process of successful capital formation in minority communities will be not only members of those communities themselves, but also all taxpayers and citizens of this country, who are throwing a great deal of good tax money down the seemingly insatiable sink-hole of welfare and other nonproduction oriented Federal programs. The MESBIC program is designed to help build a self-supporting capital structure under the minority community, which is the only long-term solution for the achievement of permanently decent living standards for this community, and will help provide them the dignity of self-support that everyone should have.

The SBA has been operating an administrative program for MESBIC's for some time now, under the auspices of the existing Small Business Investment Act. I ask unanimous consent that a copy of the testimony before our committee of Mr. Walter W. Durham, president of the MESBIC Financial Corp. of Dallas, be printed in the RECORD at this point, so that the RECORD will show an example of the progress of the program to date, even without the expanded assistance of the present legislation. It seems clear that with the expanded assistance of this legislation, we will see a substantial increase in the number of minority businesses created and in the successfulness of these businesses.

I therefore urge the passage of this legislation.

Mr. President, I urge the Senate to give its overwhelming support to this measure that is designed to get the blacks, the Mexican Americans, and other disadvantaged minority groups in this country into the mainstream of the free enterprise system.

I think the record of this administration is good with respect to this matter. Administratively they have been doing what we in the Congress do legislatively. I think that this should be a permanent program and should be approved by the Congress of the United States. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment (putting the question).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GAMBRELL. Mr. President, the bill presently before the Senate, the Minority Enterprise Small Business Investment Act of 1972, was reported out of committee unanimously.

As the Senator from Texas has announced, the administration has given this legislation its support. In the absence of the chairman of the committee and the other members on the Democratic side, I have been asked to handle this matter.

This bill creates a new program by establishing the creation of minority small business investment companies, MESBIC's and authorizes the Small Business Administration to provide financial assistance for the purpose of pro-

viding equity capital and long-term loan funds to small business concerns owned by disadvantaged persons.

The bill provides that MESBIC's can be formed either under the business or nonprofit corporation statutes of the various States.

This bill, S. 3337: First, authorizes the Small Business Administration to purchased preferred stock within certain limits; second, reduces private capital requirements for MESBIC's from $1 million to $500,000 to qualify for third-dollar Government leverage; third, provides interest subsidies for the first 5 years of a MESBIC loan; and fourth, permits federally regulated banks to own MESBIC's within specified limits.

Mr. President, the purpose of this legislation is to provide minority business with a source of investment capital.

Economic opportunity must be created to assure minority groups and the disadvantaged a greater chance to participate directly in our free enterprise system, and this is the intent of this legislation.

Mr. President, at this time I send to the desk an amendment to S. 3337 which would augment and improve the provisions of the bill.

The PRESIDING OFFICER. The Clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, as I plan to discuss it in the statement which I am about to make.

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

The amendment is as follows:

1. On page 3, between lines 3 and 4, add the following subsection: (e) Section 303 of the Small Business Investment Act of 1958 is amended—

(1) by striking the figure "$7,500,000" in the last sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the figure "$15,000,000", and

(2) by amending paragraph (2) of subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company which has investments or legally binding commitments of 65 percent or more of its total funds available for investment in small business concerns invested or committed in venture capital, shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus ('Capital') of less than $500,000, 200 per centum of its Capital, and (B) from a company having Capital of $500,000 or more, 300 per centum of its Capital. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed $20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

On page 3, line 4, strike out "(e)" and insert "(f)".

Mr. GAMBRELL. Mr. President, this amendment is offered on behalf of the chairman of the committee, the Senator from Alabama (Mr. SPARKMAN).

The amendment is a simple one which will place regular small business investment companies on a more equal footing with minority enterprise SBIC's. Under S. 3337, MESBIC's would be entitled to draw down venture capital leverage when the MESBIC has private capital of $500,000 or more. Under present law, all SBIC's must have at least $1 million in private capital before they are able to achieve this additional leverage. The first part of my amendment would equalize the treatment for all segments of the SBIC industry.

The second feature of my amendment would increase the total leverage available for any one SBIC. Under S. 3337, MESBIC's could qualify for unlimited amounts of leverage. Present law limits any SBIC to a ceiling of $10 million. My amendment would double this amount to $20 million if an SBIC qualifies as a venture capital specialist, or $15 million if it does not.

Mr. President, I believe these two amendments are fair and equitable and I believe they will give more incentive for SBIC's to invest ever greater numbers of dollars in our new and growing business enterprises.

Mr. TOWER. Mr. President, on behalf of the distinguished Senator from New Hampshire (Mr. MCINTYRE), who is the chairman of the subcommittee with whom I have discussed this matter, and on behalf of myself and the ranking minority member of the full committee, we are fully prepared to accept the amendment offered by the distinguished Senator from Georgia on behalf of the distinguished chairman of the committee (Mr. SPARKMAN), who is necessarily absent today.

I would urge the Senate to accept the amendment that has been offered by the Senator from Georgia.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I would like to ask a few questions about this matter. I am the ranking member of the Small Business Committee of the Senate and have served on the Banking and Currency Committee so I have some considerable interest in the situation which we are meeting today. Is it not a fact that the SBIC's, both in total number and individual capital are very much larger than the MESBIC's?

Mr. GAMBRELL. I think there is no doubt about that. The Senator is correct.

Mr. JAVITS. Mr. President, whereas we speak in terms of larger MESBIC's, I gather from our new minority counsel on the committee, Mr. Adams, in terms of a million dollars, we speak in terms of 10 times that for the SBIC. They have $10 million. The Senator stated that himself.

Mr. GAMBRELL. The Senator is correct.

Mr. JAVITS. And on the average, the SBIC is very considerably larger than an MESBIC. Is that correct?

Mr. GAMBRELL. I think that is typically true. The Senator is correct.

Mr. JAVITS. Mr. President, I gather that a case has been made out for the MESBIC's to aid minority enterprise by increasing the leverage. I gather that the leverage should be increased and that a good case has been made for it.

Mr. President, I would like to ask the Senator a question so as to spread the information on the RECORD, because I believe the SBIC's ought to be encouraged. I think it is very desirable to do so. I was on the Committee on Banking, Housing and Urban Affairs, I believe, when it first started. I believe in the stimulus of small business enterprises. I do not wish to be construed as opposing the amendment. However, I think it is appropriate to have an explanation on the RECORD where there is a case for the MESBIC's, and apparently the case has been proved.

What about the case for the SBIC's and their adequate backing of the proposition which the Senate is being asked to approve?

Mr. GAMBRELL. I think the question the Senator is asking is one that I had not anticipated being called upon to answer, but I think the basic thrust of the legislation is to increase the amount of leverage available to SBIC, and thereby to increase the amount of leverage available to MESBIC's at the same time. The entire bill, aside from this amendment, is intended to encourage the extension of more and more credit into the MESBIC area. It may be that some will find the thrust not sufficiently strong in this area. Certainly that would be worthy of further consideration, but the bill has the intention I have stated.

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

Mr. GAMBRELL. I yield.

Mr. TOWER. If I may, I wish to make a little legislative history. The whole intent is to encourage minority enterprise. That is made adequately clear by the report and by what we say here. There is a desire not to statutorily give an advantage competitively to perhaps a nonminority enterprise small business; that may be equally meritorious. We do not want to statutorily discriminate.

Mr. JAVITS. Against the SBIC's?

Mr. TOWER. Yes; against the regular SBIC's.

Mr. JAVITS. I have great respect for the chairman of the committee and its ranking minority member. I do not oppose the amendment, but I hope that we can have and that there may be provided for the RECORD within the next few days a factual justification for the purpose, so that it may be a factor in conference. I understand this particular amendment will be in conference and there will be another opportunity for both Senators and Members of the House to give it consideration.

I think all of us would be helped if we had a detailed justification printed in the RECORD.

Mr. TOWER. I think I can give the Senator that assurance as far as the conference is concerned, and I can give assurance that by midweek there will be full justification in the RECORD.

Mr. BUCKLEY. Mr. President, I had contemplated introducing as an amendment to the bill a proposal I introduced 2 months ago which was designed to broaden our approach to provide minority enterprise with an opportunity to become financed. My basic approach would

be to apply to the field of equity investment the kind of guarantee which the current legislation and other legislation applies to loans to such enterprises.

On consideration I decided not to introduce my concept as an amendment because I feel it should go through the normal procedure, the normal hearings, and have expertise applied by the committee, before it is offered to the Senate as a whole.

One of the defects as I see it, and at one time I was in the venture capital field, with respect to minority enterprise is to facilitate the borrowing of money, yet when an enterprise borrows money it incurs a cost which can throttle it. Also, bankers are not in the business of taking risks, yet a new enterprise is a risk-taking business. Finally, bankers are not in the position of offering a galaxy of advice of the sort minority enterprise's want most. People in equity financing are able to provide that kind of aid.

I would like to ask the Senator from Texas, as the ranking minority member, and also the distinguished Senator from Georgia, who is acting on behalf of the chairman, if I could get some kind of encouragement that hearings could be held at an early date in the next session of Congress.

Mr. JAVITS. Mr. President, will the Senator yield before the Senator from Georgia and the Senator from Texas reply?

Mr. BUCKLEY. I yield.

Mr. JAVITS. I am a cosponsor of the bill, and I join in everything the Senator said. I do not want to interrupt the flow of debate, but I would like to add to the Senator's request my own, as the cosponsor, for hearings and consideration.

Mr. TOWER. Mr. President, I have not discussed this with the chairman. Of course, the chairman and I both being up for reelection, any assurances we give are subject to the whims of the electorate. For my part, I can say that I will urge the chairman to give consideration to hearings early in the next session of Congress, and being a very broadminded and cooperative man, and one with whom I worked for years in a very profound way, I would assume that the chairman certainly would accept that proposal for hearings because I have never known him to foreclose anyone on an important matter who wanted hearings on a matter. I think I can give reasonable assurance. I have not spoken with the chairman and he is not here, but I would say the circumstances would be optimum for such hearings.

Mr. BUCKLEY. I thank the Senator for his encouragement.

Mr. GAMBRELL. Mr. President, I have not consulted on this subject with the chairman, but I understand the Senator's bill was introduced after the committee report was filed on this bill, so it was not possible to consider it in connection with this matter.

Mr. JAVITS. Mr. President, might we ask the Small Business Subcommittee if they would be able to develop, if they do not have it already, in connection with the hoped for hearings on Senator BUCKLEY's bill, anything on the utilization of that section of the Small Business Act which allows, notwithstanding antitrust laws, small business to combine for purposes of research and development. As the Senator said, personally my instinct is that we have moved away from credit inaccessibility, and the main scourge of small business, to managerial inaccessibility, and the effort to allow them to utilize research and development was one of the main things we thought we had done in this area.

I think it would be helpful to Senator BUCKLEY's bill if we had some idea as to how that had gone—my recollection is that it had not gone too well—and what were the reasons it had not gone well, and whether we could help it with this bill or what we might include in the bill.

I would like to recall to the committee an experience, with which quite a few committee members are familiar, and especially the Senator from Alabama (Mr. SPARKMAN), and that is the organization of a company now known around the world as the Adela concept, of which I had the honor to be the author, which combines capital, very small leverage capital, with technical assistance, and makes a very admirable package. We know of its tremendous success in Latin America and now it is being tried in Africa and Asia.

Mr. TOWER. Mr. President, the Small Business Administration for the last 2 or 3 years, and it started in the administration of Hilary Sandoval, who was the Small Business Administrator who preceded Mr. Kleppe. They started then to develop the facility within the SBA to provide technical and managerial assistance, the idea being not just to give them the money and say, "Do the best you can with it," but to follow it up with technical and managerial assistance to the extent that they can use the money wisely and well.

I am not in a position to comment on the success of the agency's efforts at this time, but I know they have been trying to do that administratively and that it has been a principal objectives with them. Certainly, I would say the Senator is absolutely correct in what he said about the inaccessibility of capital. That is not now the problem, because it is accessible, but technical and managerial assistance is not always available. However, under Mr. Kleppe as Chairman of the Small Business Administration, it is trying to correct this deficiency and trying to move toward managerial and technical assistance.

Mr. JAVITS. Perhaps my colleague from New York (Mr. BUCKLEY) and I can consult with Mr. Kleppe, with the anticipation of the hoped for hearings on this bill, and ascertain what is the present state of affairs on the bill, if the committee would not have any objection, and then we could have the report for submission to the committee.

Mr. TOWER. I would say the committee would have no objection, because the committee has a vital interest in what happens to these funds once they are loaned. We do not want to finance failures. I am convinced of the Administrator's own desires in the matter, and I think he is a very conscientious man who wants to do the best job possible for making sure that when we fund these minority enterprises we also show them how, if necessary. Therefore, I think he would probably welcome such an inquiry, and I certainly see no reason why the committee would object to it.

Mr. BUCKLEY. I thank my distinguished colleague for commenting. I think the Adela concept is one which offers much opportunity to such enterprises. It has been successful in South America.

With the assurances I have received from the Senator from Texas and the Senator from Georgia, qualified though they had to be, I am satisfied that I can hope for early consideration of my bill by the committee when the new Congress convenes. I am also certain that the distinguished chairman and the distinguished minority member will be on hand to conduct those hearings.

Mr. TOWER. I thank my colleague for expressing confidence in the reelection of the chairman and myself. I want to say that should I return—and I have every hope and expectation of doing so—I will certainly press for early consideration of his bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (S. 3337) was read the third time, and passed, as follows:

S. 3337

An act to amend the Small Business Investment Act of 1958, and for other purposes

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 "Minority Enterprise Small Business Investment Act of 1972".

SEC. 2. The Small Business Investment Act of 1958, as amended, is further amended as follows:

(a) Section 103 is amended

(1) by striking "and" from paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(8) the term 'minority enterprise small business investment company', herinafter called MESBIC, means a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

(b) Title III of the Small Business Investment Act of 1958, as amended, is further amended by designating sections 301 through 316 thereof as "PART A.—SMALL BUSINESS INVESTMENT COMPANIES".

(c) Section 301 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a MESBIC may be organized and chartered under State nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act.".

(d) Section 302 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section, or any other provision of law, shares of stock or other equity or debt securities issued by a MESBIC shall be eligible for purchase by banks and other financial institutions, subject to the 5 per centum limitation of subsection (b)(1) of this section. MESBIC's shall not be deemed ineligible for any assistance under this Act because of such purchases."

(e) Section 303 of the Small Business Investment Act of 1958 is amended—

(1) by striking the figure "$7,500,000" in the last sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the figure "$15,000,000", and

(2) by amending paragraph (2) of subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company which has investments or legally binding commitments of 65 percent or more of its total funds available for investment in small business concerns invested or committed in venture capital, shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus ('Capital') of less than $500,000, 200 per centum of its capital, and (B) from a company having capital of $500,000 or more, 300 per centum of its capital. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed $20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

(f) Title III is further amended by adding thereto a new part B as follows:

"PART B. MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES

"SEC. 317. To encourage the formation and growth of MESBIC's the Administration is authorized to purchase the securities of any such MESBIC, subject to the following conditions:

"(a) Shares of nonvoting stock (or other securities having similiar characteristics), provided—

"(1) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(2) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and may require the preferred payment of the difference between dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

"(3) the purchase price shall be par value and, in any one sale, $50,000 or more;

"(4) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a MESBIC having combined private paid-in capital and paid-in surplus ("capital"), of less than $300,000 and licensed on or before October 13, 1971, the amount of capital invested after such date, nor (B) from any MESBIC having capital of $300,000 or more but less than $500,000, the amount of its capital in excess of $300,000, nor (C) from any MESBIC having capital of $500,000 or more, the amount of its capital.

"(b) Debentures subordinated to any other debts and obligations of a MESBIC (other than securities purchased under subsection (a) of this section), provided—

"(1) such debentures are issued for a term of not to exceed fifteen years;

"(2) the interest rate is determined pursuant to sections 303(b) and 318;

"(3) the amount of debentures purchased and outstanding at any one time from a MESBIC having capital of less than $500,000 shall not exceed 200 per centum of its capital less the amount of preferred securities outstanding under subsection (a) of this section, nor, from a MESBIC having capital of $500,000 or more, 300 per centum of its capital less the amount of such preferred securities.

"(c) Debentures purchased and outstanding pursuant to section 303(b) or this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subsection (b)(3) of this section.

"(d) The Administration may require, as a condition of the purchase of any securities from a MESBIC in excess of 200 per centum of its capital, that the MESBIC achieve and thereafter maintain a ratio of loans to venture capital (as defined in section 303) determined by the Administration to be reasonable and appropriate.

"SEC. 318. Notwithstanding section 303(b) the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a MESBIC shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such MESBIC for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No MESBIC which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to this section, and the rate of interest which would have been payable pursuant to section 303(b).

"SEC. 319. The provisions of part A shall apply in the administration of this part: *Provided, however,* That the provision of section 303(b) shall not be applicable to this part except as specifically provided in this part."

SEC. 2. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a–18), is further amended by amending subsection (k) to read as follows:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) shall not apply to such companies so long as such class of senior security shall be privately held by the Small Business Administration and not intended to be publicly distributed.".

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to S. 3337 and that the bill be printed as passed by the Senate.

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

CAPT. CLAIRE E. BROU

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 936, H.R. 6503.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows: A bill (H.R. 6503) for the relief of Capt. Claire E. Brou.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. FANNIN. Mr. President, I am happy to support passage of H.R. 6503, which I believe is a just resolution of the case of Capt. Claire E. Brou. This is an unusual case. Ordinarily the disability retirement system for military personnel provides a sufficient resolution for claims of this nature. It is my hope that in the future by and large most cases of injuries arising in the course of military service can be handled within the administrative structure without the necessity of recourse to legislative relief by private bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that certain pertinent material out of the report and on the basis of communications with the Department of Defense be inserted in the RECORD.

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

AFFIDAVIT

I, Lieutenant Colonel Jorge R. Gutierrez, SSAN 139–36–177, MC, Assistant Chief, Department Radiology, Tripler General Hospital, Hawaii, do hereby make this statement and affidavit regarding the physical disability suffered by Captain Claire E. Brou (USAF, Retired) following radiological tests performed on 17 April 1968 at Walter Reed Army Medical Center, Washington, D.C.

I entered medical school in Cuba in 1951 where such training involved a seven year program. I completed medical school at the University of Valencia in Spain in 1958. In September 1960 I completed the requirements for and received my Educational Council for Foreign Medical Graduates Certificate, and commenced my internship in January of 1961 at Our Lady of Lourdes Hospital, Camden, New Jersey. In January of 1962 I began my residency in radiology at the same hospital. I remained at Our Lady of Lourdes until entering on active duty with the Army at Fort Campbell, Kentucky on July 3, 1963. At Fort Campbell I was assigned to the radiological service, where I served until December of 1965. In December 1965 I was transferred to Fitzsimmons General Hospital at Denver, Colorado, where I completed my residency in radiology on August 31, 1967. I then came to Walter Reed as the Fellow in Angiography and Special Procedures, a radiological sub-specialty.

I first saw Captain Claire E. Brou as a patient during her admission to Walter Reed General Hospital during December of 1967. This was prior to her receiving any special radiological examination. During that admission the patient underwent a right inferior patrescal sinogram performed by Dr. Harrall, the staff physician in charge of such procedures. During this procedure I acted as first assistant to Dr. Harrall. The patient suffered no complication whatsoever following this procedure which confirmed a diagnosis of a venous varix posterior to the right

eye. Some weeks later I performed an identical procedure on another patient, whose name I recall as McCarthy, for an identical condition posterior to the left eye. I performed this procedure without Dr. Harrall's presence, with the normal attendance of a resident and the appropriate technicians.

During April of 1968 the patient was readmitted specifically for the performance of a left inferior petrosall sinogram. This procedure was essential to definitive therapy and was requested by the Neurosurgical Department at Walter Reed. I saw the patient prior to the performance of these procedures for pre-operative consultation, explained to her that the procedure would be identical to the one performed on her in December 1967 and that it had been requested by Colonel Kempe, Chief of Neurosurgery.

The sinogram was performed by me on April 17, 1968. I was assisted by the Chief Radiological technician, Clarence Lee, a resident in Radiology, Dr. Frank Yerussi, by a corpsman and a second technician. Clarence Lee is a seasoned technician and has been with Special Procedures since the formation of that section in 1957. Dr. Yarussi was a second or third year radiology resident. At the time of the procedure the patient had received the normal pre-operative medication, 10 mg of morphine and 50 mg of phenergan.

To properly accomplish the radiological studies requested, I catherized the left internal juglar vein and injected 1 cc of contrast medium (Ranagrafin—60), a test dose. After the appropriate lapse of time, I then advanced the catherer under fluoroscopic control and placed it into the inferior petrosal sinus where a second test injection of a small amount of contrast medium was made. At this point the patient had suffered no discomfort and had made no complaint. I then proceeded to inject approximately 10 cc of the contrast material to obtain the appropriate radiological films. At this point the patient was not experiencing more than normal discomfort.

All patients undergoing this type of procedure experience some degree of discomfort either a burning sensation or pain during the injection of the contrast medium. It is standard procedure to take at least two views in any examination of this kind, but due to a reflux into the jugular vein which I noted in the first study I decided to use less contract medium (5 cc's) during the second series of films. Such a reflux is not a contra-indication to continuing a sinogram. It was during the second injection of contrast medium that the patient complained for the first time of severe pain. Upon her complaint, I immediately stopped the procedure and examined the patient, pulled the catheter from the petrosal sinus into the jugular vein and reconnected the IV drip of 5% dextrose with heprin (an anti-coagulant). At no time did she swallow her tongue. On my own volition I then called Dr. Ferry, the neurosurgical resident directly in charge of the patient, who was near by and who arrived in a matter of seconds.

Following the patient's removal from special procedures and on the same day I visited her in her room at least twice. At one time she was sleeping, but I noted that on one such visit she was awake. At this time she was not my patient but was under the care of the Neurosurgery Department, so I did not examine her. At the time of the patient's sinogram we were not aware of any reported cases of such complications, and I am not aware of any other cases occurring since that time. This complication was not expected.

Lt. Col. JORGE R. GUITERREZ, M.C.

AFFIDAVIT

I. Colonel Ludwig Kempe, SSAN: 156–24–2696, MC, Chief of Neurosurgery, Walter Reed General Hospital, do hereby make this statement and affidavit regarding the physical disability suffered by Captain Claire E. Brou (USAF Retired) following radiological tests performed on 17 April 1968.

From December 1967 until the present I have held the rank of Colonel in the U.S. Army and have been assigned as Chief of Neurosurgery, Walter Reed General Hospital. As such, during December 1967 I performed a medical examination on Captain Claire E. Brou, and together with Dr. Ferry, a Walter Reed resident in Neurosurgery, made a tentative diagnosis of vascular malformation behind the right eye. To confirm this diagnosis I recommended Captain Brou undergo a radiological diagnostic procedure at Walter Reed Army Medical Center. Captain Brou was informed at the time that a bilateral evaluation, necessitating at least two radiological studies, would be essential to successful therapy. Without such a bilateral study, the only means by which normal venous drainage can be properly established, surgery on the suspected circulatory abnormality would have been medically improper to the extent of constituting malpractice. Captain Brou's case prior to the radiological study in December was presented to a routine neurological clinic; however, her case was neither intended nor prepared for publication.

Accordingly, angiographic tests were conducted on the right side of Captain Brou's head in December 1967, by the Walter Reed Army Medical Center, Radiological Special Procedures Section. Captain Brou was discharged shortly after these tests, and at that time her medical condition was the same as it had been before her admission. Prior to her discharge Captain Brou was again informed that the single right side test was not sufficient and that completion of the necessary bilateral series would require identical studies of the left side of her head prior to any surgical therapy. In that Captain Brou had specifically requested surgical therapy, she was contacted perhaps twice in February or March and informed that the necessary left side tests could be conducted at these times. She apparently was unable to complete the radiological series until April 1968, at which time she decided to come in for the appropriate studies.

The left side test series was scheduled to be performed April 17, 1968 by Dr. Guiterrez, the Fellow in Angiography and Special Procedures. Prior to these studies Dr. Ferry, Dr. Guiterrez and I all personally interviewed the patient and informed her of the expected risks. I personally knew, and was satisfied with the qualifications of Dr. Guiterrez as exhibited by his previous work which I had opportunity to observe, and as expressed by his superior, Dr. Harrall, Chief of Radiological Special Procedures.

As the medical records show, Captain Brou suffered a cerebral vascular accident (stroke) following the April tests. The cause of this tragic complication was not in any way attributable to any improper action or omission on the part of Dr. Gutierrez or any other medical personnel, but was probably due to latent vascular abnormality which could not have been determined prior to the tests.

I was visited by Captain Brou in June, 1969, and told her of my concern about what happened. We discussed rehabilitation in detail. During these conversations, I did not cast aspersions on Dr. Gutierrez' qualifications, experience or performance, nor could any comment made by me have been reasonably so construed. While a Radiologist would be better able to give an estimate of the frequency of complications such as that suffered by Captain Brou, I believe the incidence would be extremely small. Such a complication was not expected in Captain Brou's case. As in all surgical procedures, however, there is inherent risk which must be weighed against potential gain. As far as the radiological studies are concerned Captain Brou was not a particularly high risk patient, especially in view of the uneventful December test which eliminated the danger of unknown allergic reaction. Captain Brou suffered a skull fracture in 1951 which was considered medically significant in that the history showed that fracture was not on the side of the abnormality. Such a history increased the importance of bilateral evaluation prior to surgery.

Further, affiant sayeth not.

Col. LUDVIG KEMPE, M.C. USA,
Chief, Dept. of Neurosurgery.

AFFIDAVIT

I, Clarence Lee, Chief Radiology Technician of the Special Dianostic Procedures Section, Walter Reed Army Medical Center, Washington, D.C., do hereby make this statement and affidavit regarding the physical disability suffered by Captain Claire E. Brou (USAF, retired) following radiological tests performed on April 17, 1968:

I graduated from Carnegie High School, Baltimore, Maryland, in 1945, since that time I have accrued over three years academic years of college credit through evening classes at various accredited institutions. In 1950, I graduated from the radiology course given at the Army Medical Field Service School, Fort Sam Houston, Texas, and have been a radiology technician since that time. I have been at Walter Reed Medical Center as a radiology technician since 1954. Since 1957 I have been the Chief Technician, Special Diagnostic Procedures.

On April 17, 1968, a left inferior petrosal sinogram was performed on Captain Claire E. Brou by Major (now Lieutenant Colonel) Jorge R. Guiterrez, Medical Corps, I was in attendance at all times during those procedures supervising the work of a second radiology technician. I have been advised that the patient states that during these tests, I or my assistant told Doctor Guiterrez that he was going too fast in his preparations, to "slow down and not be in such a hurry". I have a positive recollection that such a statement was not made by me or any technician under my supervision. For any technician to make such a statement while a doctor was engaged in such delicate procedure as a sinogram would be unprofessional and dangerous.

During performance of the sinogram, the patient did not swallow her tongue, and to my knowledge did not lose consciousness. I do recall that the moment she complained of severe pain, the procedure was stopped and no attempt was made to restart. The patient was examined by Doctor Guiterrez as soon as the procedure was stopped, and Doctor Ferry, the resident in neurosurgery, directly in charge of her case, was summoned from the next room, and arrived within a minute.

Further, affidavit sayeth not.

CLARENCE LEE.

AFFIDAVIT

I, Lieutenant Colonel James E. Harrell, Chief, Diagnostic Service of the Radiology Department, Walter Reed General Hospital, make the following statement in regard to the qualifications of Doctor Jorge R. Guiterrez, the physician who performed a left inferior petrosal sinogram upon Captain Claire E. Brou on April 17, 1968:

For the successful performance of angiography and venography (the introduction of radiopaque contrast material into arterial or venous vessels) the physician must possess intimate knowledge of the detailed flow pattern of the vessels involved. All physicians are required to obtain a fundamental knowledge of anatomy during their basic medical schooling, but this skill must of necessity be greatly enhanced in the radiology specialist

during his post-doctorate training. As of April 17, 1968, Doctor Guiterrez had completed more than six years of radiology residency and practice, concentrating particularly in angiography and venography. While at Walter Reed Army Medical Center alone, Doctor Guiterrez had personally performed, or had been directly responsible for the supervision of a resident performing, angiographic and venographic studies in approximately 500 cases. Nearly every case involved a situation which was considered life threatening, and approximately half of those cases could have been performed only by a doctor who had attained Doctor Guiterrez's level of technical ability. In addition to the many angiographic and venographic studies of the head and brain, Doctor Guiterrez had performed catherizations of the coronary arteries, a procedure demanding the greatest possible skill.

Prior to the time Doctor Guiterrez arrived at Walter Reed, he had been doing radiographic studies for over 5½ years. Doctor Guiterrez was specifically recruited for the Walter Reed Fellowship in Angiography and Venography by Colonel Hamilton, the former Chief of the Radiology Department at Walter Reed General Hospital. The position is a competitive one, and is available only to those who have demonstrated, as did Doctor Guiterrez, outstanding skill in the field of radiology. It should also be noted from September 1, 1966, to the present, there have been only two serious complications arising from radiographic studies performed at Walter Reed, Captain Brou's case, and one recent death. During the same period close to 7,000 procedures were performed.

It is my opinion that at the time of Captain Brou's most tragic experience, Doctor Guiterrez was highly qualified and deeply experienced in performing the type of study which she underwent, and, in fact, was the only truly qualified doctor available at Walter Reed General Hospital on the day of her sinogram.

Further, affiant says not.

Lt. Col. JAMES E. HARRELL, MC.

DEPARTMENT OF THE ARMY,
OFFICE OF THE GENERAL COUNCIL,
September 7, 1972.

CHARLES D. FERRIS, Esq.,
Staff Director and General Counsel,
Democratic Policy Committee,
U.S. Senate,
Washington, D.C.

DEAR MR. FERRIS: This letter is a further reply to your letter of August 16, 1972, concerning the Brou case.

I am enclosing a copy of the transcript of the hearing held by the House Judiciary Committee and also the affidavits of the Army medical personnel who participated in this case. Incidentally, when the Senate Judiciary Committee initially acted on this case, it did not have the rebuttal information contained in these affidavits and the evidence adduced at the House hearing.

I am taking the liberty of summarizing the Departmental position on the issues raised by your letter because of the profound and far-reaching implications of this bill.

You raised a question concerning the need for the tests. Dr. Kempe stated that it would have constituted malpractice to perform an operation to correct the disfiguring eye condition, of which Captain Brou complained, unless these diagnostic tests were performed (par. 1 of affidavit). In any event, she did not rely on Dr. Kempe's evaluation. It is clear from all of the evidence that Captain Brou made a voluntary decision, and she made it only after she consulted with her personal doctor. She testified on both of these matters at the House hearing. After narrating Dr. Kempe's call she testified as follows:

" 'I will consider it, Dr. Kempe.' Because I was still apprehensive of going back into the hospital, but I was still at the same time scared by what he had told me. At that time I told him I would reconsider and go back to the hospital."

"So I called up about a week later after I had thought it over and discussed it with my personal friend, who is a physician. She said, 'Well, maybe you beter go back in and let them do this.' " (p. 15 of hearing).

In considering the testimony, one should remember that Dr. Kempe has a distinguished reputation and is known for his concern and dedication to the interests of his patients. It is our opinion that the above testimony and all of the probative evidence does not support the allegations of improper influence and the exercise of military rank.

Dr. Kempe readily admits his reference to a tonsillectomy, and he fully discussed this remark and the risk factor during the hearing (p. 92 of transcript). He testified that any type of minor surgery, including tonsillectomies, can result in a complication or even death, and specifically warned Captain Brou and her doctor of the possibility of paralysis (p. 92 of hearing). These risks, however, are very small (p. 92). Even though 7,000 diagnostic tests, involving injections into arteries or veins, had been performed at Walter Reed General Hospital in three and one-half years, complications arose in only two cases and death in one case (par. 2, Dr. Harrell affidavit). Dr. Guiterrez, who performed the study, personally performed or supervised 500 such tests (par. 2, Dr. Harrell's affidavit). The element of risk within this context was discussed with Captain Brou and with her personal doctor on four occasions (p. 64–65 of hearing).

In order to place all of Captain Brou's statements in the proper perspective, it is necessary also to consider her allegations that a technician warned Dr. Guiterrez "not to go so fast"; that Dr. Guiterrez proceeded with the injection even though she complained of a reaction; and that it was necessary for her to dislodge her tongue (p. 14–17 of hearing). These highly unusual incidents were positively denied by the medical personnel involved (affidavits of Dr. Guiterrez and Mr. Lee).

After a thorough and sympathetic re-evaluation of the entire case, the Department concluded in its report, dated April 28, 1970, that there was no evidence of negligence, fault, or legal liaiblity. Admittedly, the Congress could, and should, grant relief if there is a truly exceptional showing.

The Department of the Army and the other military departments are deeply concerned about the precedent effect of this bill if it is enacted into law. If relief is granted, it would have to be done solely on the basis of compassion. We have the most profound sympathy for Captain Brou, but if she is given preferential treatment, lump sum awards on compassionate grounds should be considered for literally hundreds of other service personnel,—including those who were killed or severely wounded in Vietnam and for whom the Congress has provided other compensation (death gratuity, physical disability, retired pay, etc.—)—for each such case engenders a feeling of great compassion.

All of these cases would present a serious and soul-searching dilemma to Congress, as well as The Executive Branch, if bills are introduced. Frankly, I would find it difficult as a matter of logic and good conscience to develop a future basis for denial of other claims if the Brou bill is enacted.

If you have any further questions, I would be happy to send a representative to discuss any of the matters with you in greater detail.

Sincerely,

ROBERT W. BERRY,
General Counsel.

THE RELIEF OF CAPT. CLARE E. BROU

(Hearings before the Committee on the Judiciary Sept. 17, 1970)

The Subcommittee met, pursuant to notice, at 10:10 a.m., in Room 2226, Rayburn House Office Building, Washington, D.C., Hon. Harold D. Donohue (Chairman of the Subcommittee) presiding.

Present: Representatives Donohue (presiding), Flowers, Mann, Waldie, Smith, Sandman, Railsback, and Coughlin.

Also present: William P. Shattuck, Counsel. Mr. DONOHUE. The meeting will please come to order.

The first matter of business before us this morning is the consideration of H.R. 14235 for the relief of Captain Claire E. Brou. We have for our witnesses here some very distinguished company, of course. The Chairman of the great Committee on Judiciary, Mr. Celler, and the Chairman of the Rules Committee, Mr. William Colmer.

We will be very pleased to hear from the Chairman of the Judiciary Committee on this bill. Mr. Celler.

STATEMENT OF HON. EMANUEL CELLER

Mr. CELLER. Mr. Chairman and Members of the Committee, I am very grateful to you for the opportunity to express my views on H.R. 14235.

Some moments ago our very distinguished colleague, the gentleman from Mississippi, Mr. Colmer, spoke to me about this case and told me of the general situation. I confess that it enlisted my deep sympathy. I told him that I thought that there might be some inherent difficulty with reference to passage of the bill, but I am sure that the Judiciary Committee, and particularly this Subcommittee, would exercise a degree of fairness and equity and justice and humanity and would give it earnest consideration and, I am quite sure, would give relief, if not the entire amount that was asked for at least a goodly portion thereof.

It would appear that the bill concerns a Captain of the Air Force, a very delightful young lady who entered the Navy originally and then was transferred to the Air Force and by dent of her assiduous attention to duty was advanced to the rank of Captain. It's not often that we have a lady who advances to Captain in the Air Force.

This young lady is one of intelligence and willingness to work and has a perspicacity that was recognized by the authorities, otherwise she would not have been advanced as she was.

For some reason or other, she had some difficulty and entered Walter Reed Hospital. There she was subject to certain diagnosis and treatment involving radium, with the result that she has been declared by the Veterans Administration as one-hundred per cent disabled.

Since she was in the Services and was treated under the rule that applies, she has no relief except that which is given to those who are disabled under special statutes.

She receives some $600-odd dollars a month, but that is hardly compensatory for the untold agonies and for the future—and I emphasize future—difficulties under which she shall labor.

I would say, gentlemen, as a lawyer, if I had this case in the New York State courts, since it involves that which is very much akin to malpractice—as undoubtedly will be unfolded to you—this case would yield a verdict probably of a half million dollars to three-quarters of a million dollars, if not more, considering all the circumstances.

Since it is cabined and confined to a member of the Air Force who must abide by certain rules and regulations and laws, she is limited to this $600-odd dollars a month which she practically expends now to be able to navigate and to be able to live properly. She has to have attendants. She has to go through certain exercises, and so forth.

I can't appeal to you on legal grounds. There are no legal grounds here, because of the statute. The only way an appeal can be addressed is to reflect on why a committee of the type that you represent has been selected. You don't always pass on legal ques-

tions. You often have to pass on questions involving morality, humanity and even mercy. If she had a legal remedy she would not be in this chamber. She has no legal remedy.

I appeal to you on the grounds of compassion and mercy and humanity. This woman, through no fault of her own—none whatsoever—becomes more or less a social outcast. Her youth is blocked out and she faces a dismal future. Aside from the excruciating suffering that she went through, she is deprived of the usual female amenities. The future holds very little attraction for her, naturally.

The evidence, I am quite sure, will indicate that one of the doctors at the Walter Reed Hospital—and I don't want to disparage the Walter Reed Hospital, which has a very fine reputation, but it's only human to err and I think they erred in this case—one of the doctors used a certain apparatus on her. He was asked whether he had had experience in the use of that apparatus and he said he had, when in truth and in fact he had not.

Because of the improper use of the apparatus—I cannot give you with exactitude the medical way this was done—as a result of the improper use of that apparatus, her brain was affected, with these dreadful results.

Certainly the Walter Reed Hospital should be much more careful than it was in the consideration of this case. I am quite sure, if I were in a civil court in New York, I could establish malpractice. I don't know what the situation will be here, whether the doctors are going to establish it or not, but there is sufficient evidence in any event to indicate that something was wrong and some grievous mistake was made, both in the diagnosis and in the treatment, because thereof these terrible things have happened.

She indicates some of her difficulties on page 7 of the Senate report. She says, "Unfortunately, I have not yet grown accustomed to the stares of children and curious adults. The embarrassment caused by stumbling, dropping, and breaking things, and even falling in public is not easy to overcome, especially when accused of being intoxicated.

"Before this 'accident,' I had won several medals for swimming and diving; I owned my own sailboat and campmobile, and I frequently participated in dancing, water and snow skiing, golf, bowling, tennis, and camping. I enjoyed doing many things, including gardening and cooking. I no longer can do any thing requiring physical coordination—in fact, it is very uncomfortable just to sit and read because of the difficulty of trying to hold a book, magazine, or newspaper and turn the pages with one hand, and to cope with double vision in my right eye. I am no longer able to perform the normal activities of daily living nor to maintain a household independently—and I feel I am a burden to my close friends in that I require much the same care as an invalid."

We cannot lend a deaf ear to a plea of that sort. We cannot be callous to infirmities and difficulties of that sort which were not brought upon by any act of her own but were brought about by a physician in the Walter Reed Hospital who made a mistake. Because thereof, I think morally and righteously the Government ought to be responsible.

The bill in the Senate which was offered involving a claim of $200 thousand was reduced, I understand, to $100 thousand. In any event, I leave this to the tender mercy of you gentlemen. I hope that you will respond as I am sure you will respond, knowing you all as men who understand the dignity of a young lady who was thus affected, who understands life and its perils and its hazards and how we must in some way compensate because of these dreadful situations.

Mr. DONOHUE. Thank you very much, Mr. Chairman, for that fine statement.

Mr. CELLER. Thank you very much.

Mr. DONOHUE. We will now hear from our distinguished colleague, Chairman Colmer.

STATEMENT OF HONORABLE WILLIAM M. COLMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. COLMER. Mr. Chairman, Members of the Committee, will you first permit me to express my deep and sincere appreciation to the Committee for meeting here this morning on this matter that is of utmost importance to the young lady involved.

I should also like to express my deep and sincere appreciation to the very able distinguished lawyer and Chairman of this Full Committee and the Dean of this House, the Honorable Emanuel Celler, for his very appealing statement in connection with this case. I believe this is a somewhat unusual procedure, if not a precedent, for the Chairman of the Full Committee to appear before a Subcommittee of this Committee to express his interest in the case.

As far as I am personally concerned, Mr. Chairman, I should like to leave the case right where it is—with this excellent and, I think, accurate as well as compassionate appeal of my friend from New York.

A lot of what I had intended to say has already been said by the Chairman of this Committee.

I do want to emphasize, lest I should forget, that the similar Committee in the other body has considered this matter and has made a favorable report. They have seen fit to cut the requested figure of $200 thousand in half—to $100 thousand. I certainly have no quarrel with that, any more than I would with any other decision made by this body—or the House itself.

If I may, I should point out my interest in this case stems from two directions. Number one, the young lady involved here is from my home county. She lives in the little resort town I did, in Ocean Springs, Mississippi, just fifteen miles from me. I have really actually known her all of her life. Her father and mother were early friends of mine. Before her father's passing, I saw them most frequently. I still see her mother frequently. I have seen her since she has been in and out of Washington as a Lieutenant in the Navy and as a Captain in the Air Force. She, as the Chairman has cited, is not just an ordinary young woman. She excelled in sports. She comes from a family that excelled in sports. Her mother, before her, was one of the outstanding swimmers of that Gulf area and received numbers of awards, as she herself has. She was really in every sense an outdoors person.

I hope I am not overdoing this, but I am reciting facts. I happen to know of my own personal knowledge that at the time this accident, or whatever it is, happened she owned in her own right a sailboat, a camping car that she went camping in. She was engaged in skiing and swimming and other sports.

We are somewhat handicapped here, I suppose, in that we don't have an array of legal talent or medical experts. That possibly could be attributed to me, because I have undertaken to guide this matter myself because she was not, I think it's obvious, in a position to employ counsel or expert testimony of people who are knowledgeable in the necessary expertise to maybe combat what the learned doctors and counsel from the Government might see fit to offer.

Mr. Chairman, if I may be pardoned, I might attribute my negligence, if it is such, to the fact that in my 38 years in this body this is the first time that I have appeared before your Committee or your predecessor's. When I first came here, I did have a private claim before the old Claims Committee back in about 1935 which was successful. I handled that.

I am not, as I say, too learned or knowledgeable in the things that possibly are necessary to present this case. I think we have a just case. The Senate Committee thought so. Mr. Chairman, I don't know how much time you would want me to take, or I should take. Most of this is in this report of the Committee. Briefly, for your convenience, although I have copies of the statements here, you of course will find in here the statement of the claimant, whom I hope you will see fit to hear here presently, the statement of her friend, the doctor whom she lived with, a woman general practitioner in Falls Church, and the legal presentation and argument of the Senate counsel.

I think we should get down just to that fact right here and now. I think we should just as well face it and be frank and honest about it.

As Chairman Celler pointed out, we have no legal recourse because of the statute that prevailed. She cannot go into court. She is barred by the fact that she was a member of the Armed Services at the time of this incident. She must come to this Committee. As the Senate Committee so well pointed out—and I might add that Chairman Celler has also accentuated and emphasized—she has come to the only court, the court of last resort, to present her claim.

On page 15 of the Senate report they deal with this subject, citing the United States versus Realty Company. I wish time permitted the reading of the whole part dealing with that which occupies several pages, but down in the middle of the paragraph, the court said, "To no other branch of the Government than Congress could any application be successfully made on the part of the owners of such claims or debts for the payment thereof. Their recognition depends solely upon Congress, and whether it will recognize claims thus founded must be left to the discretion of that body."

That is what we are appealing to you now. "Payments to individuals, not of right or of a merely legal claim, but payments in the nature of a gratuity, yet having some feature of moral obligation to support them, have been made by the Government by virtue of acts of Congress, appropriating the public money, ever since its foundation. Some of the acts were based upon considerations of pure charity. A long list of acts directing payments of the above general character is appended to the brief of one of the counsel for the defendants in error. The acts are referred to not for the purpose of asserting their validity in all cases, but as evidence of what has been the practice of Congress since the adoption of the Constitution."

We are not asking here, Mr. Chairman, for an act of charity. Here is a young woman in full bloom of womanhood with extraordinary virtues and talents who has been striken down and for whom the future is not a very bright one.

If, as has been pointed out, this were in a court of law—not only in New York as stated by the Chairman but in Mississippi or any of your States—they would possibly award from one-half a million dollars to a million dollars.

Here we have a case where we are not charging malfeasance. At least certainly I am not, for I am not familiar enough with the case to charge malfeasance. But something went wrong there. Somebody obviously was not on the job and the necessary care and attention apparently was not given her. That is a matter, of course, for this Committee to decide.

We appeal to you in the name of humanity, in the name of justice, in the name of her future for some relief in this case.

Mr. Chairman, I have no delusions about this matter. I know from past observation, if not experience, that once a bureau of this powerful Government of ours takes a position on a matter, that they follow it up and they have all the resources with which to do it. They follow it up to the very end, even to the White House. I am willing to take my chances on that and Miss Brou has to take her chances.

I could go on at some length. I wish that time would permit. I know your time is limited, as well as mine. Incidentally, I have an 11:30 appointment with my Subcommittee on Reorganization. We hope to wind that bill up today. It was set at that time to give me an opportunity to get back there.

If some member of the Committee wants to ask me any questions about this, I would be glad to attempt to answer. I have tried to be honest and frank with you in this statement. I hope you would hear the claimant.

Again we appeal to your exercising the right that you have as a Committee of the Congress to right what apparently was a wrong.

I am sure that we will hear, as I have heard in the past, that you are setting a precedent here. So what! Maybe you are. Maybe it would come up again in other cases. But I think we break precedents in Congress every day. I think one of the objectives of Congress is to break precedents. We do it all the time we write new legislation. Thank you, Mr. Chairman.

Mr. DONOHUE. Thank you very much for a very fine statement. Are there any questions that any member of the Committee desires to ask of our distinguished colleagues?

Mr. WALDIE. May I ask one? Mr. Chairman, I had no trouble following your presentation or Mr. Celler's, but there is one question that I was not aware of, and I haven't had a chance to read this. Why did the Senate reduce this to $100 thousand? It seems sort of an arbitrary act on their part.

Mr. COLMER. Mr. Waldie, I wish I could answer that. I cannot. They just saw fit in their wisdom to do it.

Mr. WALDIE. There was no explanation apparently in the report. Just skimming the report, I don't see any explanation.

Mr. COLMER. I haven't seen anything in there either.

Mr. WALDIE. Thank you, Mr. Chairman.

Mr. DONOHUE. Are there any other questions?

Mr. COLMER. Thank you. Mr. Chairman, I imagine it would be in order—maybe I have been a little out of order here myself—to hear from Captain Brou.

Mr. DONOHUE. We intend to do that, Mr. Colmer.

Mr. COLMER. I am sorry. I am not trying to anticipate.

Thank you again, gentlemen.

Mr. DONAHOE. We will now hear from Captain Claire E. Brou, the claimant in this matter before us.

STATEMENT OF CAPT. CLAIRE E. BROU, CLAIMANT

Captain BROU. Mr. Chairman and members of the Subcommittee, I have only one thing to add to the affidavit that I have here on pages 5, 6, and 7, which is a repetition of what Mr. Colmer and Chairman Celler have said.

The outlook for me is not very bright. The business that the Army makes in its statement is the business of a normal life expectancy, which I do not now have.

At this point that is the only thing I have to add to my statement, that any doctor who would examine me now would tell you that I no longer have the normal life expectancy and normal health of a woman of my age. Plus the fact that one thing that I omitted from my affidavit when it was made is that on page 6 I spoke of my subsequent visit with Dr. Kempe in June, 1969. This is sworn as an affidavit by me. Paragraph 2 on page 6 is the truth of what Dr. Kempe has told me.

The only thing that I neglected to include in that is that Dr. Kempe, at that time or on a subsequent visit, told me that in essence Walter Reed was not a rehabilitation center. But he said that there was some inequity in the rehabilitation treatment of me purely because I was a woman veteran. He said if I were a male veteran that I would have received very different treatment and the same treatment that the male veterans have.

The reason for this, as you can well understand, is the miniscule number of women paralyzed. I think it would probably be less than one-tenth of one percent of women paralyzed as compared with men paralyzed. When I was in Walter Reed I saw many, many young men who had been paralyzed due to accidents that were incurred in the line of duty in Vietnam and other places where they were fighting. I don't understand why there is any inequity due to sex. That is the only thing I have to add to my statement.

If I may backtrack for one moment, Mr. Chairman, I will state that in the Army's summary on page 3, they mention the December 1967 study that was done at Walter Reed General Hospital, where a retrograde right petrosal sinogram was performed. They did two studies on me at that time. They did not mention the fact that they did two.

I don't really know the technical terms of them, but they did a study in my venous system and one in my arterial system.

I was originally in the hospital for, supposedly, three days in December of 1967. They did the first study on me and they said that they wanted to do another one and they would not release me until they did the second study. They did a second study and everything went according to Hoyle. I was normal and I recuperated in a normal condition. I was released ten days later, on the 15th of December.

In the ensuing months, Dr. Kempe had notified me by telephone that I should come back for another test because what they had found on the first two tests indicated a venous malformation behind my right eye. I said, "Thank you, Dr. Kempe, but I have had two studies done and I don't want to have any more." That was sufficient for that time.

But he called me again—and I think three times. The third time is when I said, "I will consider it, Dr. Kempe." Because I was still apprehensive of going back into the nospital, but I was still at the same time scared by what he had told me. At that time I told him I would reconsider and go back to the hospital.

So I called up about a week later after I had thought it over and discussed it with my personal friend, who is a physician. She said, "Well, maybe you better go back in and let them do this."

I might add that during the first two studies that were done in 1967, Dr. Ferry, a neurosurgeon who was Dr. Kempe's assistant, asked me if I would sign papers to the effect that it was all right for them to write up my case in the American Medical Association Journal—as I recall, because it was a very unusual case. I said, "Sure. As long as what you find out about me may help someone else, go ahead and do it."

They later came to me and asked me if I would do the same thing for pictures and I said, "I have no objection to that either." In the picture business, they put a blood pressure cup around my neck and pumped it up and made this right eyeball extended. The man took pictures and, as I said, I signed releases for this.

I left the hospital in December of 1967—December 15 as I recall—and nothing further happened until I went back in April of 1968. I went in on the fifteenth of April, 1968. I went in in uniform and in perfect health. I undressed myself and hung my own uniform up. The next day I got the complete examination, which is normal. In anybody's hospitalization they check everything before they do any study or operation or anything on you. I had a test for physical coordination—which was perfect. I had an EEG, for your heart, whatever they do to test your heart. They did the blood work and lab work, and everything was fine.

That night, on the 16th of April, Dr. Gutierrez said that the test the next morning would be essentially the same as the previous two. Since I knew what to expect, we didn't go into any lengthy discourse about the tests. I said, "Okay, I will be ready."

So they took me down to the diagnostic room the next morning. When I entered the diagnostic room, I noticed that there were about half the people in attendance that there were on my first two tests in December of 1967. In particular I noticed the absence of the female chief technician who was, in my opinion, very competent on the first two tests—as well as the doctors. I don't know how to explain this to you, but I was fully conscious at the time of all three tests.

Naturally I made a comparison with the first two tests, which went all right. I didn't anticipate any trouble on the third test.

When I noticed the absence of about half the people in attendance, it struck me as being a little bit unusual.

As the technician prepared certain things that were to be done before Dr. Gutierrez took over, who I understand is a radiologist, he cautioned the doctor not to go so fast. At that time it occurred to me, why is this doctor in such a rush? Is he preoccupied? Is he rushing to get through to get some appointment, or what? This occurred to me.

At another time during the test I distinctly remember the technician saying, "Doctor, I have to do certain things before you can go ahead with your part of the diagnostic study." As I recall, the technician said, "Be patient", or words to that effect, cautioning him again not to go so fast.

Again I wondered. Everything was ready and the contrast material was injected into the catheter. Of course I experienced the same pain which I had in the first two tests, but momentarily I felt my right hand draw up like this (indicating).

Immediately I said, "Doctor, something has gone wrong. Something has gone wrong with the test." Nothing was done. So I asked the doctor to give me oxygen and to call Dr. Ferry, who was my doctor. The doctor seemed to be surprised, and everybody in the room seemed to be surprised, that I was reacting adversely, so to speak.

I again asked for oxygen and I said, "I am swallowing my tongue. Please do something." As I recall, nothing was done. At the time I recall that I blacked out. When I came to, Dr. Gutierrez said, "Are you ready to go on with the second part of the test?" I said, "No." At that time I took my left hand and dislodged my tongue, remembering my first aid. Then I said, "If you don't take all this stuff out of my neck"—which was right here (indicating)—"I will pull it out and you are not going to do anything else with me. Call Dr. Ferry."

So then it seemed as though the people in the room in attendance went into action immediately. Moments later, Dr. Ferry appeared on the scene and I was wheeled out.

After that, they took me, I think, back to the ward, or they took me to intensive care, and Dr. Ferry proceeded to do the spinal tap on me. Then they did a brain scan on me. After that, they took me back and proceeded to start their therapy. My friends and family were called. Dr. Lumpkin called to see if I was doing all right and Dr. Ferry talked to her and said, "No. Something went wrong on the tests. You better come out here." She came out to the hospital and she was very concerned. At the time she asked somebody where I was, and got no satisfaction. She found me down in the brain scan room undergoing a brain scan.

At that time the paralysis had spread and I had difficulty in talking to her. Later I found out that my family had been called and that night they were sitting at my bedside. Naturally it scared me. I asked Dr. Ferry at one time, "Am I going to pull

through?" He said, "I don't know. We hope so."

After that I was in intensive care and treated, as they saw fit. I remained in the hospital for six weeks, at which time they told me that I had benefitted from the hospital treatment as much as I could, they needed the bed and that I would have to go and subsist elsewhere.

This is when my friend, Dr. Lumpkin, took me to her home. Prior to that I was living in my own home. I left the hospital in a wheelchair and was taken care of by Dr. Lumpkin until I got out of the wheelchair and received therapy as an outpatient until September of 1968, at which time I was discharged from the Air Force on 100 percent permanent medical disability.

There were no ifs, ands or buts or any questions by the Physical Evaluation Board. I was told at the time that normally, when a person gets 100 percent permanent disability, that it's something that goes back and forth, back and forth with a lot of discussion about the medical case and so forth. But mine was sent to the Physical Evaluation Board and came back immediately.

That is all I have to say. As I have said in my statement, I have pursued all possible treatment—therapy, physical therapy, occupational therapy, and last year the physical medicine doctor at Fairfax General Hospital said that I had stabilized, that I would not get any better. The neurologist out at the Veterans Hospital who saw me this year, a year after she saw me last year, told me the same thing, that there was little progress, but as far as any further improvement not to expect it.

Right now I am at the point that I try to accept it. It's not very easy. I will continue to pursue any form of treatment that anyone has that will give me any hope. But the prognosis for recovery is nil.

Mr. DONOHUE. Have you completed your statement?

Captain BROU. Yes, Mr. Chairman.

Mr. DONOHUE. Are you receiving any therapy now?

Captain BROU. I am receiving occupational therapy. That is on the upper extremity, on the arm.

Mr. DONOHUE. Where is that administered to you?

Captain BROU. It's administered at the place where I am staying, at the home of a friend of mine.

Mr. DONOHUE. Prior to your entering Walter Reed, you were enjoying good health?

Captain BROU. Perfect health. I did, as I said in my statement, have a slight problem with my vision, the blurring of my vision, but I think that that is something that could happen to anyone. It may have happened to some of you gentlemen. It did not interfere with any of my activities of daily living or any of my social or professional pursuits or recreational pursuits. If I could have lived 150 years with that condition, I don't think that it would have impaired me any.

Mr. DONOHUE. At the present time your condition is a paralysis of the right side, involving your arm and your leg?

Captain BROU. Yes, and all the internal organs.

Mr. DONOHUE. On your right side?

Captain BROU. On the right side.

Mr. DONOHUE. Along with suffering? Do you suffer from headaches?

Captain BROU. No. I just suffer from the excessive weight-bearing, a feeling of weight that I experience in the paralyzed portion of my body. It's as though I am carrying around a bucket of water in my right hand at all times.

Mr. DONOHUE. Are you still experiencing double vision?

Captain BROU. In the right area.

Mr. DONOHUE. You say you lack coordination?

Captain BROU. Yes, sir, I lack coordination. It is practically non-existent. I might add, too, that prior to my paralysis my right side was my dominant side, meaning I was right-handed.

Mr. DONOHUE. Questions?

Mr. SMITH. Captain Brou, who administers the present occupational therapy?

Captain BROU. Fairfax County Home Health Service.

Mr. SMITH. They come to your house and do it?

Captain BROU. Yes.

Mr. SMITH. With your 100 percent disability, Captain, do you now receive benefits from the government?

Captain BROU. What kinds of benefits?

Mr. SMITH. That will be my next question. Do you receive benefits from the government, monthly pay, disability benefits?

Captain BROU. I receive medical disability retirement pay.

Mr. SMITH. Under what law or program is that?

Captain BROU. That I couldn't tell you. It is not paid to me by the Veterans Administration. It is paid to me by the Air Force.

Mr. SMITH. How much do these benefits amount to on a monthly basis?

Captain BROU. It is over $600 a month. I don't recall what my last check was because it has just been increased by the cost of living. It is around $630 or $640 a month now.

Mr. SMITH. Was that retroactive to the time of your condition in April of 1968, or at least at the time you were declared 100 percent permanently disabled?

Captain BROU. Let me say that my active duty pay as a captain on active duty in the Air Force terminated on one day in September and my physical disability retirement pay started the next day.

Mr. SMITH. In 1968?

Captain BROU. 1968.

Mr. SMITH. As to the occupational therapy, is that furnished to you or do you pay for that?

Captain BROU. It is paid for by the VA and it is $6.00 a visit, so it costs the VA $12 a week when I received it.

Mr. SMITH. The VA pays for that?

Captain BROU. Yes, sir.

Mr. SMITH. On your retired disability pay, Captain, is that subject to Federal income tax?

Captain BROU. No, it is not.

Mr. SMITH. It is exempt?

Captain BROU. It is exempt from Federal income tax.

Mr. SMITH. Can you at present do any work at all?

You do not feel that you can?

Captain BROU. No.

Mr. SMITH. Are there any suggestions made by occupational therapy people or anybody else that you may some time in the future be able to ge gainfully employed?

Captain BROU. There is a difference of opinion. Some say yes and some say no.

Mr. SMITH. There is always hope.

Captain BROU. There is always hope but on my last visit to the orthopedic surgeon at Andrews Air Force Base Hospital he said that my legs would get worse. It would get to the point where I couldn't get a shoe on and I would have to have an operation on my leg.

Mr. SMITH. I have no further questions.

Mr. DONOHUE. Mr. Flowers?

Mr. FLOWERS. I have no questions.

Mr. MANN. No questions.

Mr. WALDIE. I have no questions.

Mr. SANDMAN. I have no questions.

Mr. COUGHLIN. No questions.

Mr. DONOHUE. Thank you very much, Captain.

We will now hear from Mr. Philos, Chief, Legislative Relief Office.

STATEMENT OF CONRAD D. PHILOS, CHIEF, LEGISLATIVE RELIEF OFFICE, JAG, DEPARTMENT OF THE ARMY

Mr. PHILOS. Captain Allen Horsley, from my office, will be assisting me.

I have a brief opening statement and copies will be distributed to the members of the Committee.

As has been stated, the bill seeks an award of $200,000 for injuries suffered by Captain Brou while on active duty as a consequence of radiological studies performed at Walter Reed Army Medical Center in 1968.

The claimant contended before the Senate Committee on the Judiciary, which considered S. 3419, a bill identical to H.R. 14235, and essentially the same material was raised again today before this Committee to the effect that she was unduly influenced to undergo the radiological study during the course of which she suffered a stroke. It is contended, also, that the stroke was due to negligence on the part of the attending Department of the Army personnel.

These conclusions and the pertinent supporting facts were contained in affidavits of the claimant and her private doctor which were filed with the Senate after the Department of the Army had submitted its report to this Committee on April 28, 1970.

Accordingly, up until this time the Department did not have the opportunity to examine and rebut those statements.

At the outset I would like to say that Senate Report No. 1125 misconceives the position of this Department. The Department of the Army did not contend that the Feres case, or any other judicial decision, can limit the authority of the Congress to give legislative relief. Rather our position is that the Feres decision and the related decisions bar only judicial and administrative relief to servicemen.

That being the case, it is our opinion that legislative relief should be given only under the most extraordinary circumstances if the Congress is not to be overwhelmed by a flood of petitions for private relief. It is our further opinion that such a showing was not made in this case.

In an attempt to make such a showing, however, the claimant filed the affidavits to which we have heretofore referred, but they contain a factual version which is at complete variance with the facts disclosed by a careful investigation conducted jointly by the Offices of The Judge Advocate General and The Surgeon General before our report was filed.

During the course of these investigations affidavits were secured from Dr. Kempe, Dr. Guiterrez, and Mr. Lee, the technician who was present at the procedure. These affidavits will be distributed to the Committee with your permission, Mr. Chairman.

Very briefly, these affidavits from the Army personnel unequivocally state the following:

That the patient voluntarily undertook the procedures in order to cure the condition that she complained of. No attempts was made to influence her judgment. She was merely advised that the procedures were necessary before the therapy requested by her could be undertaken.

Secondly, it was not the first procedure of this kind undertaken by Dr. Gutierrez. He participated in the first procedure performed on the claimant in December of 1967 which resulted in no complications whatsoever. He performed at least one other identical procedure on another patient prior to the second test on the claimant in April of 1968 when the stroke occurred.

Neither the technician nor any other person in attendance at the procedure requested Dr. Gutierrez to "go slow, do not be in such a hurry," and, in any event, such a statement would have been unnecessary and improper because Dr. Gutierrez was proceeding in a proper professional manner compatible with the type of procedure being undertaken.

Next, when the complication occurred and she was in significant pain for the first time, the procedure was immediately terminated.

No attempt was made thereafter to reinitiate the procedure.

The patient did not swallow her tongue,

nor did anything because all necessary remedial actions were taken spontaneously and instantaneously by Dr. Gutierrez and his staff on their own volition.

It is our considered opinion that these affidavits correctly reflect the facts, but if the members of this Committee are of the opinion that a genuine issue of facts exists the Department recommends that the Congress refer this matter to the Court of Claims for findings of fact.

Off the record.

(Discussion held off the record.)

Mr. PHILOS. After listening to the presentation we concede that something went wrong, but we say that nothing went wrong that was due to any action, any negligent act or action, attributable, or omission attributable, to the Department of the Army Medical personnel. There was a physiological accident. Our experts have their opinions as to what went wrong, but as attested to in these procedures, it was not due to any action of our medical personnel.

Mr. DONOHUE. What was that last statement you made?

Mr. PHILOS. That a physiological accident did occur. This we know. A stroke occurred. We have expert opinions as to what could have gone wrong.

Mr. DONOHUE. What were those expert opinions?

Mr. PHILOS. I would defer to our experts. We have them here. They can give it in correct medical terminology. I would hesitate to do so. It could be due to a weakness, stating this in lay language, in one of the arteries and there was an aneurysm which occurred. That weakness, as commonly stated, caused a blowout.

Mr. DONOHUE. What caused the aneurysm?

Mr. PHILOS. May I defer to Captain Horsley who is our medically trained lawyer in the office? I think he is more acquainted with the medical aspects of this case.

Captain HORSLEY. While no definitive diagnosis has been made as to exactly what caused the stroke Captain Brou suffered, apparently the medical opinion is to the effect it was due to an abnormal, perhaps abnormal, circulatory structure in the brain.

As I understand it, the procedure was performed on the left frontal part of Captain Brou's head in front of her brain. The stroke occurred in the medullar, or the back portion. This controls certain bodily functions. There is apparently no normal connection between those two circulatory systems which would lead to a stroke of this sort.

This is the information given me by the radiologist in the case. For her to have had a stroke and suffered an accident during this procedure the most likely explanation is a congenital abnormality present in her circulatory system, which was in fact the cause of the condition for which she was admitted to Walter Reed in the beginning which was a circulatory problem posterior to her right eye which caused the eye to bulge. She was admitted to receive surgical therapy on that varicose vein cluster behind her right eye.

In order to receive therapy, surgical therapy, for this problem it was necessary for her to undergo the bilateral right and left side radiological tests.

Mr. PHILOS. Applying our——

Mr. DONOHUE. Were there any tests made prior to the radiological tests?

Captain HORSLEY. Yes, sir, she was submitted to a physical examination, the standard physical examination. I am not competent to give you those details.

Mr. PHILOS. In applying a legal rationale to this, to the medical evidence which we have secured and which is contained in the affidavits, it is our conclusion that this incident would have occurred even if the procedure had been handled in a perfect manner and in accordance with the highest standards of attention. We believe, based upon our entire re-evaluation of the case, that there was no act of professional negligence or any omission that would have caused the incident in question.

Mr. WALDIE. I gather that your assumption now, at least, is that her initial complaint relative to her eye was due to a congenital defect in her venous system. Is that correct?

Mr. PHILOS. This refers to a portion of the facts with which I am acquainted. Yes, but that is our position. It is the only way that we can explain what happened.

Mr. WALDIE. If you were then aware—not you but the doctors were aware—there was a congenital defect in her venous system which caused a protrusion of her eye, would that not have been a caution signal in performing this diagnostic technique?

Captain HORSLEY. Again speaking as an attorney and not a doctor, I understand there was no positive diagnosis what caused the eye to bulge prior to the radiological tests. These tests were taken to affirm a suspected diagnosis of a venous abnormality. Whether congenital or not I am not aware. We perhaps used a bad word.

Mr. WALDIE. If the suspected diagnosis is a venous abnormality would you undertake a test of this nature which might threaten what in fact occurred?

Captain HORSLEY. It should be noted that the abnormality was on the right side of her head. The initial tests, first tests, a sinogram conducted on the right side in December, showed that the only significant risk in the initial test which was given thought to was the unknown risk of an allergic reaction. That reaction did not occur. Accordingly there was no medical reason for the doctors to suspect any untoward events occurring during the left side test conducted three months later.

Mr. WALDIE. Was the abnormality which caused her eye to protrude in essence an aneurysm of the blood vein behind her eye?

Captain HORSLEY. No, sir. In essence the abnormality behind her right eye was analogous to a varicose vein a woman has in her leg. If therapy had been attempted on this varicosity behind her eye, surgical therapy, prior to a radiological test being performed to establish that the cause of that varicose vein was not an improper brain drainage, then surgical therapy could not have been tried until proper drainage had been established through the use of the radiological tests.

Mr. WALDIE. Finally, if you have determined as near as you can that her present condition was the result of an aneurysm due to a venous abnormality—is that a fair statement?

Captain HORSLEY. This is my understanding.

Mr. PHILOS. May we consult with our expert on that? It is something which goes beyond our competence.

Mr. WALDIE. While you are consulting, would it be possible, Mr. Chairman, for them to direct themselves to other probabilities? I presume they have discounted other probabilities and have centered on that.

Among the probabilities they have discounted—was there a discussion of a possible error in the procedures of this diagnostic test as being responsible for this? If that was discussed, explain, if you would, how this procedure could have brought about this result if it was improperly conducted.

Also, could this procedure if improperly conducted have brought about precisely the result and an aneurysm and other damage brought about?

Captain HORSLEY. We would like to call Lieutenant Colonel Harrell, the Chief Radiologist who is familiar with this case and these procedures.

STATEMENT OF LT. COL. JAMES E. HARRELL, CHIEF, DIAGNOSTIC SERVICE OF THE RADIOLOGY DEPARTMENT, WALTER REED GENERAL HOSPITAL

Colonel HARRELL. Sir, I would be happy to answer any of the questions that you were raising.

First, let me state——

Mr. PHILOS. Please state your present position.

Colonel HARRELL. At present I am chief of the Diagnostic Service of the Radiology Department, Walter Reed General Hospital. At the time this occurred I was chief of the Special Diagnostic Section, and Dr. Guiterrez was a member of the team of that section.

Would you like me to take up some of the questions you have raised?

Mr. DONOHUE. Perhaps you should state your background.

Colonel HARRELL. I graduated from medical school in 1962, University of Arkansas. I interned at Fitzsimons General Hospital, Denver, Colorado.

I came here as a resident in 1963 in radiology. I finished this residency program in 1966.

In 1966 I began a fellowship in special diagnostic procedures. I concluded that in June of 1967.

Since that time, from 1967 to 1 September of 1970, I was chief of the Special Diagnostic Section, assistant chief, Department of Radiology, Diagnostic Section, and at present, as I said, I am Chief of the Diagnostic Section of Walter Reed General Hospital and Assistant Chief of the Department.

I am assistant clinical professor at Georgetown University. I am consultant to the Washington Hospital Center. I am consultant to the Washington Sanitarium. I am a diagnostic radiologist for the University of Maryland. I am Board-certified in radiology.

Mr. DONOHUE. What does the field of radiology encompass?

Colonel HARRELL. Use of ionizing radiation, either natural or artificial, for treatment and diagnosis.

Mr. DONOHUE. Is that done mostly by X-ray?

Colonel HARRELL. The specific X-ray we speak of in this case utilizes the production of X-ray from an X-ray generator and tube and exposure of radiographic film.

The term "radium" was introduced earlier. This term has no place in this discussion because radium has to do with a solid material which is used for treatment.

In this case it was purely diagnostic work that is involved.

Mr. DONOHUE. Is the use of radium usually done by a radiologist?

Colonel HARRELL. Yes, sir, but it has to do with treatment of malignant conditions.

Mr. DONOHUE. It is not usually done by a neurologist?

Colonel HARRELL. By a radiologist, sir. Radiation therapists use this in needles, implants, and so on.

Mr. DONONUE. Is it also used by neurologists?

Colonel HARRELL. I am sure neurologists perhaps have used it in the past but it is under the category of the radiology department. These radiation therapy specifically.

Mr. DONOHUE. You may proceed.

Mr. WALDIE. Colonel, before I ask the questions again I want to establish something in my mind. You performed the first operation?

Colonel HARRELL. The first two studies. I did her choroidic arterial petrosal sinus injection on the infected side which had the abnormality.

Mr. WALDIE. The inferior petrosal sinogram on the right side?

Colonel HARRELL. On the infected side, yes.

Mr. WALDIE. It was the same operation that Dr. Guiterrez did on the left side?

Colonel HARRELL. Yes.

Mr. WALDIE. From which these consequences ensued?

Colonel HARRELL. Yes, sir.

Mr. WALDIE. Dr. Guiterrez assisted you?

Colonel HARRELL. Yes.

Mr. WALDIE. Was that the first time he had assisted in that type of operation?

Colonel HARRELL. He assisted me in that operation and did another one with my assisting.

Let me hasten to add that in the course of some 720 this past year we have done of these procedures, it only matters where we place the catheter. We do many of these type studies each year. We have a busy service there.

Mr. WALDIE. Was this the first time Dr. Guiterrez assisted in an operation of this type?

Colonel HARRELL. On the first study. He had occasion to do a study himself on the second. Yes, that is correct.

Mr. WALDIE. Then between that first experience and his handling of the Captain he had one other experience where he was the primary person involved?

Colonel HARRELL. That is correct.

Mr. WALDIE. I have two questions essentially. I gather there was a diagnosis that the Captain's eye trouble was largely attributable to a congenital venous defect?

Colonel HARRELL. Sir, I do not know whether this is congenital or whether this had occurred following trauma somewhat later in life. The fact exists there was a vein behind the orbit, or on the orbit, of the right eye approximately the size of the distal two joints of your finger which with either some maneuver of the neck, or a val salve maneuver, holding one's breath, caused by visual disturbances.

Mr. WALDIE. Was there a conclusion that her venous system was in some way impaired?

Colonel HARRELL. Yes, it was.

Mr. WALDIE. That conclusion existed prior to your sinogram operation on her?

Colonel HARRELL. Tht is correct. We had done a choroidic arteriogram which showed some circulation behind this eye. However, the definition was poor. Obviously surgical intervention of this sort, the neurosurgeons feel they need as much information as they can possibly get.

We went to the direct study which would give us this, which was the first study which gave us a beautiful demonstration of the problem in detail.

Mr. WALDIE. Being aware that she had some venous abnormalities, is there anything in that awareness which would require you to conduct this right inferior petrosal sinogram or left inferior sinogram in any different manner than you would normally conduct it had there been no venous impairment?

Colonel HARRELL. In the field of cardiovascular radiology we deal frequently with congenital abnormalities. Therefore we try in every way possible to approach cases as carefully as we can realizing these variable possibilities. As such, the catheter was positioned in a vein and a small amount of contrast material was injected which initially we had films on. I do not know where the films are at the present time.

The reason the study was done was because there was an abnormality on one side. I am sure you will perhaps want to discuss the obvious risk of this sort of thing. It involves the cavernous structure. Through this structure and an opposite structure all the venous substance drains from the head. If in the course of surgery one side happened to be destroyed surgically it is imperative to know that blood can leave the head on the opposite side, or if, in the course of the surgery a thrombosis develops, and this is the mandatory part, if treatment was going to be instituted in this case, of knowing that the patient could drain blood from the other side.

But knowing that there was one abnormality here you cannot assume immediately that the other side is going to drain and go ahead and take a surgical risk without knowing that. I hope this answers your question in a round about way.

Mr. WALDIE. Perhaps it does but I cannot say that I understood it. That is not due to your deficiency, however.

Colonel HARRELL. I would like to explain it to you where you would understand it.

Mr. WALDIE. Perhaps if I phrase the question again. The fact that she had a venous deficiency of which you were aware, would that cause you to conduct this petrosal sinogram in any different manner than you would otherwise?

Colonel HARRELL. I don't know what I can say other than the fact that we approach all of these cases very carefully. The amount of pressure that was exerted was not one with an automatic machine. It was a very general injection by hand of some 55 cc of contrast material.

Mr. WALDIE. You are talking about the one Dr. Guiterrez conducted?

Colonel HARRELL. Yes. This is how I approached the case initially when I did it the first time.

Mr. WALDIE. I gather your conclusion is that Dr. Guiterrez conducted his petrosal sinogram in the same manner that you would have?

Colonel HARRELL. Yes, sir.

Mr. WALDIE. And that he was as aware as you were of the venous deficiency?

Colonel HARRELL. Yes, sir, he was.

Mr. WALDIE. Is there any way that by an improperly conducted petrosal sinogram it would bring about the reaction that the Captain has experienced? I gather you have ascribed that reaction to one cause. I would like to know if there is a possibility, whether it is equal or not I presume would be a decision of our Committee, could the same results she is now experiencing have occurred through mal-administration of the petrosal sinogram test that Dr. Guiterrez conducted?

Colonel HARRELL. Yes, sir, it certainly could have.

Mr. WALDIE. In what manner?

Colonel HARRELL. Primarily due to undue force in the actual ripping of vessels in such a manner——

Mr. WALDIE. What would cause that?

Colonel HARRELL. Undue injection force.

Mr. WALDIE. Too much pressure?

Colonel HARRELL. Too much pressure, correct.

Mr. WALDIE. Not the quantity that is injected but the speed with which it is injected?

Colonel HARRELL. He is primarily given a certain volume. It depends on the pressure and place. In a vein of a certain size. Too much pressure could rip the walls of a vessel that is necessary to supply the brain with blood. This is unequivocally true.

Mr. WALDIE. If too much pressure were applied in this instance would that in your view have been an improperly conducted test?

Colonel HARRELL. Yes, it would.

Mr. WALDIE. Can you exclude that as the cause?

Colonel HARRELL. Yes.

Mr. WALDIE. Why?

Colonel HARRELL. The films obtained in that series when the injection was made, the first injection, were reviewed by myself and Colonel Kempe. There was venous filling of all the structures in the area. There was no residual stain at the conclusion of filming which would indicate any rupture of any vein.

Mr. WALDIE. A vein did rupture, did it not?

Colonel HARRELL. I don't share that opinion. I don't know.

Let me state there are two possibilities. One is a ruptured vein which we saw no evidence of. The other is that a clot could have formed with a retrograde injection which would have produced the identical same thing.

I don't think there is any contest here of the fact that her disability resulted as a direct result of this procedure. We are not—you know, this is a foregone conclusion.

Mr. WALDIE. The contest is your conclusion that because of the venous abnormality.

Colonel HARRELL. I am not stating that and I have not stated that.

Mr. WALDIE. The lawyer stated that.

Colonel HARRELL. I do not know. I did not see any evidence of any venous abnormality on the films obtained with filling of these veins. The main thing I am contesting here, or the point I am trying to make, is that there was no evidence on those films of any undue pressure or any malpractice on the part of Dr. Guiterrez. Some allegations have been made previously.

Mr. WALDIE. And those films are missing?

Colonel HARRELL. Those films were signed out by Captain Brou, I presume, when she signed out the remainder of her films. We got some back of the initial studies. I do not have them in my possession. They are not in the X-ray Department at the present time.

Mr. WALDIE. I have nothing further.

Mr. MANN. You concede, because of the proximity in time and the improbability of coincidence, that the test did through some mechanism cause the disability she now has?

Colonel HARRELL. Yes, sir.

Mr. MANN. Your position is, however, that it was given in accordance with normal medical practice without any malfeasance or omission?

Colonel HARRELL. That is right.

Mr. SMITH. I have a question later.

Mr. COUGHLIN. It was said earlier that the effect created was the result of a disturbance on a different part of the brain than that which was affected by the procedure.

Colonel HARRELL. We have no proof of this. This was a statement by Captain Horsley. I personally have no proof of that. We have only the proof of the one abnormality. I am not making any claims that there is any other abnormality there.

However, this was a case which required us to study the other side because of possible surgical intervention.

If there is an abnormality in one area of the brain there is no reason to believe there may not be a similar abnormality somewhere else. It would perhaps affect the outcome of any future treatment.

Mr. COUGHLIN. The effect on the motor nerves, or whatever it is that creates the paralysis, may not be from a different part of the brain than that being operated on at the time?

Colonel HARRELL. The difficulty that she now experiences resulted from a study on the brain opposite the side of her known abnormality. As far as we know, there was no congenital abnormality in that area which we proved or that we found. We did show that she had a normal drainage from that side by the study.

Mr. COUGHLIN. You are still not getting my question. The paralysis, the failure she is experiencing, as I understand it these are not governed by that part of the brain which was being tested, or either side?

Colonel HARRELL. Yes, it does. I would like you to refer that question to Colonel Kempe. He is a neurosurgeon and understands this whole tie-up much better than I do. Obviously, where we were studying there was some connection with the brain and that part to the part which is affected, yes.

Mr. WALDIE. Mr. Smith?

Mr. SMITH. Did I understand you to say that you do not know whether this was caused by an aneurysm or a thrombosis which would be a clot?

Colonel HARRELL. That is right.

Mr. SMITH. You cannot say which?

Colonel HARRELL. From the films we had we showed no evidence of it. We use a contrast material. If a vessel would have been ruptured we would expect to see that extravasation in that area. This is out of the circulatory pattern and it will remain for some seconds after the normal circulation drains.

Reviewing these films I did not see this.

Of course, I was as concerned as everyone

else is here about her condition. We did review those films immediately.

Mr. SMITH. There were other areas of the brain which did not appear on the films. Is that right?

Colonel HARRELL. But the contrast material was not seen in those areas. The normal site of extravasation or rupture would be very near the tip of the catheter. This is where we would expect a blowout and see extravasation if such had occurred. I will therefore have to presume that this happened at some distance from there, and in that event a clot is my own considered opinion as to what happened since we were injecting against the flow of blood.

Obviously in the venous system the blood is flowing down this way. The catheter was going up into a small vessel and the injection the other way. We were injecting against the flow of blood, which we usually do in venous studies.

Mr. SMITH. This is a normal procedure?

Colonel HARRELL. Yes. We had done many jugular venograms. The jugular vein is the origin of the procedure for direct puncture. We usually use this procedure to study tumors involving the apex of the bone inside the head which contains the ear or mastoid or tumors around that area. It is also used as a standard procedure to evaluate tumors involving the pituitary gland in the head because it outlines the venous structures above the pituitary gland and tumors which extend beyond that. It is an accepted standard procedure.

Mr. WALDIE. Would the clot have caused all the consequences that happened to the patient?

Colonel HARRELL. It could have.

Mr. WALDIE. Is it your belief it did?

Colonel HARRELL. The results of all this, I think I have answered the questions as far as actual performance of the procedure. I would defer any further damage problems to the expert in the field of neurosurgery who handles these.

Mr. WALDIE. Would the X-rays or the films taken reveal the clot?

Colonel HARRELL. Most likely not.

Mr. WALDIE. Why is that?

Colonel HARRELL. Because it perhaps happened some distance from where the contrast material was. The venous pattern in that area, in this particular case there were quite a few veins filling. The clot would be a negative filling defect and you would not know whether the contrast just didn't get there or whether there was a clot there.

Mr. WALDIE. When you say "most likely" I suspect your answer is that the films did not reveal the clot?

Colonel HARRELL. The films did not.

Mr. WALDIE. At least in the portion of the brain they were examining?

Colonel HARRELL. That is right.

Mr. WALDIE. Captain Brou has testified that she experienced numbness almost immediately at the beginning of the insertion of the liquid which I presume is because of the sensitive procedure where excessive pressure can cause damage. Is that numbness reference to a conclusion excessive pressure was being utilized?

Colonel HARRELL. I will also defer that question to the neurosurgeon if you do not mind, sir. My own considered opinion is that this was a result of denial of blood flow for some reason, either through spasm caused by contrast material, and this can occur, but somewhere there was absence or diminution of blood flow. I beg you to let people who deal with these complications answer these questions.

Mr. WALDIE. Other questions of these gentlemen before we call Dr. Kempe?

(No response.)

Mr. WALDIE. Dr. Kempe.

What in your opinion is the cause of Captain Brou's disability?

Colonel KEMPE. If you limit me to that because I listened to this meeting for about an hour, and there are very pertinent things not even mentioned. I will have to bring these up to get you a little bit into what really happened, I think. May I do that?

Mr. WALDIE. I have no objection.

Colonel KEMPE. Captain Brou came to me in 1947 because her eye started to puff out, the right eye.

Mr. SMITH. Excuse me, 1967?

Colonel KEMPE. That is right, because her right eye would protrude when she bends over. If she strangled a little the right eye came out.

She came to me to find out what it is and what can be done about it.

One other thing we did not mention is that in the past history of Captain Brou she had suffered a skull fracture. The fracture of the skull was on the left side, the opposite side from where the eye protruded.

Now, we knew just from the clinical examination that if you in some way embarrass the blood flow coming from the head this eye would come out. The most likely possibility there, just from simple deduction, is that there is some sort of an obstruction on that side. But we never have to forget she had in her past history a fracture of the skull on her left side.

When I discussed the situation with Captain Brou and what I think she may have, and we may have to find out in certain ways what it is, and furthermore what can be done about it, she brought also her doctor friend, and I discussed the situation with him several times.

My idea at that time was that she had a varicosity, such as you can have in the leg, which starts bulging. We will not talk about the congenital abnormality here because she did not have it years before. A congenital abnormality certainly can make itself manifest many years after, by slow dilatation, but it is moot even to find out whether it is congenital or not. At least she has it.

To find out what it is, the circulation of the brain has to be studied. If we talk about studying the circulation of the brain we have to demonstrate the blood vessels that go to the brain and we have to demonstrate it especially in her condition, the blood vessels which leave the brain.

If I study the blood vessels that go to the brain, the arteries, I inject something which goes with the flow of the blood to the brain. If I study something, a vascular system of the draining veins from the head, I have to inject something to retrograde the flow, so I shoot something up against the stream of the flow, the natural flow. This entails a risk.

If I push something into the river against its stream I block that stream in some way. Therefore these tests are not without risks.

There have been no technical errors so far as I know. I leave this up to the radiologist who does this test. But these tests are not without risk. They are not without risk coming from Walter Reed down here in a cab. Therefore, we discuss with the patient before that the risks involved. We weigh what can be done about her cosmetic results from the protruding eye, and furthermore what can happen if you leave the situation alone.

The history of varicosities behind the eye in certain patients leads to thrombosis such as you have thrombosis in your leg and then obstructing the blood flow of the vessels to and from the eye and you become blind. That is the one thing that can happen if you do not even touch the patient.

You tell the patient—if you leave it alone that is one thing that may happen or it may not happen. The other thing is the angiographic studies. These are not without risk and we tell this to every patient. I told this about four times to the doctor friend of Captain Brou.

Captain Brou came for the diagnosis and she came to have something done about it and we did the study.

If my eye is here, the draining of these eyes is bilateral. For instance, the stream that comes, the vein that dries my eye and the orbit, it goes back into my head into one big stream, and then leaves from three other streams of the head so they come together.

Therefore, if we have to find out whether there is an abnormality in one eye we make a mistake not to check the other eye, so that the bilateral tests had to be done. That was clear from the beginning. We cannot just do one side without knowing the other side.

Anybody cannot strip a vein in a leg without knowing the circulation of the other veins. If you strip the varicose veins and do not know if the deep veins are patent, that leg is gone and it would be a catastrophe. Therefore we knew the bilateral test had to be done. That is why I bring this up.

We cannot forget, furthermore, that the patient had in the past a fracture of the left side of the skull, the good side. My deduction at that time was, therefore, that she had not a perfect flow from the left side, that everything was on the right side, and she needed this pathway on the right side, and we could not do anything for her if we do not know exactly all the pathways from the brain. Therefore the tests were done.

What happened? Now I come to your question.

Certainly we know that no blood vessel ruptured when the test was done, not only because we did not see blood vessels or stains of the little material but a lumbar puncture was done, as Captain Brou said herself, to see if a blood vessel ruptured.

How do you find out? Not only by the picture but you do a lumbar puncture because a brain is swimming in clear crystal fluid, as clear as water. If a blood vessel ruptured it would be immediately pink. This was not found. However, there is no denying that something happened. However, what happened?

We are talking about an area of the brain stem. This shows circulation way up in the brain stem, this test. The area can be embarrassed by this retrograde injection, and perhaps also by faulty circulation to begin with, you have a little thrombosis of vessels. I am talking about an area no bigger than the tip of my little finger. That is all that is needed to give a clinical picture of what Captain Brou has.

Through this little area go not only the motor part from the arm and leg and the face but also the sensory part which comes from the face up. Everything comes to a rather very small little bottleneck, and that is the circulation we tested. That is what happened, a thrombosis of this area. That is a permanent damage.

Mr. WALDIE. What caused thrombosis?

Colonel KEMPE. Two things. We have a retrograde injection with a risk. I inject something against the stream of the normal blood flow of the brain. You have to do that. That is part of the test. You cannot inject it any other way. Therefore if you do that a certain hesitation, a certain blockage of the flow is occurring at that time, a minimal one, so the risk is still there. Every test of this type has a certain risk, and we discussed this. You cannot do it without risk.

Mr. WALDIE. Does that take great skill to administer.

Colonel KEMPE. I think so, yes.

Mr. WALDIE. Was great skill demonstrated with the man who assisted in one such test and had administered it himself one other time and then did it in this case? Is that sufficient for you to conclude the man had great skill in administering this diagnostic procedure?

Colonel KEMPE. I do not know how many tests of this kind the doctor did, but I know him for——

Mr. WALDIE. If he assisted in one other test and then administered the test, and that was

the total practical experience he had with this test before he administered the test to this Captain, would you consider that sufficient to qualify him as a highly skilled individual in administering this?

Colonel KEMPE. He did many more tests. He did a test one day before. He did many more before that.

Mr. WALDIE. We will go into that in a moment. Under that hypothetical question would you consider that doctor to be a highly skilled man in administering this test?

Colonel KEMPE. Even so it is not completely applicable to this case. You mean as a general question. If this would be the first catheter study he had done I do not think that would be enough.

Mr. WALDIE. Let me read what Dr. Guiterrez says his experience has been.

"During that admission the patient underwent a right inferior petrosal sinogram performed by Dr. Harrell, the staff physician in charge of such procedures. During this procedure I acted as first assistant to Dr. Harrell. The patient suffered no complication. Some weeks later I performed an identical procedure on another patient, whose name I recall as McCarthy, for an identical condition posterior to the left eye. I performed this procedure without Dr. Harrell's presence, with the normal attendance of a resident, and the appropriate technicians."

Then in the summary of the affidavits by the Judge Advocate General's Office he states on page 2, sub-paragraph (b) "It was not the first procedure of this kind undertaken by Dr. Guiterrez. He participated in the first procedure performed on the claimant in December of 1967 which resulted in no complications whatever and performed at least one other identical procedure on another patient prior to the second test run on the claimant in April of 1968."

I assume from this that that is the experience of Dr. Guiterrez prior to administering the tests upon Captain Brou. I assume from what you have reponded to the hypothetical question that that is not sufficient experience for you to assume that, Doctor.

Colonel KEMPE. We will have to leave this to the chief who runs this section.

What is actually the technical——

Mr. WALDIE. I understand that. All I asked was your personal experience, Colonel, as a skilled man in this field. I gathered you said that if that is the extent of his experience.

Dr. KEMPE. This is not my field to begin with—the catheter studies. These skills are learned in a different department. That is why when we give it to these patients they are done in the department that teaches this and they do these tests.

Mr. WALDIE. Doctor, while this fluid is being injected, countered to the flow of the blood, if the patient experiences immediately a sensation and numbness and communicates that sensation, is that an indication to the doctor who is administering this fluid that something may be amiss?

Dr. KEMPE. No. In 90 percent, or even 99 percent of these injection studies if the patient experiences sensory phenomena, he has to because these tests always irritate the nerves.

Mr. WALDIE. Do they experience numbness 90 percent of the time?

Dr. KEMPE. Numbness lasting for about a couple of seconds. Numbness of the face or other areas, depending on which area you inject, numbness of pain.

Mr. WALDIE. If a thrombosis was the causative factor, would numbness be an immediate reaction of the patient?

Dr. KEMPE. Numbness too, yes.

Mr. WALDIE. Would that be the first indication to the patient that something is going wrong?

Dr. KEMPE. Many symptoms can happen, but numbness is a very dominant one not only in a successful study but also with a study that leads furthermore to thrombosis. The main symptoms are paralysis.

Mr. WALDIE. With the history of a fractured skull, which you emphasize, do you emphasize that—because in that patient's case, with the fractured skull on the side, this test was being administered—certain cautions are necessary, or certain difficulties in her reaction might otherwise occur than had she not had the fractured skull?

Dr. KEMPE. A fractured skull brings forth one thing, that we may have an impairment of the flow of the circulation on the healthy side, on the side where she does not have the bad eye. We still especially have to do the test on this side.

Mr. WALDIE. With the history of a fractured skull, with the knowledge that the test is dangerous, with the knowledge that numbness is an indication of a thrombosis, when the patient complains of a numbness, do you immediately stop injecting fluid at that point?

Dr. KEMPE. Correct.

Mr. WALDIE. Or do you continue on the basis that all patients complain of numbness?

Dr. KEMPE. It usually is right after the injection. It doesn't occur during the injection.

Mr. WALDIE. When it's occurring during the injection, it's unique, then?

Dr. KEMPE. No, I can't even say that it's unique.

Mr. WALDIE. If you were administering this test and the patient complained of numbness during the administration of the test, would you stop injecting?

Dr. KEMPE. No. You tell the patient before injecting, "You will feel a numbness and a numbness over your face, so do not move", for instance. We even tell the patient while he is laying on this table, "Don't move. You will feel a numbness. You will feel a flash or burning sensation." They tell the patient this because the patient, during this time the x-ray is taken, is not supposed to move so as to get a picture. So you check that.

Mr. WALDIE. But this is a patient who has had this test and has experienced all the phenomena that is usual. This is the second time the test is being given and the patient sees fit to complain on the basis that the phenomena she is now experiencing is different from that which she experienced in the first instance.

Dr. KEMPE. So he stopped.

Mr. WALDIE. Would that dictate that you would stop?

Dr. KEMPE. He did stop.

Mr. WALDIE. Upon her first complaint?

Dr. KEMPE. So far as I know, yes.

Mr. WALDIE. I have no further questions.

Mr. Mann?

Mr. MANN. No questions.

Mr. SMITH. No questions.

Mr. COUGHLIN. I have one question I want to clarify again. As I understand it, this goes back to Mr. Waldie's earlier question, that this particular procedure, if improperly performed, could have affected that portion of the brain which would cause the patient's present condition.

Dr. KEMPE. It can happen without being improperly done. It can happen if it's improperly done, but we have no evidence that it was improperly done.

Mr. COUGHLIN. But it could happen, if improperly done?

Dr. KEMPE. Yes. Many things could happen if improperly done.

Mr. COUGHLIN. I have no further questions.

Mr. WALDIE. Any further questions of any witness?

Mr. MANN. I have this question: Dr. Kempe, did you and Dr. Harrall testify before the Senate Committee?

Dr. KEMPE. Who?

Mr. SMITH. Did you appear before the Senate Committee and testify?

Dr. KEMPE. Never, no.

Mr. WALDIE. Any further questions of any witness or any member of the Committee?

May I call Captain Brou for another question or two?

Gentlemen, thank you very much.

Dr. KEMPE. Thank you very much.

Mr. PHILOS. These are the original affidavits which I will leave with the court reporter.

Mr. WALDIE. Captain, I want to get one point a little clearer in my mind. There seems to be some misunderstanding as to when you first registered a complaint to Dr. Gutierrez that you were having a reaction that you had not experienced in the previous test and whether at that point he stopped injecting fluid. Would you address yourself to that?

Captain BROU. Mr. Chairman, as I said before, I did not complain of numbness at the time his injection was made. I complained that this hand (indicating the right hand) was drawing up into this position (indicating).

I had already experienced a sensation in my head which Dr. Kempe explained to you as being a burning sensation, as a sensation of pressure. It's as if some vise or something is clamping your head. That is the sensation that I think is normally experienced by other people. I experienced it twice before. I experienced it on this third test. But I also experienced this clenching of my right hand, of my fist.

Mr. WALDIE. Was that a unique experience?

Captain BROU. Very unique. I had never experienced that before.

Mr. WALDIE. Did the doctor cease injecting fluid at that point upon that complaint?

Captain BROU. I cannot say whether he did or he did not because I feel he injected it all at one time and then that is what happened. But I have no way of knowing that, because you can't really see everything that is going on. You can see the catather going into your head, and so forth, and the injection of dye, on a television screen because they have you in such a position that your head is turned back. From watching the screen on the previous tests, I watched it again.

I saw the catheter finally get in place. I saw the dye when it spread out, as if one would drop a drop of ink into a glass of clear water, and then my hand drew up. I experienced a pain in my head and then my hand drew up in a clenched position.

Mr. COUGHLIN. I have one question, Captain. The report that we have from the Senate indicates that the amount provided in this bill would be in full settlement of all your claims against the United States. Does that mean it would be in lieu of the roughly $600 a month that you are now receiving in benefits?

Captain BROU. No, sir, it does not. It means it would be in addition to, as is stated in some report or some writeup of this case.

Mr. COUGHLIN. No further questions.

Mr. WALDIE. Are there any other questions?

Mr. Flowers?

Mr. FLOWERS. No, sir.

Mr. WALDIE. Thank you, Captain.

Captain BROU. If I may, Mr. Waldie, I would like to make one further statement that was not heretofore brought out due to the fact that five years hence I would have retired from the military on twenty years active service. At that time my retirement pay would have been more than my physical disability retirement pay and possibly I would have been promoted once or twice during that five years. At that time I could have drawn on my twenty years Naval and military experience, and I could have drawn on both my Bachelors and Masters Degrees to get a civilian job. It would in no way have affected my retirement pay from the military, which would have been considerably more even though it was subject to Federal income tax.

I could have gotten the same medical benefits being retired from the military, and I would have been entitled to all other benefits that I am presently entitled to now. The

one big difference is that I would have had my health and I could have gone on and gotten another job, which I cannot do now.

Mr. WALDIE. Mr. Mann has a question.

Mr. MANN. Did I understand from your earlier statement and from your testimony that you were not aware of any unusual risk involved in this test?

Captain BROU. That is correct, Mr. Mann. As I recall, on my visit to Dr. Kempe, he stated to me that Walter Reed did 6,000 such diagnostic studies a year. There was a risk, but no more risk than a normal tonsillectomy or appendectomy. We all know that people undergo tons of appendectomies and tonsillectomies every day with little or no consequences. That is the only risk.

Mr. MANN. At the same time, there was some indication that you, in consultation with your medical friend, had some reluctance to engaging in further tests?

Captain BROU. I had reluctance because of my experience the first time in the hospital, getting in the hospital and not being able to get out, and having two tests instead of one test—which I submitted to, of course. But being in the military, you can't really say no sometimes in the medical field when you are in the hospital.

I had already signed one release stating that I would submit to this diagnostic study. Then they impressed upon me the fact that it was a most unusual case and they wanted the facts of this to be written up, to be photographed, and so forth. I said, "Sure. If it will help somebody else, go ahead."

With the third test, which was the bad test, I was apprehensive and I was scared. The tests are painful, as I said before, but certainly nothing that I would shy away from if it meant the difference between life and death. But it was never put to me that it was imperative to my living a normal life.

Mr. MANN. Weren't you made aware of the possibility of blindness as a result of your condition?

Captain BROU. No. No, sir, I was not.

Mr. MANN. Thank you.

Mr. WALDIE. Are there any questions?

Mr. SMITH. Captain, were you made aware of the possibility of blindness—a possibility, if you didn't do anything about your eye?

Captain BROU. No, sir.

Mr. PHILOS. Mr. Chairman, I believe this statement about the tonsillectomy is correct, but it should be placed in the proper context. I ask your permission to have Colonel Kempe cover that in just one or two statements, if he may.

Mr. WALDIE. Fine, Colonel. Please come back.

Dr. KEMPE. As I mentioned before in regard to complications, if these tests are made, the patient is informed that there are complications. We don't say, "Forget about it, it is without any danger." We see catastrophes. We see deaths from these incidents, but they are very small.

Certainly, as Captain Brou said, people under appendectomies all the time. But how many deaths do you have from appendectomies? It's not without risk. Even undergoing anesthesia alone causes a risk.

One of the risks in these studies, for instance, is to develop or have a sensitivity to the injection material. We knew from the one shot that we had given her that she did not have this hypersensitivity to it. So there was a little less risk on that side.

But we never intended that this procedure carries a risk and carries even death or paralysis. We inform the patient of that fact. There is no doubt about it. I informed the Captain about it. I informed her doctor friend about it.

Mr. WALDIE. Is your testimony, Colonel, that you informed the Captain that it could even involve death?

Dr. KEMPE. I don't think I told her it might be death. What I usually say it, "Anything, really, could happen."

Mr. WALDIE. Did you tell her it could involve paralysis?

Dr. KEMPE. Yes, I did that.

Mr. WALDIE. Did you tell her?

Dr. KEMPE. Yes, I did. And especially her doctor friend.

Mr. WALDIE. I have no further questions.

Mr. FLOWERS. No questions.

Mr. WALDIE. The Committee is in adjournment.

Thank you very much, Captain and gentlemen.

Captain BROU. Thank you.

Mr. FANNIN. Mr. President I am happy to support passage of H.R. 6503, which I believe is a just resolution of the case of Capt. Claire E. Brou. I hope this unusual case will not be considered a precedent. Ordinarily the disability retirement system for military personnel provides a sufficient resolution for claims of this nature. It is my hope that in the future by and large most cases of injuries arising in the course of military service can be handled within the administrative structure without the necessity of recourse to legislative relief by private bill.

Mr. MANSFIELD. Mr. President, may I say furthermore that, on the basis of the Senate's consideration of—and I assume assent to—this bill, this particular measure is not to be considered as a precedent for future disposal and decision.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on third reading.

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

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS

AMENDMENTS NOS. 1516, 1517, AND 1518

Mr. JACKSON. Mr. President, I send to the desk an amendment which I intend to propose to Senate Joint Resolution 241 and ask that the amendment be printed, for the convenience of Senators.

This amendment is substantively the same as Amendment No. 1406, which I sent to the desk on August 7, 1972. My purpose in having this amendment printed for a second time is to reflect some technical changes which are required as a result of the Senate's adoption of the Mansfield amendment last Thursday. These changes relate to the placement of language in my amendment to Senate Joint Resolution 241 and the designation of a section number. Having the amendment printed a second time will also permit the names of new cosponsors to be listed.

Mr. President, I ask unanimous consent that the amendment be considered as having been read, in accordance with the requirements of rule XXII.

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

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

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment reads as follows:

At the end of S.J. Res. 241 insert a new section as follows:

"SEC. —. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the 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; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance of a vigorous research and development and modernization program leading to a prudent strategic posture.".

Mr. JACKSON. Mr. President, I am aware that the distinguished majority whip has already made a unanimous-consent request which has been approved, but I did want to make the record clear on this point.

Mr. President, in anticipation of tomorrow's vote, and for the purpose of preserving my parliamentary position, I also send to the desk two other amendments which are substantively the same as the amendment I have just sent to the desk.

The first amendment is in the form of an amendment in the nature of a substitute to the amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT). The second is in the form of an amendment in the nature of a substitute to any pending amendment which meets the requirements of rule XXII.

I ask unanimous consent that the two amendments be considered as having been read in accordance with the requirement of rule XXII.

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

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

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

In lieu of the language proposed to be inserted, insert the following language:

"SEC. —. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the 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; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United

States-Soviet Union equality reflected in the anti-ballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance of a vigorous research and development and modernization program leading to a prudent strategic posture.".

In lieu of the language proposed to be inserted, insert the following language:

"SEC. —. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the 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; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance of a vigorous research and development and modernization program leading to a prudent strategic posture.".

FEDERAL-AID HIGHWAY ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 1046, S. 3939, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment on page 76, after line 21, insert a new title, as follows:

TITLE III

URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 301. (a) The Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "two-thirds" in the fifth sentence of section 4(a) and inserting in lieu thereof "90 per centum";

(2) by striking out "one-sixth" in the proviso to the second sentence of section 5 and inserting in lieu thereof "40 per centum"; and

(3) by striking out "two-thirds" in the last sentence of section 9 and inserting in lieu thereof "90 per centum".

(b)(1) Section 3 of such Act is amended—

(A) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(B) by adding at the end thereof of a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis. The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(2) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(3) Section 12(c) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service."

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and section 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1973, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1974. Sums so appropriated shall remain available until expended."

(d) Section 4(c) of such Act is amended by striking out "$3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

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

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1972".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976." And inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979, and the additional sum of $257,000,000 for the fiscal year ending June 30, 1980."

AUTHORIZATION OF USE OF COST ESTIMATE FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation is authorized to make the apportionment for fiscal years 1974 and 1975 of the sums authorized to be appropriated for such years for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, House Committee Print Numbered 92–29.

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 104. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty years" and inserting in lieu thereof "twenty-four years" and by striking out "June 30, 1976" and inserting in lieu thereof "June 30, 1980".

(b)(1) The introductory phrase and the second and third sentences of section 104(b)(5) of title 23, United States Code, are amended by striking out "1976" each place it appears and inserting in lieu thereof at each such place "1980".

(2) Section 104(b)(5) is further amended by striking out the sentence preceding the last sentence and inserting in lieu thereof the following: "Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1976 and 1977. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1976. Upon the approval by the Congress the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1978 and 1979. The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1978. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved esti-

mate in making apportionments for fiscal year 1980."

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system including urban extensions out of the Highway Trust Fund, $950,000,000 for the fiscal year ending June 30, 1974, and $950,000,000 for the fiscal year, ending June 30, 1975: *Provided,* That at least $300 million of such funds for each of the fiscal years ending June 30, 1974 and June 30, 1975 shall be expended for carrying out the provisions of section 148 of title 23, United States Code, relating to the elimination of roadway dangers with emphasis on the elimination of railroad-highway grade crossings.

(2) For the Federal-aid secondary system including urban extensions out of the Highway Trust Fund, $500,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975, of which at least $50,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, shall be expended exclusively for carrying out provisions of section 142, title 23, United States Code, relating to highway public transportation in rural areas.

(3) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 for the fiscal year ending June 30, 1974, and $800,000,000 for the fiscal year ending June 30, 1975: *Provided,* That at least $300,000,000 of such funds for each of the fiscal years ending June 30, 1974 and June 30, 1975, shall be expended exclusively for carrying out provisions of section 142, title 23, United States Code, relating to highway public transportation in urbanized areas.

(4) For the Federal-aid small urban system, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(5) For forest highways, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(6) For public lands highways, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975.

(7) For forest development roads and trails, $170,000,000 for the fiscal year ending June 30, 1974, and $170,000,000 for the fiscal year ending June 30, 1975.

(8) For public lands development roads and trails, $20,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975.

(9) For park roads and trails, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(10) For parkways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(11) For Indian reservation roads and bridges, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 out of the General Fund of the Treasury and $25,000,000 out of the Highway Trust Fund for the fiscal year ending June 30, 1975.

(12) For carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the Highway Trust Fund, $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

(13) For necessary administrative expenses in carrying out section 131, section 136 and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

(14) For carrying out section 215(a) of title 23, United States Code (relating to territorial highway development program), out of the sums in the Treasury not otherwise appropriated:

(A) for the Virgin Islands not to exceed $2,500,000 for the fiscal year ending June 30, 1974, and not to exceed $2,500,000 for the fiscal year ending June 30, 1975;

(B) for Guam not to exceed $2,000,000 for the fiscal year ending June 30, 1974, and not to exceed $2,000,000 for the fiscal year ending June 30, 1975; and

(C) for American Samoa not to exceed $500,000 for the fiscal year ending June 30, 1974, and not to exceed $500,000 for the fiscal year ending June 30, 1975.

(b) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. Whenever such amounts made available for the Interstate System in any State exceed the cost of completing that State's portion of the Interstate System, the excess amount shall be transferred to and added to the amounts apportioned to such State under paragraphs (1), (2), (3), (6), and (7) of subsection (b) of section 104 of title 23, United States Code in the ratio which these respective amounts bear to each other in that State.

(c) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Federal-aid urban system and for the Federal-aid small urban system, under paragraphs (6) and (7), respectively, of subsection (b) of section 104 of title 23, United States Code.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitaiton, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas."

(b) The definition of "Indian reservation roads and bridges" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government on which Indians reside, or Indian and Alaska native villages, groups or communities in which Indians and Alaskan natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

(c) The definition of "urbanized area" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by the Secretary in cooperation with responsible State and local officials."

FEDERAL-AID SMALL URBAN SYSTEM

SEC. 107. (a) Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) After the definition of the term "Federal-aid urban system" add the following new paragraph:

"The term 'Federal-aid small urban system' means the Federal-aid highway system described in subsection (h) of section 103 of this title."

(2) After the definition of the term "urban area" and the following new paragraph:

"The term 'small urban area' means an area including and adjacent to a municipality or other urban place having a population of five thousand to fifty thousand, not within urbanized areas, as determined by the latest available Federal census, within boundaries to be fixed by the State after consultation with local officials and subject to the approval of the Secretary."

(b) Section 103 of title 23, United States Code, is amended by adding immediately after subsection (g) a new subsection (h):

"(h) The Federal-aid small urban system may be established in each urban area of five thousand to fifty thousand population at the request of local officials. The system shall consist of arterial and collector routes, exclusive of urban extensions of the Federal-aid primary and secondary systems, selected by responsible local officials in cooperation with the State highway department based upon anticipated functional usage for the year 1980. Each route of the system shall connect with another route on a Federal-aid system. At his discretion, the Secretary may delegate to any State highway department the authority to approve designation of the Federal-aid small urban system. The provisions of chapters 1, 3, and 5 of this title applicable to Federal-aid primary highways shall apply to the Federal-aid small urban system except as determined by the Secretary to be inconsistent with this subsection.

(c) Subsection (b) of section 104 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(7) For the Federal-aid small urban system:

"In the ratio which the population in small urban areas, or parts thereof, in each State bears to the total population in such small urban areas, or parts thereof, in all the States as shown by the latest available Federal census."

(d) Subsection (a) of section 120 of title 23, United States Code, is amended by striking out "the Federal-aid secondary system, and the Federal-aid urban system," and inserting in lieu thereof the following: "the Federal-aid secondary system, the Federal-aid urban system, and the Federal-aid small urban system."

DECLARATION OF POLICY

SEC. 108. Subsection (b) of section 101 of title 23, United States Code, is amended by adding at the end thereof the following new paargraph:

"It is further declared to be in the national interest and to be the intent of Congress that in the administration of the Federal-aid highway program the Secretary shall carry out the program in such a manner as to give the highest priority in all instances, to highway safety and the saving of human lives."

FEDERAL-AID SYSTEM REALINEMENT

SEC. 109. (a) Section 103(b) of title 23, United States Code, is renumbered as section 103(b)(1) and a new section 103(b)(2) is added to read as follows:

"(b)(2) After June 30, 1975, the Federal-aid primary system shall provide an adequate system of connected main roads important to interstate, statewide, and regional

travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section."

(b) Section 103(c) of title 28, United States Code, is renumbered as section 103(c)(1) and a new subsection 103(c)(2) is added to read as follows:

"(c)(2) After June 30, 1975, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section."

(c) Section 103(d) of title 23, United States Code, is renumbered as section 103(d)(1) and a new subsection 103(d)(2) is added to read as follows:

"(d)(2) After June 30, 1975, the Federal-aid urban system shall be located in urbanized areas and shall consist of arterial routes and collector routes, exclusive of urban extensions of Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, subject to the approval of the Secretary as provided in subsection (f) of this section, and shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title."

(d) Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980.

FEDERAL-AID URBAN SYSTEM

SEC. 110. (a) Subsection (d)(1) of section 103 of title 23, United States Code, is amended by striking the second, third, fourth, and fifth sentences and inserting in lieu thereof the following:

"The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes. It shall be selected so as to serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area in accordance with the planning process required pursuant to the provisions of section 134 of this title. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials or by area-wide councils of government or other appropriate metropolitan organizations established by law, after consultation with the State highway departments and in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section."

(b) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials after consultation with the State highway department and in accordance with the planning process required pursuant to section 134 of this title."

TRANSFER OF INTERSTATE SYSTEM MILEAGE WITHIN A STATE

SEC. 111. (a) The fourth sentence of subsection (e)(2) of section 103 of title 23, United States Code, is amended to read:

"The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph; such costs shall be that as of the date of the withdrawal."

(b) Paragraph (2) of subsection (e) of section 103 of title 23 of the United States Code is amended by adding at the end thereof the following:

"The authority granted by this paragraph shall expire on the date of enactment of the Federal-Aid Highway Act of 1972. However, the amendment contained in section 111(a) of the Federal-Aid Highway Act of 1972 shall be retroactive."

(c) Subsection (e) of title 23, United States Code, is amended by adding the following:

"(4) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of such interstate route or portions thereof within that State as provided in this subsection necessary to provide the essential connection of the Interstate System in such State in lieu of the route or portions thereof which were withdrawn. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph. Such costs shall be that as of the date of the withdrawal. Whenever the Secretary determines that such routes or portions thereof are not essential or whenever the amounts necessary for the completion of the substitute essential routes or portions thereof are less than the cost of the withdrawn route or portions thereof, the amounts remaining or the difference shall be transferred to and added to the amounts apportioned to such State under paragraph 6 of subsection (b) of section 104 of title 23, United States Code, for the account of the urbanized area from which the withdrawal of the routes or portions thereof was made in such urbanized areas. In considering routes or portions thereof to be added to the Interstate System under the second and third sentences of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, assure (A) that such routes or portions thereof will provide a unified and connected Interstate System (including urban routes necessary for metropolitan transportation), and (B) the extension of routes which terminate within municipalities served by a single interstate route, so as to provide traffic service entirely through such municipalities. Any mileage from a route or portion thereof which is withdrawn under the second sentence of this paragraph and not replaced by a substitute essential route or portion thereof may be redesignated as part of the Interstate System by the Secretary in accordance with paragraph (1) of this subsection."

REMOVAL OF DESIGNATED SEGMENTS OF THE INTERSTATE SYSTEM

SEC. 112. Section 103(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not necessary for continuity of traffic flows between cities. Nothing shall prohibit the consideration for substitution prior to July 1, 1974, of alternative segments of the Interstate System which will meet the requirements of this title. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1974, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. The application of all of the provisions of this subsection shall be deferred for one year with respect to routes added to the Interstate System after December 1, 1968."

METHOD OF APPORTIONMENT

SEC. 113. (a) Paragraphs (1) and (2) of subsection (b) of section 104 of title 23, United States Code, is amended by striking the words "star routes" each time they appear and inserting in lieu thereof "intercity mail routes where service is performed by motor vehicles.".

(b) Paragraph (3) of subsection (b) of section 104 of title 23, United States Code, is amended to read:

"(3) For extensions of the Federal-aid primary system and the Federal-aid secondary system within urban areas:

"In accordance with the needs for such extensions as determined by each State from funds apportioned to it under paragraphs (1) and (2) of this subsection."

APPORTIONMENT OF PLANNING FUNDS

SEC. 114. Section 104 of title 23, United States Code, is amended by adding at the end thereof a new subsection (g):

"(g) On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.

"(1) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as

shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

"(2) The funds apportioned to any State under paragraph (1) of this subsection shall be made available by the State to the areawide metropolitan transportation agencies established under section 135 of this title only for the purposes of carrying out the provisions of section 134 of this title. Pending the establishment of these agencies as defined in section 135 of this title, these planning funds shall be made available to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(3) The distribution within any State of the planning funds made available to the areawide agencies under paragraph (2) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs."

ADVANCE ACQUISITION

SEC. 115. (a) Section 108(a) of title 23, United States Code, is amended by striking out "seven years" in the last sentence and inserting in lieu thereof "ten years".

(b) Section 108 (c) (3) of title 23, United States Code, is amended by striking out "seven years" in the first sentence and inserting in lieu thereof "ten years".

STANDARDS

SEC. 116. (a) Subsection (1) of section 109 of title 23, United States Code, is amended by striking out "July 1, 1972" and inserting in lieu thereof "January 1, 1973".

(b) Subsection (j) of section 109 of title 23, United States Code, is amended by inserting (1) after (j) and adding a new paragraph (2) as follows:

"(2) After June 30, 1973, no highway program or project submitted to the Secretary in accordance with this title shall be approved by the Secretary unless it is in conformity with guidelines established by the Secretary under this subsection."

SIGNS ON PROJECT SITE

SEC. 117. Subsection (a) of section 114 of title 23, United States Code, is amended by striking out the last sentence thereof and inserting in lieu thereof the following:

"After October 31, 1972, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users, any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation."

PAYMENT TO STATES FOR BOND RETIREMENT

SEC. 118. The first sentence of section 122, title 23, United States Code, is amended by inserting the following after "maturity": "and in the case of the Interstate System principal and interest of such bonds,".

PUBLIC HEARINGS

SEC. 119. Subsection (a) of section 128 of title 23, United States Code, is amended by adding the following at the end thereof:

"The Secretary shall also require with the submission of plans for a Federal-aid project an assurance from the State highway department that it has taken all steps required pursuant to guidelines issued by the Secretary to insure and foster public participation in the development of such project before and after the public hearings required by this subsection."

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 120. (a) After the second sentence of section 129(b) of title 23, United States Code, insert the following:

"When any such toll road which the Secretary has approved as a part of the Interstate System on or before June 30, 1968, is made a toll-free facility prior to July 1, 1976, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System."

(b) Section 129 of title 23, United States Code, is amended by adding at the end thereof a new subsection (h) as follows:

"(h) Funds for the Interstate System shall be available for expenditure on Interstate projects, approaching any toll road on the Interstate System, requiring reconstruction where three or more Interstate routes (including loops, branches, or spurs), interchange or connect with such toll road, and improvements to such toll road have resulted in the serious impairment of the capacity of the interchange and Interstate routes."

CONTROL OF OUTDOOR ADVERTISING

SEC. 121. (a) Subsection (b) of section 131 of title 23, United States Code, is amended by inserting the following between the first and second sentences: "Federal-aid highway funds apportioned on or after January 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right of way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control."

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays or devices after January 1, 1968, if located within six hundred and sixty feet of the right of way and on or after July 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right of way be limited to (1) directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays, and devices advertising activities conducted on the property on which they are located."

(c) Subsection (d) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming, except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence:

"The Secretary may also, in consultation with the States, provide within the rights-of-way of other roads on the Federal-aid highway system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United States Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal under any law enacted to comply with this section, of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Federal-Aid Highway Act of 1972."

(g) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

(h) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) No directional sign, display, or device lawfully in existence on June 1, 1972, giving specific information in the interest of the traveling public shall be required by the Secretary to be removed until December 31, 1974, or until the State in which the sign, display, or device is located certifies that the directional information about the service or activity advertised on such sign, display, or device may reasonably be available to motorists by some other method or methods, whichever shall occur first."

TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

SEC. 122. Subsection (a) of section 134, of title 23, United States Code, is amended by striking the next to the last sentence and inserting in lieu thereof the following:

"The Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds (1) that such projects are in accordance with a con-

tinuing comprehensive transportation planning process carried on cooperatively by the State and local communities in conformance with the objectives stated in this section, and (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing comprehensive transportation planning process have been taken. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings, held at least annually at which there would be a review of the transportation planning process, plans and programs, and opportunity provided for the consideration of alternative modes of transportation."

AVAILABILITY OF URBAN SYSTEM FUNDS

SEC. 123. (a) Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Availability of urban system funds

"(a) Funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title shall be allocated among the urbanized areas within any such State in the ratio that the population within any such urbanized area bears to the population of all urbanized areas within such State.

"(b) Funds allocated in accordance with subsection (a) of this section shall be available for expenditure within any such urbanized area for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(c) Funds allocated to any urbanized area under subsection (a) of this section shall be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas agree to such availability.

"(d) (1) Where the units of general purpose local government in any urbanized area shall combine together under State law to create a metropolitan transportation agency, or where the State shall create a metropolitan transportation agency, with sufficient authority to develop and implement a plan for expenditure of funds allocated to such urbanized area pursuant to this section, funds allocated under subsection (a) of this section shall be available to such metropolitan transportation agency for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(2) A metropolitan transportation agency shall be considered to exist when (A) an agency for the purposes of transportation planning has been created by the State or by the unit or units of general purpose local governments within any urbanized area which represent at least 75 per centum of the total population of such area and includes the largest city, and (B) such agency has adequate powers and is suitably equipped and organized to carry out projects on the urban system: *Provided*, That such projects may be implemented by the metropolitan transportation agency through delegation of authority for implementation of the participating local governments."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof:

"135. Availability of urban system funds.".

CONTROL OF JUNKYARDS

SEC. 124. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, not to exceed $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975. The provision of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

FRINGE AND CORRIDOR PARKING FACILITIES

SEC. 125. Subsection (a) of section 137 of title 23, United States Code, is amended by striking the period at the end of the first paragraph, inserting a comma in lieu thereof, and adding the following: "and liquidation of bonds or other obligations incurred in financing the local share of such facilities".

PRESERVATION OF PARKLANDS

SEC. 126. Section 138 of title 23, United States Code, is amended (1) by striking out "lands" in the first sentence and inserting in lieu thereof "areas (including water)", and (2) by striking out "lands" and "land" wherever thereafter appearing therein and inserting in lieu thereof "areas" and "area", respectively.

TRAINING PROGRAMS

SEC. 127. Subsection (b) of section 140 of title 23, United States Code, is amended by striking out in the second sentence "and 1973," and inserting in lieu thereof ", 1973, 1974, and 1975".

HIGHWAY PUBLIC TRANSPORTATION

SEC. 128. (a) Section 142 of title 23, United States Code, is amended to read as follows:

"§ 142. Highway public transportation.

"(a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways, other than on rails, for the transportation of passengers (hereinafter in this section referred to as "buses") within urban areas and in such rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (3), (5), (6), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"(b) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(c) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and, except in the case of the purchase of mass transportation passenger equipment other than fixed rail, for which the Federal share shall be 100 per centum, the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(d) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate capability to utilize fully the proposed project and to maintain and operate properly any equipment acquired under this section.

"(e) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(f) In the acquisition of equipment pursuant to subsection (a) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"(g) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof), shall apply in carrying out the provisions of this section."

"(h) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(i) The provisions of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out the provisions of this section dealing with the purchase of equipment and its use within urban areas, to the extent such provisions are not inconsistent with or in conflict with the provisions of chapters 1, 3, and 5 of this title."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"142. Urban highway public transportation."

and inserting in lieu thereof:

"142. Highway public transportation."

ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS

SEC. 129. (a) Section 143 of title 23, United States Code, is amended by striking "Federal-aid primary system" wherever appearing therein and inserting in lieu thereof "Federal-aid primary and secondary systems".

(b) Subsection (e) of section 143 of title 23, United States Code, is amended by striking "not to exceed an additional 20 per centum" and inserting in lieu thereof "not to exceed an additional 10 per centum."

(c) Subsection (g) of section 143 of title 23, United States Code, is amended by striking the following: "and not to exceed $50,000,000 for the fiscal year ending June 30, 1973." and inserting in lieu thereof ", not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $50,000,000 for the fiscal year ending June 30, 1974, and not to exceed $100,000,000 for the fiscal year ending June 30, 1975."

BICYCLE TRANSPORTATION, PEDESTRIAN WALKWAYS, AND EQUESTRIAN TRAILS

SEC. 130. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Bicycle transportation, pedestrian walkways, and equestrian trails

"(a) To encourage the development, improvement, and use of bicycle transportation on or in conjunction with highway rights-of-way for the transportation of persons so

as to increase the traffic capacity of the Federal-aid systems, and to permit the development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, the Secretary shall require that projects carried out with sums apportioned in accordance with subsection (b) of section 104 of this title shall to the extent practicable, suitable, and feasible include the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, pedestrian walkways, and equestrian trails in conjunction or connection with Federal-aid highways. Projects authorized under this section shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(c) In addition to projects carried out pursuant to subsection (a), there is hereby authorized to carry out projects for the construction of bicycle trails on or in conjunction with highway rights-of-way for the transportation of persons so as to increase the traffic capacity of the Federal-aid systems, and to permit development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, $10,000,000 out of the Highway Trust Fund for each of the fiscal years 1974 and 1975 which shall be available, at the discretion of the Department subsection (b) of section 104 of this title, except that no State shall receive less than 1 per centum of sums apportioned under this section.

"(d) Funds authorized and appropriated for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be apportioned in accordance with paragraph (1) or charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

"(e) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"145. Bicycle transportation, pedestrian walkways, and equestrian trails."

TOLL ROAD REIMBURSEMENT PROGRAM

SEC. 131. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 146. Toll road reimbursement program.

"(a) Whenever a State has received its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, the Secretary may permit, notwithstanding the provisions of subsection (b) of section 129 of this title, reimbursement of the Federal share of the actual cost of construction of new toll highways or improvements to existing toll highways, construction of which highways or improvement is begun after July 1, 1972, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under this chapter upon compliance with the conditions contained in this section.

"(b) The Secretary may permit reimbursement of the Federal share of the costs of construction as applicable to a project under section 120(a) of this title from funds apportioned to such State pursuant to paragraph (1) subsection (b) of section 104 of this title whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

"(1) to provide for the construction of such highway in accordance with standards approved by the Secretary;

"(2) all tolls received from the operation of such highway, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

"(3) no tolls shall be charged for the use of such highway after the Federal share has been paid and the highway shall be maintained and operated as a free highway.

Such agreements may be entered into between the Secretary and a State upon enactment of this section. Reimbursements shall not be made until after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System.

"(c) When such highway becomes toll free in accordance with the aforementioned agreement, such highway shall become a part of the primary system notwithstanding the mileage limitations in subsection (b) of section 103 of this title.

"(d) The Federal share payable of such actual cost of the project shall be made in not more than fifteen equal annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of this title, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway departments or one year after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, whichever is last to occur. Such payment shall be applied against the outstanding obligations of the project."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"146. Toll road reimbursement program."

SPECIAL URBAN HIGH DENSITY TRAFFIC PROGRAM

SEC. 132. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 147. Special urban high density traffic program.

"(a) There is hereby authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for the construction of highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for this purpose which include the following criteria:

"(1) Routes designated by the Secretary shall not be longer than ten miles.

"(2) Routes designated shall serve areas of concentrated population and heavy traffic congestion.

"(3) Routes designated shall serve the urgent needs of commercial, industrial, or national defense installations.

"(4) Any routes shall connect with existing routes on the Interstate System.

"(5) Routes designated under this section shall have been approved through the planning process required under section 134 of this title and determined to be essential by responsible local officials.

"(6) A route shall be designated under this section only where the Secretary determines that no feasible or practicable alternative mode of transportation which could meet the needs of the area to be served is now available or could become available in the foreseeable future.

"(7) The designation of routes under this section shall comply with section 138 of this title, and no route shall be designated which substantially damages or infringes upon any residential area.

"(8) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(9) No more than one route in any one State shall be designated by the Secretary.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 90 per centum of the cost of construction of such project."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"147. Special urban high density traffic program."

ALTERNATE FEDERAL-AID HIGHWAY PROCEDURES

SEC. 133. Title 23, United States Code, is amended by inserting the following new chapter 1–A at the end of chapter 1:

"CHAPTER 1–A ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

"Sec.
"171. Policy declarations.
"172. Applicability and certification.
"173. Assistance for States desiring to comply with this chapter.
"174. Master agreement.
"175. Rights of aggrieved parties.
"176. Applicability of other chapters.

"§ 171. Policy declaration

"The Congress hereby finds that—

"(a) the public interest requires an alternative procedure to the procedures otherwise provided in title 23 for processing Federal-aid highway projects to promote and facilitate the continued construction of the Federal-aid systems covered by this chapter and to provide the States and local governments according to their own priorities and problems with a maximum degree of flexibility and choice.

"(b) the alternative procedure provided by this chapter shall emphasize the development and utilization of State administrative processes for constructing Federal-aid highway projects which will insure their construction in harmony with the social, environmental and economic objectives of all applicable Federal laws and requirements.

"(c) the Federal-aid highway program as administered under this chapter shall continue to be a cooperative program between the States and the Federal Government. The primary Federal role shall be to require an integrated system of highways, consistent with local determinations and needs, which will be designed, developed and constructed in accordance with guidelines promulgated by the Secretary to effectuate national policies determined by the Congress. The authorization and appropriation of Federal funds or their availability for expenditure for construction or improvement shall in no way be deemed to infringe upon the rights of the States to determine which projects or improvements shall be financed under this chapter.

"(d) the requirements of this title are contract conditions and any State which avails itself of the procedures in this chapter is obliged to meet the requirements which it sets forth in its application for certification.

"§ 172. Applicability and certification

"(a) The provisions of this chapter shall be applicable to all Federal-aid systems except the National System of Interstate and Defense Highways.

"(b) Any State may submit to the Secretary for his approval and certification a comprehensive procedure for the construction of Federal-aid highway projects, setting forth the process by which such State proposes to carry out its Federal-aid highway construction responsibilities. The State procedure

shall set forth the process by which goals, objectives, and priorities for carrying out its Federal-aid program shall be established and shall take into account and be in accord with the requirements of this title and other provisions of Federal law. The Secretary shall establish guidelines which shall describe the essential elements of a comprehensive State highway program. The State shall certify to the Secretary that its procedure will be administered by a State agency with adequate powers, suitably staffed, equipped and organized to comply with all applicable State and Federal laws, guidelines, regulations and directives, and that its administrative processes will result in compliance with State and Federal laws, guidelines, regulations and directives.

"(c) The Secretary shall within ninety days after receipt of a State request for certification review the comprehensive procedures of such State pursuant to the guidelines promulgated by the Secretary in accordance with subsection (b) of this section. In reviewing a State request for certification, the Secretary is authorized to conduct audits and physical inspections to determine the ability of the State to carry out its comprehensive procedure.

"(d) The Secretary shall approve the request of any State for certification unless he finds that State laws, guidelines, regulations, and directives will not result in the accomplishment of the social, environmental, and economic objectives of all applicable Federal laws and requirements or are not in compliance with the requirements of subsection (b) of this section.

"(e) In the event the Secretary does not approve a request of a State for certification, the State may appeal such decision to the United States Circuit Court of Appeals for the District of Columbia which shall have jurisdiction to affirm the determination of the Secretary or to set it aside in whole or in part. The Secretary's disapproval of a request by a State for certification shall not deprive such State of any of the benefits nor relieve it of any of the requirements of the other chapters of this title with respect to Federal-aid highway projects in such States.

"(f) Approval by the Secretary of a comprehensive procedure of any State for constructing Federal-aid highway projects shall be in effect for two years from the date of such approval and shall discharge his responsibility under title 23 with respect to individual project approvals as required in chapter 1 of this title, except that the Secretary may find at any time, based upon his continuous review and audit of a comprehensive procedure of such State or projects being executed pursuant thereto or other information, that it is not in compliance in whole or in part with the provisions of this chapter. In such event, the Secretary, after appropriate notice and opportunity for correction of non-compliance shall declare the master agreement or any part thereof provided for in section 174 of this chapter breached and withdraw his approval. Any failure of the State to comply with the appropriate provisions of title 23 shall be deemed a breach of the master agreement provided for in section 174 of this chapter. Nothing in this chapter shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Department of Transportation Act provision for the preservation of natural beauty (49 U.S.C. 1653(f)), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), other than title 23, United States Code.

"(g) The guidelines, regulations, and other criteria to be applied by the Secretary in determining whether to approve the request of any State for certification, shall be developed in consultation with appropriate State and Federal officials and shall be promulgated not later than June 30, 1973. An opportunity to submit written data or comments for a period of not less than ninety days after publication shall be afforded to all interested persons. The initial approval of the comprehensive procedures of any State shall take effect no earlier than July 1, 1974.

"§ 173. Assistance for States desiring to comply with this chapter

"Any State, prior to submitting its request to the Secretary for certification, may make application to the Secretary for professional and technical assistance in developing comprehensive procedures which will comply with the provisions of this chapter. In providing Federal assistance, the Secretary may utilize the sums authorized in section 104(a) of title 23 to be deducted for administering the provisions of law to be financed from appropriations for the Federal-aid systems.

"§ 174. Master agreement

"(a) Approval by the Secretary of a request by a State for certification shall constitute a formal agreement with the State. The agreement shall apply to all Federal-aid projects to be constructed by the State pursuant to the comprehensive procedures for the biennial period of the agreement.

"(b) The Secretary may rely upon representations made by the State with respect to the arrangements or agreements made by the State and appropriate local officials where a part of a project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State.

"(c) Approval by the Secretary shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution to all projects covered by the agreement. Following approval of an agreement by a State for certification, funds apportioned to a State pursuant to section 104 shall be available for obligation by the State under the State's comprehensive procedure without restriction, except that nothing in this section shall affect the power of the Secretary to restrict, or of any court to enjoin, the obligation or expenditure of such funds for failure to comply with applicable laws or requirements or for failure of the State to comply with its comprehensive procedure.

"(d) The State shall submit with its request for certification a list of projects to be covered by the agreement. The State may add, withdraw and substitute other projects during the period of the agreement with notice to the Secretary. The Secretary may disapprove such additional withdrawal or substitution within ninety days. However, in no event may a controversial project be withdrawn and another project substituted therefor for the purpose of avoiding compliance with applicable laws.

"§ 175. Rights of aggrieved parties

"(a) The Secretary shall provide in accordance wtih section 5 of the Administrative Procedures Act (section 554 of title 5, United States Code), an administrative hearing for alleged failure of a State to comply with its approved comprehensive procedure or any applicable State or Federal law. The Secretary's decision shall be based upon the record in such hearing, and his investigation and review of the State and Federal project records shall constitute part of the administrative record. The decision of the Secretary may be reviewed in accord with section 706 of title 5, United States Code.

"(b) The procedure set forth in subsection (a) shall be the exclusive procedure for suing, the Secretary or any of his delegates and designees for the failure of a State to comply with its comprehensive procedures.

"§ 176. Applicability of other chapters

"All of the provisions of title 23, United States Code shall be applicable to projects processed pursuant to the provisions of this chapter except where the Secretary determines that said provisions of law conflict or are inconsistent with the provisions of this chapter."

PUBLIC TRANSPORTATION IN NATIONAL FORESTS AND PARKS

SEC. 134. (a) Subsection (f) of section 204 of title 23, United States Code, is amended to read as follows:

"(f) Funds available for forest highways shall be available for adjacent vehicular parking areas, for sanitary, water, and fire control facilities, and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

(b) Section 206 of title 23, United States Code, is amended by adding the following new subsection:

"(c) Funds available for park roads and trails shall be available for adjacent vehicular parking areas and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

PARKWAYS

SEC. 135. (a) Subsection (a) of section 207 of title 23, United States Code, is amended to read as follows:

"(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements."

(b) Section 207 of title 23, United States Code, is further amended by adding the following subsections:

"(d) After December 31, 1972, parkways contracted under the authority of this section shall be deemed to be on the Federal-aid secondary system.

"(e) The provisions of section 106(a) of this title, relating to the obligation of funds, shall apply to funds available for parkways."

HIGHLAND SCENIC HIGHWAY

SEC. 136. (a) The Secretary of the Interior, in cooperation with the Secretary of Agriculture (acting through the Forest Service), is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob.

(b) Such Secretaries are authorized to acquire rights-of-way, lands containing such rights-of-way, and interests in land, including scenic easements, necessary to carry out the purpose of a scenic highway.

(c) Upon construction of the Highland Scenic Highway, such road and all associated lands and rights-of-way shall be transferred to the Forest Service and managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

CUMBERLAND GAP NATIONAL HISTORICAL PARK

SEC. 137. (a) Notwithstanding the definition of parkways in subsection (a) of section 101, funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park, including construction of a tunnel and the approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity.

(b) Upon construction, such highway and tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as part of the Cumberland Gap National Historical Park.

ALASKA HIGHWAY

SEC. 138. (a) (1) Chapter 2 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 217. Alaska Highway

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways, which right-of-way shall forever be held inviolate as a part of such highways for public use;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary."

(2) The analysis of chapter 2 of title 23 of the United States Code is amended by adding at the end thereof the following:

"217. Alaska Highway."

(b) For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 217 of title 23 of the United States Code.

RESEARCH AND PLANNING

SEC. 139. Subsection (c) (1) of section 307 of title 23, United States Code, is amended to read as follows:

"(c) (1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year prior to the fiscal year 1964 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public bus transportation systems and for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use."

BRIDGES ON FEDERAL DAMS

SEC. 140. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$16,761,000" and inserting in lieu thereof "$25,261,000."

(b) All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered thirteen on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with the reconstruction of a bridge across Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project and the State of Tennessee for the Chattanooga project.

TECHNICAL AMENDMENTS

SEC. 141. Title 23, United States Code, is amended as follows:

(a) Section 101(a) is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Transportation".

(b) Section 109(g) is amended by striking out "Rct" and inserting in lieu thereof "Act".

(c) Section 126(a), and 310 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

(d) The heading of section 303 is amended to read:

"Administration organization."

(e) Sections 308(b), 312, and 314 are amended by striking out "Bureau of Public Roads" each place it appears and inserting in lieu thereof "Federal Highway Administration".

(f) Section 309 is amended by striking out "Bureau of Public Roads" and inserting in lieu thereof "Department of Transportation".

(g) Section 312 and 314 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

ALASKAN ASSISTANCE

SEC. 142. Subsection (b) of section 7 of the Federal-Aid Highway Act of 1966 is amended by striking at the end of the last sentence "June 30, 1972 and June 30, 1973." and substituting "June 30, 1972, June 30, 1973, June 30, 1974 and June 30, 1975."

INCREASED FEDERAL SHARE—EFFECTIVE DATE

SEC. 143. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(b) The amendments made by subsection (a) of this section shall take effect with respect to all obligations incurred after June 30, 1973, except for projects on which Federal funds were obligated on or before that date."

HIGHWAY BEAUTIFICATION COMMISSION

SEC. 144. (a) Subsection (i) of section 123 of the Federal-Aid Highway Act of 1970 is amended by striking out the first sentence and inserting the following in lieu thereof:

"(i) The Commission shall not later than December 31, 1973, submit to the President and the Congress its final report."

(b) Subsection (n) of section 123 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(n) There are hereby authorized to be appropriated such sums, but not more than $450,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended."

FEASIBILITY STUDIES

SEC. 145. The Secretary shall report to Congress by January 1, 1974, on the feasibility and necessity for constructing to appropriate standards proposed highways along the following routes for the purpose of including such highways in the National System of Interstate and Defense Highways:

(a) A route from Brunswick, Georgia, or its vicinity, to Kansas City, Missouri, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Columbus, Georgia; Birmingham, Alabama; Tupelo, Mississippi; Memphis, Tennessee; Batesville, Arkansas; and Springfield, Missouri.

(b) Extension of Interstate Highway 70 from Cove Fort, Utah, or its vicinity, in a westerly direction, so aligned to serve the intermediate locations of Ely and Carson City, Nevada, or their vicinities.

(c) A route from Amarillo, Texas, or its vicinity, to Las Cruces, New Mexico, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Hereford, Texas; Clovis, New Mexico; Portales, New Mexico; Roswell, New Mexico; Ruidoso, New Mexico; Tularosa, New Mexico; and Alamagordo, New Mexico.

(d) A route from Kansas City, Missouri, or its vicinity, to Baton Rouge, Louisiana, or its vicinity, so alined to serve one or both of the following intermediate locations or vicinities thereof: Fayetteville, Fort Smith, and Texarkana, Arkansas; or Little Rock, Arkansas or any other route through the State of Arkansas determined feasible by such State and the Secretary.

STUDY OF TOLL BRIDGE AUTHORITY

SEC. 146. The Secretary of Transportation is authorized and directed to undertake a full and complete, investigation and study of existing Federal statutes and regulations governing toll bridges over the navigable waters of the United States for the purpose of determining what actions can and should be taken to assure just and reasonable tolls nationwide. The Secretary shall submit a report of the findings of such study and investigation to the Congress not later than July 1, 1973, together with his recommendations for modifications or additions to existing laws, regulations, and policies as will achieve a uniform system of tolls and best serve the public interest.

TERMINATION OF FEDERAL-AID RELATIONSHIP

SEC. 147. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal aid project.

(b) The amount of all Federal aid highway funds paid on account of sections of the San Antonio North Expressway in Bexar County, Texas (Federal aid projects numbered U 244(7), U 244(10), UG 244(9), U 244(8), and U 244(11)), shall be repaid to the Treasurer of the United States and the amount so repaid shall be deposited to the credit of the appropriation for "Federal Aid Highways (Trust Fund)". At the time of such repayment the Federal aid projects with respect to which funds have been repaid and any other Federal aid projects located on such expressway and programed for expenditure on such project, if any, shall be canceled and withdrawn from the Federal Aid Highway program. Any amount so repaid, together with the unpaid balance of any amount programed for expenditure on any such project shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the States, respectively. The amount so credited shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

RAILROAD RELOCATION DEMONSTRATION

SEC. 148. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Lincoln, Nebraska, for the relocation of railroad lines from the cen-

tral area of the city in conformance with the methodology developed under proposal numbered DOT–FR–20037. The city shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class I railroads and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) Federal grants or payments for the purpose of this section shall cover 70 per centum of the costs involved.

(c) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(d) There is authorized to be appropriated not to exceed $1,000,000 from the Highway Trust Fund, and not to exceed $2,000,000 from money in the Treasury not otherwise appropriated, for carrying out the provisions of this section.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1972."

PLANNING, ADMINISTRATION, AND EVALUATION OF STATE PROGRAMS

SEC. 202. (a) The fifth sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "such standards shall include, but not be limited to, provisions for" the following: "planning, administration, and evaluation of the State program,".

(b) Subsection (b)(1) of section 402 of title 23, United States Code, is amended by deleting paragraph (E) and substituting in lieu thereof the following:

"(E) provide for planning, administration, and evaluation of the State program, including (i) identification of the State's highway safety problems, the solutions thereto, and the capability of the State for effecting the solution; (ii) formulation of objectives for achieving program goals; (iii) development of plans for allocation of resources and specification of steps to achieve objectives; (iv) evaluation of achievements; and (v) revision of the program as necessary to insure the accomplishment of the purposes of this section."

PENALTIES FOR DRIVING WHILE INTOXICATED

SEC. 203. Subsection (a) of section 402 of title 23 of the United States Code is amended by inserting after the fifth sentence the following: "Effective as soon as practicable after the date of enactment of the Highway Safety Act of 1972 such standards shall also include provisions requiring (1) laws prohibiting persons from operating motor vehicles while under the influence of intoxicating liquors or any narcotic or drug which impairs their ability to operate a motor vehicle properly and safely, (2) procedures for effective enforcement of such laws, (3) penalties for violation of such laws which provide a meaningful deterrent to their violation, and, where appropriate, adequate medical treatment for persons violating such laws who are in need of treatment.".

MANPOWER TRAINING AND DEMONSTRATION PROGRAMS

SEC. 204. (a) The first sentence of subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after "approved in accordance with subsection (a)," the following: "including the development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom such funds."

PUBLIC ROAD MILEAGE

SEC. 205. Subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after the third sentence the following: "Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

COMPLIANCE WITH ALCOHOL SAFETY STANDARD

SEC. 206. (a) Subsection (c) of section 402 of title 23 of the United States Code is amended by inserting before the period at the end of the next to the last sentence thereof a comma and the following: *"Provided, however,* That the provisions of this sentence shall not apply in the case of any State which has not prior to July 1, 1974, properly implemented the Secretary's highway safety programs standard numbered 8 (relating to alcohol in relation to highway safety) or any modification or addition to such standard prior to such date.".

(b) Such subsection is further amended by adding immediately after the next to the last sentence thereof the following: "Whenever the Secretary suspends the application of the seventh sentence of this subsection, he shall report within ten days the reasons for such suspension and the period of such suspension to the Committees of the Senate and House of Representatives on Public Works, Commerce, and Interstate and Foreign Commerce, and shall publish such report in the Federal Register, and shall notify the State or States involved of such suspension, the reasons therefor and the period thereof, and warn them of the penalty involved.".

INCENTIVES FOR COMPLIANCE WITH HIGHWAY SAFETY STANDARDS

MINIMUM APPORTIONMENT

SEC. 207. Subsection (c) of section 402 is amended by striking "one-third of 1 per centum" in the fifth sentence thereof as amended, and inserting "one-half of 1 per centum."

SEC. 208. Section 402 of title 23 of the United States Code is amended by adding a new subsection (i), as follows:

"(i)(1) The Secretary shall award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have attained above average results in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. The amount appropriated in each fiscal year for the purpose of carrying out this paragraph shall be apportioned among the States eligible for grants pursuant to this paragraph in the ratio which the total apportionments to each State pursuant to section 104(b) (1) and (2) for such year bears to the total such apportionments to all such eligible States for such year.

"(2) The Secretary may also award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have made the most significant improvements in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. No State shall receive in excess of $500,000 in any fiscal year pursuant to the provisions of this paragraph.".

HIGHWAY SAFETY ON INDIAN RESERVATIONS

SEC. 209. (a) Section 402 of title 23 of the United States Code is amended by adding a new subsection (j), as follows:

"(j) For the purpose of the application of this section on Indian reservations, 'State' and 'Governor of a State' includes the Secretary of the Interior and 'political subdivision of a State' includes an Indian tribe: *Provided,* That, notwithstanding the provisions of subparagraph (C) of subsection (b) (1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further,* That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable."

(b) Subsection (d) of section 402 of title 23, United States Code, is amended by inserting at the end of the first sentence thereof the following: ", and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary."

DRUG USE AND HIGHWAY SAFETY

SEC. 210. Section 403 of title 23 of the United States Code is amended by inserting "(a)" immediately before the first sentence thereof, and by adding at the end thereof the following new subsections:

"(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other government and private agencies as may be necessary, is authorized to carry out safety research on the relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles. As soon as practicable, the Secretary shall promulgate a highway safety program standard with respect to drug use in relation to highway safety. The research authorized by this subsection may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

"(c) In addition to the research authorized by subsections (a) and (b) of this section, the Secretary is authorized either independently or in cooperation with other Federal departments or agencies, to conduct research into, and to make grants to or contracts with State or local agencies, institutions, and individuals for demonstration projects for, programs of administrative adjudication of traffic infractions. Such administrative adjudication programs shall be designed to improve highway safety by providing fair, efficient, and effective adjudication of traffic infractions, and by utilizing appropriate punishment, training, and rehabilitative measures for traffic law offenders. The Secretary shall report to Congress by July 1, 1974, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions."

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

SEC. 211. The second sentence of subsection (a) of section 403 of title 23, United States Code, is amended to read as follows: "In addition, the Secretary may use the funds appropriated to carry out this subsection, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State

or local agencies, institutions, and individuals for (1) training or education or highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which are deemed by the Secretary to be necessary to carry out the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel."

TRANSFER OF DEMONSTRATION PROJECT EQUIPMENT

SEC. 212. Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section."

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 213. Subsection (a) (1) of section 404 of title 23, United States Code, is amended by inserting immediately after "Federal Highway Administrator," the following: "the National Highway Traffic Safety Administrator,".

DATE OF ANNUAL REPORT

SEC. 214. The first sentence of subsection (a) of section 202 of the Highway Safety Act of 1966 (80 Stat. 736) is amended by deleting "March 1" and substituting in lieu thereof the following: "July 1".

EMERGENCY MEDICAL CARE FOR VICTIMS OF HIGHWAY ACCIDENTS

SEC. 215. (a) Chapter 4 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 405. Assistance for emergency medical care for victims of highway accidents.

"(a) The Secretary is authorized to make grants to the States to assist in developing comprehensive plans for providing improved emergency medical care for victims of highway accidents. Such grants shall cover 70 per centum of the cost of developing such plans, except that no State shall receive in excess of a total of $100,000 pursuant to this section.

"(b) The Secretary is authorized to approve State plans submitted to him and to make grants to the States for the implementation of approved plans for improved emergency medical care for victims of highway accidents. Such grants shall cover 70 per centum of the cost of implementing such approved plans to the extent such cost exceeds the average amount spent by the State on provision of emergency medical care to victims of highway accidents in the three years preceding the enactment of this bill, as determined in accordance with regulations issued by the Secretary. Funds authorized to be appropriated for the purposes of carrying out the provisions of this section shall be apportioned to the States in the same manner as is provided in subsection (b) (2) of section 104 of this title.

"(c) The Secretary shall not approve such plan under this section which does not:

"(1) comply with highway safety program standards numbered 11 (relating to emergency medical services); and

"(2) comply with regulations established by the Secretary with respect to (A) the availability of necessary equipment (including, but not limited to ambulances and, where appropriate, helicopters), (B) the training of medical, paramedical, and other personnel, (C) the utilization to the maximum extent feasible of existing emergency medical care equipment which meets the standards and regulations the Secretary establishes, and (D) such other regulations as he deems necessary to assure that adequate medical care is available to victims of highway accidents throughout the State."

(b) The analysis of chapter 4 of title 23 of the United States Code is amended by adding at the end thereof the following:

"405. Assistance for emergency medical care for victims of highway accidents.".

ELIMINATION OF ROADWAY DANGERS

SEC. 216. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 148. Elimination of roadway dangers.

"(a) Funds apportioned pursuant to paragraphs (1), (2), (6), and (7) of subsection (b) of section 104 of this title shall be available to eliminate or reduce the hazards at specific locations or sections of highways and at railroad-highway grade crossings which have high accident experiences or high accident potentials.

"(b) In approving projects under this section, the Secretary shall approve those projects recommended by a State that involve hazards at specific locations or sections of highways and at railroad-highway grade crossings which have been determined, on a statewide basis to be the most hazardous and the elimination of which would result in the greatest increase in highway safety."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"148. Elimination of roadway dangers."

PAVEMENT-MARKING RESEARCH AND DEMONSTRATION PROGRAM

SEC. 217. (a) In addition to the research authorized by section 307(a) of title 23, United States Code, the Secretary of Transportation is authorized to conduct research and demonstration programs with respect to the effectiveness of various types of pavement markings under inclement weather and nighttime conditions.

(b) There is authorized to be appropriated from the Highway Trust Fund to carry out this section by the Federal Highway Administration, for each of the fiscal years ending June 30, 1974, and June 30, 1975, the sum of $10,000,000, to be available until expended.

AUTHORIZATIONS

SEC. 218. There is authorized to be appropriated out of the Highway Trust Fund—

(a) $225,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 402 of title 23 of the United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, of which $10,000,000 in each such year shall be for the purposes of section 402(i)(1), and $10,000,000 for section 402 (i)(2).

(b) $75,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 402 by the Federal Highway Administration, of which $25,000,000 for the fiscal year ending June 30, 1974 shall be exclusively available for the purchase of equipment for pavement marking.

(c) $100,000,000 for the fiscal year ending June 30, 1974 and $100,000,000 for the fiscal year ending June 30, 1975, for carrying out section 403 of such title (relating to highway safety research and development) by the National Highway Traffic Safety Administration.

(d) $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 403 by the Federal Highway Administration.

(e) $5,000,000 for the fiscal year ending June 30, 1974, for carrying out section 405 (a) of title 23 of the United States Code (relating to emergency medical care), to remain available until expended and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out section 405(b) of such title.

(f) $250,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 144 of title 23 of the United States Code (relating to the special bridge replacement program).

TITLE III

URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 301. (a) The Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "two-thirds" in the fifth sentence of section 4(a) and inserting in lieu thereof "90 per centum";

(2) by striking out "one-sixth" in the proviso to the second sentence of section 5 and inserting in lieu thereof "40 per centum"; and

(3) by striking out "two-thirds" in the last sentence of section 9 and inserting in lieu thereof "90 per centum".

(b) (1) Section 3 of such Act is amended—

(A) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(B) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis. The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(2) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(3) Section 12(c) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service."

(c) Section 4(c) of such Act is amended—
(1) by inserting "(1)" after "(c)";
(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and section 7(b) and 9";
(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and
(4) by adding at the end thereof a new paragraph as follows:
"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1973, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1974. Sums so appropriated shall remain available until expended."
(d) Section 4(c) of such Act is amended by striking out "$3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

Mr. MANSFIELD. Mr. President, it is my understanding that there will be one amendment, possibly two amendments, on which it is likely rollcall votes will be had this afternoon. We will not be able to complete action on this bill. It is of a rather large scope, but I think it would be a good idea to get started on this measure at this time. It is my understanding that the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Kentucky (Mr. COOPER) both will handle the bill.

If a break occurs later in the afternoon, I think the Senate should be on notice, if events make it desirable and necessary, that it should be prepared to turn to the possible consideration of Calendar No. 830, S. 632, the so-called Land Use Policy bill, on which there will be some discussion.

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

Mr. MANSFIELD. I yield.

Mr. TOWER. Is the Senator saying that that bill will be taken up after the consideration of S. 3939?

Mr. MANSFIELD. There is a possibility.

Mr. TOWER. Very well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the request which I am about to make has been cleared with the distinguished senior Senator from Kentucky (Mr. COOPER); the distinguished senior Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee, is here. The request as I understand, has been cleared with all Senators who would be involved.

I ask unanimous consent that when all amendments to S. 3939 which are called up today are disposed of today, the bill then go over to a day next week to be selected by the majority leader, and that at such time as the bill is again before the Senate next week, no further amendment thereto be in order with the exception of an amendment, on which there is a time limitation of 2 hours, to be offered by the Senator from Kentucky (Mr. COOPER) and the Senator from Maine (Mr. MUSKIE), and an amendment, on which there is a time limitation of 1 hour, to be offered by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. WEICKER), with amendments to those two named amendments, of course, in order.

The PRESIDING OFFICER (Mr. BUCKLEY). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and 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 amendment to the bill (S. 976) to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. MOSS, Mr. STUCKEY, Mr. SPRINGER, and Mr. BROYHILL of North Carolina were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 3755) to amend the Airport and Airway Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act; to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. DINGELL, Mr. HARVEY, and Mr. KUYKENDALL were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes; asked for a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOLIFIELD, Mr. MONAGAN, Mr. FASCELL, Mr. STEIGER of Arizona, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 14370) 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; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. BETTS, Mr. SCHNEEBELI, and Mr. BROYHILL of Virginia were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard anti-ballistic-missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the proviso that the distinguished Senator from West Virginia (Mr. RANDOLPH) retain his right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FEDERAL-AID HIGHWAY ACT OF 1972

The Senate continued with the consideration of the bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. RANDOLPH. Mr. President, I yield back my time on the committee amendment.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back his time?

Mr. WILLIAMS. Yes, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the consideration of S. 3939, the following members of the staff of the Public Works

Committee be permitted the privilege of the floor:

Barry Meyer, Bailey Guard, Clark Norton, Kathy Cudlipp, Phil Cummings, Richard Herod, John Yago.

And from the staff of the Committee on Banking, Housing and Urban Affairs, Mr. Stephen Paradise.

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

Mr. BAYH. Mr. President, I ask unanimous consent that one of the members of my staff, Michael Helfer, be permitted access to the floor during the discussion and vote on the bill.

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

Mr. RANDOLPH. Mr. President, I yield myself such time as I may need at this point, during consideration of this legislation.

Mr. President, the Federal-Aid Highway Act of 1972 which we are considering is legislation which is intended to be passed in the interest of several purposes. It would continue the Federal-Aid Highway Program. That is the vehicle by which the Federal Government has participated in highway development in the United States of America for over 50 years. It does not, however, extend the program in a static fashion because we know that there are changes and refinements which are needed to improve the response of Congress to the general transportation needs of the country.

This legislation, as in other highway bills, initiates certain departures from tradition. It begins the transition, as my able colleague, the ranking minority member of the committee, the Senator from Kentucky (Mr. COOPER) well knows, to a post-interstate highway program.

I think that what we do here, in a sense, in this measure, will determine the direction of the highway program for perhaps the remainder of this century.

In the development of the bill, the committee and especially the Subcommittee on Roads drew heavily on many sources of information and experience; in addition, of course, to the cumulative knowledge of members of the subcommittee and the committee dealing with transportation matters, particularly highway considerations.

I would like to have the attention of my colleague, the Senator from Indiana (Mr. BAYH). I want to express appreciation on behalf of all members of the Public Works Committee for the work done by the Senator from Indiana (Mr. BAYH) in conducting, in his capacity as chairman of the Subcommittee on Roads, the lengthy hearings at which many, many knowledgeable witnesses appeared and expressed their viewpoints.

I regret in a sense, although I know that the Appropriations Committee is a very, very important committee of the Senate, that the Senator from Indiana has become a member of the Appropriations Committee. Having had that opportunity and not being permitted under the rules of the Senate to serve on two major committees, the Senator from Indiana transferred from the Public Works Committee to the Appropriations Committee. And we have not, as we consider this legislation today, the opportunity of having the excellent leadership of the Senator from Indiana (Mr. BAYH), frankly, standing in the place in which I now stand.

I was chairman of the Subcommittee on Roads for many years. Then, after becoming chairman of the Public Works Committee, I gave up that position. That post as chairman of that subcommittee has been very, very ably filled by the Senator from Indiana. The Senator from Indiana is present this afternoon, and, when the occasion demands, he is going to address himself to the subject matter. Why? He will do so because even though he is not a member of the committee as we consider this matter, he did conduct all of the hearings. And he gave of himself and his time and effort.

I know I speak for all members of the subcommittee and the full committee when I say thanks to the Senator from Indiana for a job well done and thanks also for his participation during this debate to clarify what was done, what the witnesses said, and what we as a subcommittee and full committee have attempted to do in moving forward in many directions to meet the general transportation needs of our people.

Mr. BAYH. I would like to express my gratitude to the distinguished Senator from West Virginia for his kind comments relative to the Senator from Indiana welding together the various bits and pieces which constitute the 1972 Federal Highway Act. I am looking forward to participating in the debate and expressing myself at the termination of the distinguished chairman's remarks. I will point out in my remarks that this bill has been the product of a divergence of views which I think of myself perhaps as the midwife at the birth of the bill, and I find myself in the center of a hurricane with the storm raging around the Senate on both sides in which some people feel we have gone too far and others feel we have not gone far enough, which in 18 years of public life indicates to me that we may be just about on target.

This bill is not without controversy. Perhaps it is not a perfect piece of legislation. I would be the first to say that, and perhaps we could change part of it. As I will bring out in my statement, I think it is a piece of legislation that will make a significant contribution to the transportation requirements of the people of this country.

Mr. RANDOLPH. Mr. President, I thank the able Senator.

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

Mr. RANDOLPH. I yield.

Mr. COOPER. Mr. President, at some time before the debate on the bill is concluded and we vote, I will have some remarks to make. However, I do wish to join with the chairman of the committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), in expressing our appreciation for the devoted service on the Senate Public Works Committee of the Senator from Indiana (Mr. BAYH).

Many times in the past the Senator from Indiana has developed important and constructive bills. I recall the Disaster Relief Act of 1970, which was a model bill of its kind. And this year he undertook the chairmanship of the Subcommittee on Roads. He held very comprehensive hearings, and I am glad to have been able to participate in them. He heard the witnesses carefully, patiently, and always in good humor. At the close of the hearings, his associates and the members of the staff all congratulated Senator BAYH for his leadership of those subcommittee hearings.

In the bill before us today, the Federal-Aid Highway Act of 1972, will be found many innovations initiated by the Senator from Indiana. It is a progressive bill which I believe is going to meet many transportation problems.

I know that the Senator from Indiana has moved to another committee. We are proud of his successes, and we know that he will be an invaluable member of the Appropriations Committee. However, those of us who remain on the Public Works Committee, and those who will remain longer than I, do appreciate the services of the Senator from Indiana.

Mr. BAYH. Mr. President, if the Senator from West Virginia would yield to me for a moment, so that I might respond to the Senator from Kentucky, I would appreciate it.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, as I said in similar remarks to the chairman of the committee, I have had the privilege of participating in the consideration of this measure. I say to both of my colleagues, that having served on the Public Works Committee for almost 10 years, it was a rather dramatic decision for me to make to leave that committee and go to the Appropriations Committee. I know that the Senators from West Virginia and Kentucky appreciate the reasons that made me feel compelled to do so.

I do appreciate the opportunity to have served with the members of the Public Works Committee.

Mr. RANDOLPH. The Senator from Indiana spoke of the matters of importance in connection with this legislation and the varying viewpoints, and I had earlier discussed that, and we will discuss that matter further. But I do not believe there has been a highway bill in the Public Works Committee that has had the thorough discussion, hopefully the degree of understanding in the committee and the subcommittee that we have embodied in the measure now before the Senate. I know that there will be debate here on certain matters. That is as it should be. The viewpoints of the Senate membership certainly should be expressed. This is the way we need to proceed, with a thorough discussion of the matters before us. The very fact that this bill authorizes more than $14 billion in public works over a period of the next 2 years is a matter of extreme importance. The management of funds on this scale is not a matter to be considered lightly. The chairman expresses that thought, and I hope that the Members of the Senate will be searching in their

inquiries and exhaustive in their evaluation of the provisions of S. 3939.

Not only does this measure deal with large sums of money, it directs the expenditure of these funds in ways that will greatly influence the development of transportation in the United States and, in turn, the patterns of life for millions of our citizens and the conduct of commerce throughout this country.

Since the end of World War II, the United States has invested heavily in its highway transportation system. This was necessary in a Nation committed to motor vehicles for the bulk of its transportation requirements. In the past 16 years, the development of the Interstate Highway System has been stressed, and that system is now 80 percent completed. While highway activity was taking place at an accelerated level, other forms of transportation were relatively neglected, particularly the movement of large numbers of people in urban areas; areas which were growing increasingly larger and more congested.

This imbalance is recognized, and Congress in recent years has moved to sharply increase the Federal funding available for urban mass transit activities. The Committee on Public Works and the Congress recognized the relationship that exists between the Federal-Aid Highway program and public transportation. We have authorized the development of such transit-related facilities as exclusive or preferential bus lanes, fringe parking, and passenger loading areas. The bill now before the Senate would strengthen this relationship even further by permitting the purchase of transit buses with highway funds.

During the committee's consideration of S. 3939, the most extensively debated provisions were those relating to public transportation. I expect that floor debate also will focus on these portions of the bill, and that amendments will be offered to utilize Highway Trust Fund revenues for other mass transit activities, particularly the construction of rail facilities. Similar proposals were rejected during committee consideration. This action was taken for a number of reasons. It was in no respect a repudiation by the committee of its conviction that highway funds can properly be spent for public transportation purposes. As I have mentioned, such use of highway funds is already authorized by law and their further use for transit purposes is proposed in the bill now before us. This legislation authorizes $800 million annually for the next 2 years for urban highway development. Of this amount, a minimum of $300 million would have to be spent each year for public transportation purposes. This legislation also addresses itself to the public transportation needs of rural areas with a similar requirement that at least $50 million of the annual authorization for secondary highways be spent for this purpose.

Congestion in many of our cities demands that public transportation be improved. Recently enacted air pollution control laws will require many cities to take drastic measures in the near future to curb emissions from motor vehicle exhausts. The implementation plans of 67 metropolitan areas, in fact, include provisions for the curtailment of auto traffic to reduce pollution. The resulting transportation loss will have to be replaced. The quickest way to expand and improve the transit systems of the cities is by buses, which are, in fact, the only forms of public transportation in the vast majority of American cities. In the relatively small number of urban areas where population concentrations and financing capability make rapid rail a feasible form of public transportation, buses also are needed to provide a completely connected system that will facilitate optimum utilization of rail facilities. Rail transit, in addition, also requires lengthy construction times. Even if undertaken immediately, such systems could not be completed in time to help meet the pollution control requirements that must be imposed very soon.

I know that the reliable resources of the highway trust fund are tempting for those who see the need to improve urban transportation. Careful analysis, however, shows that even the substantial funding provided by the highway trust fund would still be called upon to meet the highway-related transportation needs of our country. Furthermore, when highway funds are apportioned to all of the eligible urban areas, there would be relatively little available to any one of them for rail transit construction. This money, I believe, can be more effectively spent in improving urban bus operations. Such use of highway funds also alleviates some of the pressure on the urban mass transit program and could make greater proportions of this fund available for rail transit.

In its report on this legislation, the committee stressed that highway funds authorized for public transportation purposes are intended to supplement those of the urban mass transit program and are not to be used as an excuse for weakening that effort.

Mr. President, I hope these points will be kept in mind as the Senate considers the public transportation portions of S. 3939 and any relevant amendments that may be offered. I believe the Public Works Committee acted responsibly in these matters consistent with its assessment of the total transportation needs of this country.

In debating public transportation, I urge Members of the Senate not to overlook other features of S. 3939 that are of great importance to the continued operation of the Federal-aid highway program. For more than 50 years the Federal-aid program has undergone a process of continual refinement. Changes at every level of society bring with them different transportation requirements and the highway program must respond accordingly.

In 1956 we responded to a demonstrated need for a national system of high-speed highways by creating the Interstate System. Originally scheduled to be completed this year, construction of the Interstate System has been delayed first by the addition of 1,500 miles in 1968 and also by inflation, new laws and regulations governing highway development, and the administrative impoundment of highway funds. The most recent reports from the Department of Transportation indicate that final authorizations for the Interstate System can be made in 1980, with construction to be finished in 1982. Accordingly, this bill extends authorizations for the Interstate System for an additional 4 years ending with fiscal year 1980.

At the same time, the annual authorizations for the Interstate System are reduced from the present level of $4 billion to $3.25 billion through fiscal year 1979, and is established at $257 million for fiscal year 1980. This would bring the total cost of the Interstate System to $76.3 billion with a Federal share of $68,260,000,000. These totals are in line with the Department of Transportation's estimates for the cost of completing the entire 42,500-mile system.

The reduction in the annual authorization for the Interstate System is one aspect of a general revision of authorizations for the entire Federal-aid highway program. The Interstate System has reached a stage of completion that permits us to begin shifting highway funds to other programs that have been relatively neglected over the past 16 years. The noninterstate allocations also are indicative of the breakdown in highway needs between urban and rural areas, which are now estimated to be approximately equal. The bill authorizes $950 million for each of the next 2 fiscal years for the primary system and its urban extensions. Of this amount, $300 million is required to be spent for the elimination of roadway dangers with special emphasis on the elimination of railroad grade crossings. Secondary system spending is established at $500 million for each of the next 2 years, that includes a requirement that at least $50 million of the amount be spent each year for public transportation in rural areas, as I mentioned earlier.

The largest increase in authorizations takes place in the urban system. This system was created only 2 years ago and at that time was funded at an annual level of $100 million. The bill before us proposes an annual authorization of $800 million for the urban system, including that money required to be spent for public transportation.

The bill also proposes establishment of a small urban system to serve communities of 5,000 to 50,000 population. This new system would be funded at the level of $50 million in fiscal year 1974 and $100 million for fiscal year 1975.

This bill also contains general increases in authorizations for the Federal-domain road program, and for the first time, authorization of funds for parkways and Indian reservation roads and bridges would be provided from the highway trust fund.

The following table, which I ask unanimous consent to have printed in the RECORD, gives the authorization for these programs for the next 2 fiscal years.

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

[In millions]

	1974	1975
Forest highways	$50	$50
Public lands highways	25	25
Forest development roads and trails	170	170
Public lands development roads and trails	20	20
Park roads and trails	50	50
Parkways	75	100
Indian reservation roads and bridges	75	100

Mr. RANDOLPH. A total of $690 million and $710 million for the next 2 years respectively are authorized for highway safety programs.

Mr. President, I call attention to the safety authorizations which include $250 million per year for the special bridge replacement program which was established by the Federal-Aid Highway Act of 1970. It is essential that this program be given priority status because of the many thousands of bridges on the Federal-Aid Highway System that have been found to be in need of repair and/or replacement. The bridge replacement program was given an authorization of $250 million for its first 2 years. This is insufficient to maintain the program at the necessary level, particularly when we realize that the first-year funds were adequate only to replace about 50 bridges.

This bill also provides authorizations for a number of other smaller, but important, highway programs. Total authorizations on this bill are $7,041,920,000 for fiscal year 1974, and $7,141,500,000 for fiscal year 1975.

A major problem impeding development of the Interstate System in urban areas has been the controversy surrounding many of these projects. The nature of freeway construction in densely populated areas has helped bring about this controversy and as a result, many segments of the Interstate System in urban areas remain in doubt. Two years ago, the Congress established deadlines for determining which segments of the Interstate System would be built and what segments would not be built. The bill now before us contains proposals that would provide an additional assistance to States and cities in solving these most difficult problems. Provision is made for States with the consent of local governments to substitute alternate segments of interstate highways for those in controversy.

This procedure, for example, would permit the removal of an interstate freeway from a city and permit its construction elsewhere in that urban area, even though additional mileage might be required for the alternate segment. The only restriction would be that the alternate segment could not be more costly than the one it replaced. This procedure permits more flexibility, and the principal requirement is that a connected Interstate System result from the transfers. If no alternate segment is needed to assure a connected system, the funds allocated for the construction of the removed segment could be spent on urban highway projects within the same area. The same is true for any excess funds remaining, should the alternate interstate segment be less costly than the original segment.

To further respond to the need for flexibility in meeting urban transportation needs, S. 3939 proposes a major departure from past procedures by establishing a procedure for local jurisdictions to expend urban system funds. Urban system funds would be "passed through" to urban areas, in which local jurisdictions agree to create a metropolitan transportation agency. This agency would be required to have sufficient authority to develop and implement a plan for the expenditure of funds allocated to it. This committee believes this procedure would greatly expand flexibility in the use of urban system funds and is especially important in relationship to the expended use of highway funds for public transportation.

Mr. President, the Committee on Public Works believes that active participation by affected citizenry is essential to the proper operation of the Federal-aid highway program. This has been a guiding principle of our legislation activities in several years.

In previous highway acts, provisions have been included to expand public involvement in the planning and execution of highway projects. The two-hearing system and requirements that the State report on the outcome of these hearings are results of our concern in this area. While progress has been made in assuring public participation, I do not believe that the public voice is being adequately heard.

Consequently, this bill provides for further strengthening of the public's participation. It would require the Secretary of Transportation to develop guidelines for public participation in the urban transportation planning process. They would include a requirement for public hearings to review annually metropolitan area transportation plans and programs and to provide an opportunity for the consideration of alternative modes of transportation. Every urban area over 50,000 population would receive no Federal-aid project approval until the State assured the Secretary that it has taken all reasonable measures to permit, encourage, and assist public participation in the planning process.

One of the most significant features of the bill now before us is contained in section 133. This section would make it possible for the Federal Government to turn over to the States much of the responsibility for the day-to-day execution of their Federal-aid highway programs.

This alternative procedure is the result of several problems that have evolved over the years. The problem of redtape has become increasingly serious in recent years. New laws and new administrative regulations have accumulated and now impose a substantial burden upon highway officials at both the Federal and State levels. These laws and regulations are all intended to accomplish worthwhile objectives and indeed are in response to public demands for a highway program increasingly sensitive to its impact on the total society.

New developments in the techniques of road building themselves have created more complicated engineering and construction methods which also are time-consuming. There are so many requirements that today, highway projects regularly require 6 to 8 years to advance from the beginning of planning to the beginning of construction.

In addition, Members of the Senate are familiar with the handicap that has been placed on highway development by the administrative withholding of funds. Even though the Congress authorizes highway funds in advance, the State highway officials and construction industries cannot plan their programs with any certainty that these funds will be released to execute them. Approximately $1.8 billion in apportioned highway funds remain impounded in Washington, and the long-term outlook is for a continued growth in withheld money that should be spent on improving transportation and, indeed, will have to be spent sometime in the future.

The alternative procedure of section 133 also seeks to eliminate the withholding of highway funds. It provides that once funds are apportioned to the States, the States have the authority to use them.

To cut through the tangle of redtape, the Secretary of Transportation would be authorized by section 133 to develop guidelines for the States to execute the Federal-aid program. When a State demonstrates its competency under these guidelines to carry out a highway program, the Secretary could then grant it certain certification to do so for a 2-year period. This would eliminate the necessity for a step-by-step, project-by-project review and approval by the Federal Highway Administration. The Department, of course, would have a continuing oversight authority and at the end of each 2 years would review the State's performance before renewing its certification.

I emphasize that only activities authorized by the highway statutes woud be turned over to the States by this alternative procedure. Other laws, such as the National Environmental Policy Act the Civil Rights Act, and the Uniform Relocation and Real Property Acquisition Policy Act, which place specific responsibility on the Secretary of Transportation, would not be affected. The Secretary would continue to carry out his duties under these acts.

There is some contention that the States are not competent and cannot be trusted to carry out a highway program properly. The Federal-Aid Highway System, however, is now more than 50 years old, and there is substantial evidence demonstrating that because of this long experience, the States do, indeed, have adequate competency to properly plan, develop, and construct highways. In this context, it is important to remember that the Secretary would have the power to continuously examine and evaluate State activities and would have to review total State performance every 2 years.

This approach would be consistent with the new greater responsibility for

governmental and technical decision-making can and should be vested in States and local communities. This belief has been reflected in the environmental and economic development legislation that the Senate Public Works Committee has developed in recent years, and it is in accord with accepted principles of good public administration. To the extent that authority and accountability can be delegated to lower echelons without endangering levels of performance, the effectiveness and efficiency of governmental programs, including Federal aid to highways, will be increased.

The Highway Beautification Act of 1965 was the beginning of an attempt to eliminate the unsightly conditions that detract from the pleasure of driving on far too many of our country's highways. Two years ago, we recognized that the existing statute was not achieving the results that the Congress has intended. The Commission on Highway Beautification was, therefore, established and directed to study and make recommendations concerning the implementation of the 1965 act. The Commission did not become operational until 9 months ago, and has been unable to complete its assigned responsibility in that time. Therefore, this bill extends the life and the mandate of the Commission on Highway Beautification until December 31, 1973, and provides additional funds for its operation.

An interim report by the Commission, however, recommends a number of amendments and the Committee on Public Works gave these careful consideration. As a result, this bill includes amendments which would eliminate the present 660-foot control zone for roadside billboards, and substitutes instead the area of visibility. It extends the deadline for the removal of signs in existence until September 1, 1975, provides a temporary moratorium, the removal of signs giving specific information to travelers, provides compensation for removal of the lawfully erected, nonconforming signs, and authorizes Federal participation in the relocation, removal or disposal of junkyards

Anyone who lives or works in the city of Washington knows of the increasing popularity of bicycles as a form of transportation. We also know that bicycle riding on streets with large numbers of motor vehicles can be extremely hazardous.

Nationally, bicycle riding has attracted more than 70 million participants in recent years.

I remember years and years ago, when I was in Denmark and I saw coming toward me what looked like an army of bicycles. I did not realize that bicycles were used so extensively in Europe. As I began to think about this situation, I remembered that experience, which we are now experiencing, at a later date, in this country.

While much of it is primarily recreational, many people use their bicycles as a form of transportation to work or shopping. Bicycle riding, therefore, becomes a factor in the highway program as an alternative means of transportation. The Public Works Committee believes that use of bicycles in addition to being a healthful activity, can help to increase the utilization of highways. Therefore, this bill includes authorization of $10 million specifically for the construction of separate or preferential bicycle lanes or paths, bicycle control devices, bicycle shelters or parking facilities, equestrian trails, and pedestrian walkways. These projects could be located on or in conjunction with Federal-aid highway rights-of-way in both urban and rural areas.

HIGHLAND SCENIC HIGHWAY

S. 3939 contains a provision which I offered in committee to authorize the construction as a parkway of the Highland Scenic Highway in West Virginia from State Route 39 on Cranberry Mountain to U.S. 250 near Barton Knob. This would allow the construction of this beautiful road as a parkway, restricted to scenic and recreational use and passenger car traffic.

The committee report states that the Highland Scenic Highway as originally planned would be a 160-mile, scenic roadway between State Route 39 in Pocahontas County, W. Va., and Gormania in Grant County, W. Va. Interested citizens of Richwood, W. Va., have brought to my attention, and correctly so, that the Highland Scenic Highway was originally planned to begin at the city of Richwood, which is truly the gateway to the Highland Scenic Highway.

I am proposing an amendment to section 136 of the bill which would make it clear that Richwood is the southern terminus of the Highland Scenic Highway. In addition, this language makes it clear that while only that portion of the highway north of the Cranberry Mountain Visitor Center is a parkway restricted to passenger car travel, Federal funds will be available to pay the costs of upgrading the appropriate portion of State Route 39 to scenic highway standards and providing adequate signs to bring tourists to this region.

It should be clear with this amendment that the Congress intends that the Highland Scenic Highway begin at Richwood, and that the lovely portion of State Route 39 which travels through the Monongahela National Forest from Richwood to the Cranberry Mountain Visitor Center be treated as an integral part of the scenic highway from the very beginning. In fact, the only difference in treatment between the State Route 39 and parkway portions of the scenic highway should be the all-weather maintenance and access to commercial traffic on the State Route 39 portion. The Forest Service and the State should be encouraged to enter into cooperative agreements to assure such similar treatment, to the extent practicable, in such matters as enforcement of traffic regulations and other police matters and refuse and roadside litter collection.

With the Interstate System moving toward completion, many States are turning their attention to newly developed or long-neglected needs for additional highways of the interstate type. High-speed, high-capacity highways, such as the interstates are expensive to construct and if built, as regular Federal-aid highways, would require many years to complete. Some States desire to build such roads as toll facilities so that they can be made available in a relatively short time. To aid in making such facilities available, S. 3939, contains provisions authorizing States to use future primary and secondary allocations to retire toll road bonds. Such practices would be available to a State only when it has completed its portion of the Interstate System. Furthemore, Federal-aid highway funds used to retire bonds would be equal to what would be the Federal share of constructing the highway. This practice would be optional to the States at their own request.

Mr. President, there are other features of this bill which I will not discuss in detail, but which are of great importance to the continued responsible operation of the Federal-aid highway program.

This legislation is wide in scope but also attentive to many of the relatively minor problems that concern highway builders.

Mr. President, I said earlier in my remarks that the Federal-Aid Highway Act of 1972 was the most thoroughly considered highway legislation that has come before the Committee on Public Works during my membership in the Senate. Members of the committee demonstrated their concern for the issues before us by their faithful attendance at committee meetings. Several of them focused our attention on specific issues and helped to resolve some very difficult questions.

Senators COOPER and MUSKIE demonstrated great concern over mass transit needs of our country. While the committee did not accept their proposals totally, they did stimulate extremely helpful discussions which led to our fuller understanding of this critical problem. The Senator from North Carolina (Mr. JORDAN) brought his accumulated experience to our deliberations. As usual the Senator from Missouri (Mr. EAGLETON) was a forceful advocate who helped to dilineate the issues. The experience of the Senator from New Mexico (Mr. MONTOYA) with the transportation needs of Indians, is reflected in the sections of the bill dealing with that problem. The highway needs of another unique section of our country were explained with clarity by the Senator from Alaska (Mr. GRAVEL).

Unique in its own way is our largest State, California, which reflects other large States and was well represented by Senator TUNNEY. The newest Member of the Senate, the Senator from Louisiana, contributed to our decisions. The Senator from Delaware (Mr. BOGGS) brought a reasoned approach to all of our discussions and the Senator from Tennessee (Mr. BAKER) contributed his ability to carefully analyze and offer alternatives to the problems before us. The recognition by the Senator from Kansas (Mr. DOLE) of the importance of the highway program to all Americans guided him in our deliberations. Another large State was represented by Senator BUCKLEY who also is concerned with the nationwide implications of highway legislation. The Senator from Vermont (Mr. STAFFORD) played an important role in helping us to resolve important questions in this legislation.

The nature of the highway program is such that it requires continual attention if we are to properly legislate. The committee could not carry out its responsibilities effectively without the support and hard work of its staff. Their contributions to this bill were many and they have provided supportive service and information that enabled the committee to develop this important legislation. Staff members who made contributions to this legislation include, M. Barry Meyer, chief clerk and chief counsel; Bailey Guard, minority clerk; Richard A. Hellman, minority counsel; Phillip T. Cummings, assistant counsel; John W. Yago, Clark Norton, Paul Chimes and Kathy Cudlipp of the professional and research staffs; Birdie Kyle, Polly Medlin, Margie Powell, Jan Fox, Veronica Holland, and Rose Chandless of the secretarial staff.

Mr. President, I yield the floor at this time.

Mr. BOGGS. Mr. President, I wish to express my strong support for this important legislation, which will continue our sound highway program.

I would like to list a number of what I believe are particularly important features of the bill.

Certainly the new urban program ranks high in any list of accomplishments in this bill. It will provide $800,000,000 yearly for programs to relieve urban highway congestion, a sharp increase over present spending levels. Out of that sum, a minimum of $300,000,000 must be spent by the States to improve bus-related mass transit systems.

These dollars—out of the highway trust fund—can be spent to buy commuter buses and to build commuter bus lanes, fringe parking lots, bus terminals, or other facilities meeting our urban transit needs. I consider this a major step toward making our highways more productive, thus helping commuters get to and from work more rapidly.

Another significant new feature of the highway legislation, which was added at my suggestion, is a guarantee that each State receives no less than one-half of 1 percent of the funds available for this urban program and for the highway safety effort.

In the past, many smaller States—including Delaware—have received insufficient funds to effectively meet our transportation needs. This bill will end that discrimination. Small States will receive an effective minimum of all programs.

The committee also voted approval of a provision I suggested to allow Federal financing for the reconstruction of the overburdened interchanges where a toll road interchanges with at least three differently numbered interstate routes, and where improvements to the toll road have overburdened the interchange.

While it is important to build to meet future transportation needs, our greatest need right now is to make our highways safer. This bill, for example, places new stress on safety programs related to drug abuse and bicycle safety. It sharply increases the safety program, and creates a special fund to reward states that have attained a high rating in implementing Federal highway safety standards.

I urge my colleagues to support this important bill, and I want to call the particular attention of my colleagues to a provision authorizing major support for the construction of bike paths and pedestrian trails.

By building separate trails or routes for bicyclists and pedestrians, it will make travel safer and more convenient for everyone.

Under this provision, $10,000,000 each year would be allocated out of the highway trust fund for use in building bicycle and pedestrian paths. This money will be appropriated among the States, with no State to receive less than 1 percent.

Everyone who drives a car, or has riden a bike or walked along the shoulder of a highway knows the potential for danger that exists when bicyclists, pedestrians, and cars use the same highway space. This proposal should create a permanent solution to that problem in many sections of the Nation.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON ECONOMIC STABILIZATION PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

In accordance with Section 216 of the Economic Stabilization Act Amendments of 1971, I am transmitting with this the Cost of Living Council's third quarterly report on the Economic Stabilization Program covering the period April 1 through June 30, 1972.

The report reflects the significant progress which the country is continuing to make toward the joint goals of reducing the rate of inflation and restoring vigorous health to the economy:

1. In the battle against inflation, the annual rate of increase in consumer prices has been cut to 2.9 percent since I announced the New Economic Policy on August 15, 1971. During the same period, real spendable weekly earnings have increased at an annual rate of 3.8 percent.
2. The recovery which the economy is experiencing is evidenced by nearly all of the key economic indicators. Last quarter's real GNP grew at an annual rate of 9.4 percent, the greatest increase in seven years. Productivity increased at a 6 percent annual rate in the second quarter of 1972, with an accompanying decline in unit labor costs. Employment has increased by 2.6 million workers since the program began, and the rate of unemployment has declined moderately.

While this encouraging progress has resulted from the interaction of many economic factors, the temporary wage and price controls of the Economic Stabilization Program have played an important role in maintaining price stability during a period of rapid expansion. The disciplines of the controls program, together with responsible fiscal and monetary policies and the continued support and cooperation of the private sector, can enable us to move into a new era of unprecedented prosperity for all Americans.

RICHARD NIXON.

THE WHITE HOUSE, *September 13, 1972.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the 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. 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; and that the House receded from its disagreement to the amendment of the Senate numbered 26 to the bill and concurred therein.

FEDERAL-AID HIGHWAY ACT OF 1972

The Senate continued with the consideration of the bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. PEARSON. Mr. President, is the bill open to amendment at this time?

The PRESIDING OFFICER. It is.

Mr. PEARSON. Mr. President, I call up my amendment at the desk and ask unanimous consent that my distinguished colleague (Mr. DOLE) may be added as a cosponsor.

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

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PEARSON. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

On page 43, between lines 19 and 20, insert a new section as follows:

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON FEDERAL LAKES

SEC. 133. (a) Chapter 1 of title 23 of the United States Code is further amended by adding at the end thereof the following new section:

"§ 148. Access highways to public recreation areas on Federal lakes.

"(a) There is hereby authorized to be appropriated out of any monies in the Treasury not otherwise appropriated $15,000,000 for the fiscal year ending June 30, 1974, and

$15,000,000 for the fiscal year ending June 30, 1975, for the construction or reconstruction of access highways to public recreation areas on Federal lakes in order to accommodate present and future high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

"(1) Routes designated by the Secretary shall not extend beyond 20 miles from the recreation area.

"(2) Such routes shall connect with a highway in the Federal aid system.

"(3) The designation of routes under this section shall comply with section 138 of this title.

"(4) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 70 per centum of the cost of construction or reconstruction of such project.

"(c) Any highway not part of the Federal-aid system when constructed or reconstructed pursuant to this section shall thereafter be part of the Federal-aid secondary system except as otherwise provided pursuant to this section.

"(d) For the purpose of this section the term 'Federal Lake' means a lake constructed by the Corps of Engineers, Department of the Army, or the Tennessee Valley Authority, or the Bureau of Reclamation, Department of the Interior, or a multi-purpose lake constructed with the assistance of the Soil Conservation Service, Department of Agriculture."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"148. Access highways to public recreation areas on Federal lakes."

On page 43, line 21, redesignate "Sec. 133" as "Sec. 134" and redesignate the following sections of title I of the bill accordingly.

The PRESIDING OFFICER. The Chair understands that there is a limitation of one-half hour for amendments on the bill.

Who yields time?

Mr. PEARSON. Mr. President, I yield myself 5 minutes.

Mr. President, I speak today in support of my amendment to S. 3939. This amendment deals with the rapidly growing problem of highway safety, traffic congestion, and environmental conditions along access routes to lakes constructed by, or with the assistance of, Federal agencies.

This problem grows more intense each month, as more Americans take their campers, trailers, boats, and other mobile recreation equipment to the shores of the nearly 500 federally constructed lakes across the country. The U.S. Army Corps of Engineers, for instance, which operates some 340 lakes in every major river basin, estimates that in 1971 300 million visits of 1 day were made to recreation areas adjoining these lakes.

According to the corps, actual traffic counts show that each vehicle coming to these recreation areas carries an average of three and a half visitors. This means by conservative count, 85 million vehicle trips took place to corps lake projects in 1971. Statistics for the current year are incomplete, but recreation officials estimate the increase will be substantial over last year.

We can also estimate that 28 million vehicles visited the 35 Tennessee Valley Authority projects and about 1 million visited the 123 lakes constructed for conservation and recreation purposes with the assistance of the U.S. Soil Conservation Service. Thus, we have a picture of over 114 million vehicle trips to Federal lakes, which are scattered over 45 States.

These statistics show only the surface of the problem. In day-to-day terms, they mean an increasingly heavy flow of vehicles, traveling in a concentrated period of time, over country roads built before the lake construction took place. In all too many cases, these roads have remained unimproved because neither the county, State, nor local taxing authorities have been able to raise the necessary revenues to improve them—although many have tried.

For example, Osage County in my own State of Kansas is the site of two large Federal lakes, Pomona and Melvern, both constructed basically for flood control purposes on sources of the Marais des Cygnes River. This river has a long history of flooding and is itself part of the Arkansas River Basin which eventually feeds into the lower Mississippi.

Osage County is a rural county, thinly populated by only 13,000 people. Its tax base is small and already burdened by a countywide $1.5 million bond issue which has been passed to support construction of new bridges to replace old and unsafe bridges on county roads, many of which give access to the two lakes.

These roads have carried more than 7 million visitors to Pomona Lake since it was opened in 1963, and nearly a million of them this past year. When Melvern opens early next year, the county will be inundated as more and more visitors pour into it from nearby urban areas of Kansas City, Topeka, and Lawrence over the Interstate Highway System.

I recently visited several lake areas in my own State of Kansas to become more personally acquainted with the kinds of problems which the local authorities there face. Parenthetically, let me say it is most encouraging to see how these recreation lakes allow families to spend weekends together by the water—something which was almost impossible for most low- and middle-income families in that region 20 years ago.

At the same time, Mr. President, the very popularity of these lakes with the mass of Americans indicates the huge proportions of the problems such as access road improvements which we can expect to face in the future.

It is often stated that the benefits of lake construction accrue to the region where the lake is located over a period of 10 to 20 years. These benefits come primarily in the form of increased land values and employment created by recreation industries, in addition to the primary benefits attributed to the savings in property losses from floods. This may be the case, but too often the jobs created, the flood control benefits, and the other economic stimuli do not in fact accrue to the locale where the lake is actually constructed.

As too often happens, the unfortunate taxpayer is left holding the bag. Although property taxes have become so burdensome as to produce a veritable "taxpayers' revolt" in many regions of the country, the responsibility for funding not only road improvements but also police protection and environmental control in the areas giving access to Federal lakes has fallen upon local government. This is an impossible situation, and one which under our federal system should not be allowed to persist.

The problem of improving access roads leading to these Federal lakes "falls through the gap" between Federal and local authority. State highway plans too often fail to give adequate priority for these access roads, because they lie in remote areas which have little influence over the establishment of highway priorities—although many of the users are indeed residents of highly populated urban centers nearby.

The authority granted by Congress to Federal agencies, such as the U.S. Army Corps of Engineers and the Bureau of Reclamation, has been applied so as to allow only for the replacement of roads moved or inundated in the actual construction of a flood control lake. To illustrate this point, which I am confident will be a familiar one for my colleagues, I request that a letter from the corps on this matter be printed following my remarks.

It might be argued that the cost of improving these roads should be included in the estimated costs of the lake project itself. There are serious problems with this approach, however, not the least of which is that with rising interest discount rates and a budgetary squeeze on public works projects, many badly needed flood control projects now in the planning stage would be rendered feasible by the additional cost.

Mr. President, before drafting the amendment which I introduce today, I investigated the possible course of additional authority for the flood control agencies to assume the improvement of access roads to the projects which they construct. My colleagues will likely recall specific instances where they, too, have sought from the Corps of Engineers a solution of road improvement problems near Federal lakes. The corps' constant and unchanging reply has been that its authority does not extend beyond the limited responsibility outlined in the letter I mentioned.

The real problem, Mr. President, lies with the fact that the Army Corps of Engineers already has its hands full—and more—in constructing and operating the nationwide system of flood control reservoirs, channel improvements, and navigation routes which Congress has authorized. The Bureau of Reclamation to an even greater degree, is already saddled with heavy responsibilities in relation to its resources. After a series of discussions with representatives of county officials, the corps itself, and those responsible for Federal-aid highway legislation in the Senate, I determined the best course is the one which seeks a solution of this problem within the context of the Federal-aid highway program itself.

The solution I propose is an interim

one which would begin by authorizing a total of $30 million in additional Federal-aid highway funds to be distributed to the States under a 70 to 30 matching formula over a period of 2 years. The term "Federal lake" is defined as a lake constructed by the Corps of Engineers, the Tennessee Valley Authority, the Bureau of Reclamation, or a multipurpose lake constructed with the assistance of the Soil Conservation Service.

The Secretary of Transportation would be authorized to develop guidelines and standards for the allocation of these funds. Routes for which funds are provided under the bill shall not extend beyond 20 miles from a recreation area at a Federal lake.

The Secretary would also be authorized to designate the route as part of the Federal-aid system, in order to qualify them after construction or improvement for those benefits which accrue to roads within the system.

Routes improved under the bill are required to connect with a highway in the Federal-aid system. This proviso is necessary so that the funds authorized by this bill will serve to improve access roads which themselves can be reached by adequate highways.

The bill makes reference, Mr. President, to its intent "to accommodate present and future high density traffic" on access roads leading to Federal lakes. It should be stated that the phrase "high density" is used here in the sense of a high density of traffic on roads which are inadequate to bear such heavy use.

We do not use the term here in the same sense it would apply to traffic on the George Washington Bridge from New Jersey to New York, where daily commuter flows may add up to millions of cars a month. The problem, as outlined above, which is faced by local and State authorities with regard to these access roads is one of a grossly inadequate existing road network, over which is laid a Federal project which brings rapid and persistent increases in traffic. It is a case of applying Federal funds to do a job which otherwise simply is not being done.

As part of the Federal-aid highway system, the access road program which my amendment provides would include bridges, their construction or reconstruction, when these give access to recreation areas. As in the case of other routes within the Federal-aid system, State plans prepared in consultation with county officials and their engineers would be submitted for the distribution of these funds. This would bring to bear the existing expertise of our Nation's highway agencies and guarantee the highest quality work available in the design, planning, and construction of these roads.

Mr. President, I urge the Senate to adopt this amendment. It is offered not as a complete solution, but only as a step toward the solution of a recognized and growing problem. It is one which exists not only in rural but also in urban areas. It affects not only the overburdened taxpayers of the areas where Federal flood control lakes are becoming a daily burden on already depleted resources, but also the millions of urban Americans whose quality of life to an increasing degree depends on safe, clean and adequate access to recreation at lakes constructed with tax moneys provided by the Nation as a whole.

I think the amendment goes to a commanding need. The funds that we seek here today, I judge, Mr. President, would probably provide, in the next 2 years, a means of attacking approximately one-third of the problem that exists in this particular area.

I think it is a reasoned and prudent way to start doing something about a very serious problem. The counties in which many of these lakes are situated have had property removed from their property tax rolls, and do not have the means and the money to provide for these lake access facilities. Mr. President, I hope that this proposal, which I have indicated I think is a reasonable and proper address to this problem, will be acceptable to the chairman and the committee.

Mr. RANDOLPH. Mr. President, the Senator from Kansas (Mr. PEARSON) addresses himself to a subject which is one that not only he and his able colleague from Kansas (Mr. DOLE), who joins him in this effort, have brought to our attention, but Senator COOPER and I have discussed the subject matter of this amendment, and we have discussed it with other members of the committee. We think it is valid, and we are ready to accept it and take it to conference.

I want to add that in the State of West Virginia this is a very real problem at our lakes at Summersville, Sutton, and Bluestone, and at many other points. So I do recognize the problem. The Senator from Kentucky may wish to make further comment, but as far as I am concerned, we are ready to accept the amendment, realizing that it does have a proper place in this legislation, which is innovative in a degree. This would meet a recreational need, and we can properly carry it to conference.

Mr. COOPER. Mr. President, will the Senator yield me 30 seconds?

Mr. PEARSON. I yield.

Mr. COOPER. I concur with the statements of the chairman and of the Senator from Kansas (Mr. PEARSON). This is a practical problem. The Corps of Engineers, when it rebuilds or restores roads which have been changed or lost because of the construction of a lake, does so only to the capacity of the road prior to the construction of the lake. It does not appear to take into account the increased traffic and needs, nor does it have responsibility to build access roads leading to the recreation areas.

I believe this amendment is very much needed. I want to say this because, in preparing our record for the conference, I think we will need the material that the Senator from Kansas has presented and our own supporting statements on the floor of the Senate.

Mr. PEARSON. Mr. President, I thank the Senator from Kentucky.

I ask unanimous consent to have printed in the RECORD a letter from the Corps of Engineers in relation to the amendment.

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

SEPTEMBER 13, 1972.

Hon. JAMES B. PEARSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PEARSON: Road construction at flood control lake projects can be separated in two broad categories: Public roads that are improved or relocated because of the lake project and will remain public roads after the project is in operation; and roads constructed as part of the lake project that will be operated by the Corps of Engineers after the project is in operation. In the latter case, such roads consist of service roads, access roads not on public right-of-way, and recreation roads within public use areas. The Corps of Engineers can improve or relocate public roads as pertinent parts of flood control lake projects under three separate authorities discussed as follows:

a. *Access roads to the damsite.* The authority to utilize, improve, reconstruct, and maintain an existing public road(s) for access to the project during construction is contained in Section 207(a), Public Law 86-645, as amended by Section 208 of Public Law 87-874. If such improvement is considered justifiable, the Chief of Engineers may, by discretionary authority pursuant to the law, improve a public road with project funds, and maintain it during construction with project funds, with the stipulation that the owner will accept the road and assume maintenance upon completion of the Corps lake project construction activities. We have a contract with Jefferson County under which we improved about 1½ miles of county roads around the Perry damsite. These include the cost portion of the cost access road, a segment of road near and through Thompsonville, and a short segment of the overlook road. We are now returning these roads to Jefferson County for maintenance. When warmer weather permits completion of remedial work we will complete the turnover to the county.

b. *Access roads to public use areas.* Under the authority of Section 4 of the Act of 22 December 1944, as amended (58 Stat. 889, 16 U.S.C. 460d), the Corps may construct roads to provide access to recreation areas along the shores of reservoirs, but such authority has not been construed as a general authority for the Corps to go beyond the immediate project area to improve all roads adversely affected by project-generated traffic.

c. *Relocation of public roads.* In providing a reasonable substitute for an existing road network, costs to water resources projects must not exceed either of the two following limits:

(1) Section 207(b) of the Act of 14 July 1960, 74 Stat. 500, as amended by Section 208, 76 Stat. 1196 (33 U.S.C. 701R-1), states: . . . "For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road." . . . The head of the agency concerned is authorized to construct such substitute roads to design standards comparable to those of the State, or where applicable State standards do not exist, those of the owning political division in which the road is located for roads of the same classification as the road being replaced. The traffic existing at the time of the taking shall be used in the determination of the classification.

(2) The cost of any road or highway relocation provided by the Government shall not exceed the alternate costs of acquiring the area and economic activity served.

In the Perry Lake project, three State highways were affected: K-4 and K-16 in and near Valley Falls, and K-92 at Ozawkie. Relocated routes for these highways were de-

signed and constructed by the Kansas State Highway Commission under a cost reimbursable contract, using funds appropriated for the Perry Lake project. All the State highway work is essentially complete. In March 1965, we negotiated a relocation contract with Jefferson County providing for replacement of the road system. As the then current standards of the county did not provide for bituminous surfacing on the class of road being replaced for Roads A1, B, C, D, E, F, H, J, K, L, M, N, O, P, R, S, and T, they were provided with gravel surfacing. Road A, which combined two Federal Aid Secondary routes, was bituminous-surfaced under the contract as was Road G. Road G was later included into the State Highway contract as part of State Highway K-4. The portion of Road R within the Delaware Park public use area was bituminous-surfaced from recreational funds as a part of the interior park road network. The economic comparison outlined in subparagraph c(2) was applied where small remnant ownership tracts were left without public access. Construction is complete on all of the county road relocations.

In accordance with the public law quoted above, the substitute road network cannot include provisions of facilities for new traffic and population brought in by the lake project, except for the access roads for project construction and recreation access.

Under the 1970 Flood Control Act, the Corps of Engineers was authorized to provide bituminous surfacing on about 5 miles of the graveled segment of Road B. We are now preparing plans for that surfacing and it is scheduled to be completed during the summer of 1971.

Inclosed for your information is a map showing in various colors the roads constructed around the Perry Lake project by the Corps of Engineers.

Sincerely yours,

JAMES MILLER,
Colonel, Corps of Engineers, Assistant Director of Civil Works for Plains Division.

Mr. PEARSON. I thank the distinguished chairman for his courtesy in accepting the amendment.

I yield my distinguished colleague such time as he may require.

ACCESS ROADS TO PUBLIC RECREATION AREAS

Mr. DOLE. Mr. President, I am pleased to join my colleague from Kansas in introducing an amendment to authorize construction of hard-surface roads for access to public recreation areas associated with Federal lakes.

As many Senators know, the numerous water resources projects supported by the Federal Government throughout the country have provided significant and wide-ranging benefits. From eliminating the threat of floods, to providing reliable agricultural, residential, and industrial water supply facilities, to creating new recreational facilities with accompanying economic development—these projects have touched the lives of countless individuals.

Perhaps the most popular and best publicized benefit of these projects has been their recreational uses as fishermen, boaters, picnickers, and campers have flocked to take advantage of the waters and shorelines of these lakes. But perhaps no single aspect of these lakes has been of more concern to the users and to the local authorities than the roads which lead to recreational areas. Often they are two-lane gravel country roads which were never intended to carry a significant volume of traffic. Frequently they are subjected to colossal traffic loads which produce great congestion, much delay, and considerable hazard to the visitors and local residents who use them.

I am sure that many Senators have heard from their constituents of the desperate need to provide better and safer roads in the vicinity of their Federal dams and lakes. The problem has become widespread and critical as more lakes are built and more people use them. Unfortunately States and counties—though they try—cannot begin to meet the need through their strained highway budgets, so the time has come for the Federal Government to join their efforts and achieve a solution. In fact, it seems appropriate that the Federal Government play a role since the projects giving rise to these difficulties were constructed with Federal funds.

This amendment would authorize $30 million on a 70–30 matching basis over a 2-year period to provide for the paving of main access routes within 20 miles of public recreation areas at any lake constructed with Federal funds. It would cover projects of the Corps of Engineers and Bureau of Reclamation as well as those watershed projects which have opened for recreational uses. And it requires that these access routes connect with roads on the Federal-aid system, which includes most major county roads as well as major highways and the Interstate System.

I believe this amendment meets a very important need. It is a need of those who live in cities but enjoy water sports and outdoor activities at these Federal lakes and who expect and deserve safe, adequate routes to their recreational facilities. It is a need of the State and local authorities who recognize and are concerned with their responsibility to provide and maintain good roads and highways. And it is a need of those who live in the vicinity of these facilities and who find their local roads being clogged and destroyed by the great influx of recreational traffic.

So this amendment is not of narrow application or only of benefit to rural interests or urban interests. It is broad and it serves the public interest. So I would urge my colleagues to include this amendment in the Federal-Aid Highway Act, for it furthers the bill's goals of providing better and safer highway transportation for the American people.

Mr. PEARSON. Mr. President, I yield back the remainder of the time in support of the amendment.

Mr. RANDOLPH. I yield back my remaining time.

The PRESIDING OFFICER (Mr. BUCKLEY). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I call up several technical amendments which are at the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. RANDOLPH. I ask unanimous consent that further reading of these technical amendments be dispensed with.

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

Mr. RANDOLPH's amendments are as follows:

Page 11, line 15, add the sentence "By March 30, 1973, the Secretary shall issue necessary guidelines for carrying out this section and related provisions of Federal law."

Page 4, line 19, strike the first comma—after the word "year".

Page 4, line 24, add "or improvement" after the word "elimination".

Page 27, line 15, strike "under any law enacted to comply with this section,".

Page 31, line 11; page 36, line 4; and page 43, line 17, strike "table of contents" and insert "analysis" in lieu thereof.

Page 38, line 5, insert a period after "title".

Page 50, line 16, strike "additional" and insert in lieu thereof "addition,".

Page 51, line 9, strike the comma.

Page 66, lines 18–19, strike both lines and insert same at the top of page 67.

Page 70, line 1, strike the last comma.

Mr. RANDOLPH. I assure my colleagues that the amendments are strictly technical in nature.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. RANDOLPH. Yes; I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. Do Senators yield back their remaining time?

Mr. RANDOLPH. I do.

The PRESIDING OFFICER. Does the Senator from Kentucky yield back his time?

Mr. COOPER. I yield back my time.

The PRESIDING OFFICER (Mr. BUCKLEY). All remaining time having been yielded back, the question is on agreeing to the amendments of the Senator from West Virginia.

The amendments were agreed to.

Mr. McCLELLAN. Mr. President, I send to the desk a two-word amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. RANDOLPH. We will let him read that one.

The legislative clerk read as follows:

On page 60, line 2, after the word "Batesville", insert the words "or Jonesboro".

Mr. McCLELLAN. Mr. President, this amendment simply adds another city as being a part of a prospective loop of highway that is to be studied. I know of no objection to it anywhere.

Mr. ALLEN. Is it in Arkansas?

Mr. McCLELLAN. It is in Arkansas. I have spoken to the distinguished chairman of the committee with respect to it, and I do not think there is any objection.

At this time I would like to take occasion to commend the chairman of the committee and his entire committee for bringing out this bill. It is needed, progressive, and constructive legislation to help build our Nation, and I wholeheartedly support its objectives, and know of no provision now in it that I would oppose. I am glad that it has been laid before the Senate this afternoon, so that it might be enacted before we adjourn sine die. I thank the chairman of the committee for his cooperation.

Mr. RANDOLPH. Mr. President, the Senator from Kentucky (Mr. COOPER) and I, and other members of the committee, have discussed this amendment and agree that it does no harm whatsoever to the legislation. It simply adjusts the situation within the State of Arkansas, which is a good State, peopled by good men and women, and we want them to be able to move about in the proper way.

Mr. McCLELLAN. We want you to come see us.

Mr. RANDOLPH. We accept the amendment.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROTH. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 13, delete all after "1975" and all of lines 14 through 17.

Mr. ROTH. Mr. President, I, too, have discussed my amendment with the distinguished chairman of the committee and the ranking minority member. What I propose to do is delete all the words in the provisos contained on page 5, lines 13 through 17.

Section 105(a)3 authorizes $800,000,000 in fiscal year 1974 and 1975 for urban systems, and mandates that at least $300,000,000 be spent on highway mass transit projects pursuant to section 142. The latter section is entirely permissive, opening up all of the urban system fund to highway mass transit use, if appropriate.

To place a minimum floor under mass transit expenditures appears to contradict the goal of greater planning and implementation flexibility. There may or may not be a legitimate need for $300,000,000 in highway oriented mass transit expenditures in fiscal year 1974, but if there is the permissive language of section 142 would allow DOT to spend $300,000,000 or more on the projects.

As we try to break away from categorical grants, it seems more prudent to allow DOT and State/local units greater freedom in planning for urban transportation systems. I have discussed this matter with the Secretary of Transportation, and he supports the objective of this amendment.

Mr. RANDOLPH. Mr. President, the amendment has been explained by the able Senator from Delaware. It has had the attention of Senator COOPER, and both of us in this instance believe that there was no desire with the $300 million to straightjacket this effort. We do know that there is a need for the program to move forward, and we do not want any so-called basement figure to become a problem in the use of this money. So if we were to place a minimum floor, as the Senator has said, it might be interpreted—it is not so meant in the legislation—to contradict the goal of what the Senator calls the greater planning and implementation.

There certainly should be flexibility, and the Department of Transportation has communicated with Senator COOPER and with me that they also believe that the object of this amendment is sound.

I am prepared to accept this amendment. I believe that Senator COOPER would join in that acceptance, and we would carry it to conference.

Mr. COOPER. Mr. President, I join the Senator from West Virginia in support of the amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. ROTH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Alabama.

NATIONAL SCHOOL LUNCH ACT—CONFERENCE REPORT

Mr. ALLEN. Mr. President, I submit a report of the committee of conference on H.R. 14896, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUCKLEY). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to 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 other purposes related to expanding and strengthening the child nutrition programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 11, 1972, at p. 29941.)

Mr. ALLEN. Mr. President, I wish to report that in conference the House agreed to 24 of the 27 amendments of the Senate, and to a revision of amendment No. 24 of the Senate regarding regulation of competitive food services; and the Senate receded from its amendment No. 5, which extended the special food service program to family day-care sites.

The conferees reported in disagreement on Senate amendment No. 26, which provides for a special food program for pregnant and lactating women and infant children, but in presenting the report to the House, amendment No. 26 was approved on a separate motion.

Mr. JAVITS. Mr. President, on the Child Nutrition Act, I would like to make a comment on an amendment H.R. 14896 to which I authored and which was accepted by the Senate but which was eliminated in the conference committee. The amendment to which I refer would have made "licensed nonprofit family day-care homes" eligible for participation in the special food service program—section 13 of the National School Lunch Act.

The Department of Agriculture has made available to me objections to this amendment which, I understand, were the basis for the conference committee's acting to strike this amendment.

First, USDA commented that—

At this time, we do not know what a licensed family day care center is; how many states have such licensed centers; and in fact, whether the licensed centers in New York State can meet the nonprofit requirement.

Let me take these items one at a time. As to what constitutes a "licensed family day-care center," a publication entitled "Federal Interagency Day Care Requirements—published pursuant to section 522(d) of the Economic Opportunity Act and approved by the Departments of HEW, OEO, and Labor—dated 1968, clearly defines what a family day-care home must be in order to receive Federal funds under any legislation. These requirements carefully describe what type of facility is adequate, necessary safety and sanitation aspects of the facility, and what educational, nutritional, and health services must be available at the facility.

Next, as to how many States have such licensed centers, the "Abstracts of State Day Care Licensing Requirements Part I, Family Day Care Homes and Group Day Care Homes," published in 1971 by the Department of HEW indicates that there are currently 40 States which have such licensed homes. With regard to the USDA position that "we do not know whether the license centers in New York State can meet the nonprofit requirement," I would state that the USDA's own regulations for disbursement of funds under section 13 require that the recipient institution be a private, nonprofit or public institution. In New York State all licensed family day care homes are either publicly funded or licensed and operated by a certified nonprofit institution.

The second major point of the USDA position on my amendment is as follows: "Senator JAVITS indicated that the purpose was to make such centers eligible for breakfast assistance—apparently the State of New York finances lunch for the children in such licensed homes. But, the amendment will make such centers eligible for the full range of meals—breakfast, lunch, supper, or between meal supplements."

To this I would say that USDA regulations for section 13 state—in section 225.3(3)(d)—Code of Federal Regulations—in no event shall any service institution which participates in the special milk program be eligible for participation in the—special food service—program; so that regulations might be put in to preclude participation in section IV (a) of the Social Security Act and the special food service program. This would eliminate the fear of duplication of funding. In addition, as to the "full range of meals," these family day care homes may be eligible for the full range of meals under section 13, but they are precluded from applying for anything other than breakfast by USDA regulations.

The third major point of the USDA position is that—

> We do not know how this expansion of the Special Food Service Program would tie into the program operated by HEW under Section IA a of the Social Security Act.

To this I respond that in New York State, the State plan for title IV A moneys do not permit reimbursement for breakfast. Even if the State plan did permit this reimbursement, serious attempts are being made to put a ceiling on title IV A moneys, so the funding might not be available anyway. In fact, the revenue sharing bill just passed by the Senate does put a limit on this title IV A funding which presents a very serious problem for New York in that it cuts New York City's Federal funds under title IV A in half for fiscal year 1974. This will necessitate a drastic reduction in service in New York and obviously would not permit an expansion to cover breakfast for licensed family day care homes.

Finally with regard to the USDA concern that "having to provide food assistance money under two Federal programs—one USDA program and one HEW program—seems to be a complicated and expensive way to do the job," I would like to point out that if this breakfast funding were limited to publicly funded agencies, the duplication of funding—that is, paperwork, et cetera—is handled by the public agency administering the program.

With the facts that I have presented to the Members of the Senate, which I intend to present to the Department of Agriculture as well, I would hope that USDA might see fit to reconsider their regulations which prohibit licensed family day care homes from participating under section 13 in a breakfast program.

I would like to reiterate the comments which I made during Senate consideration of this amendment:

> The only source of funds for the day care breakfast program is Section 13 (Special Food Service Program) in the National School Lunch Act. Although the Act states Day Care, Head Start and other non-school programs shall be eligible for money appropriated for this program, the regulations promulgated under this ACT excluded licensed Family Day Care homes from participation.
>
> I intend to pursue this matter until the full legislative intent is reached to make these homes eligible.

Mr. HUMPHREY. Mr. President, I support the adoption of the conference report on H.R. 14896. I also wish to commend the House for its passage of this vitally important piece of legislation, including its separate favorable vote in support of the amendment I offered to this bill establishing a 2-year pilot program of grants to States to make available supplemental foods to pregnant or lactating women and to infants who are determined by competent professional authority to be at nutritional risk because of inadequate nutrition or income.

I am pleased to note that the other amendments that were offered to this bill also were retained by the conference.

These included my "grandfather clause" to protect certain children for this school year from being dropped from the free and reduced school lunch program due to the new maximum income eligibility standards embodied in this bill. It included my amendment to exempt especially needy schools from having to provide 25 percent matching funds in order to obtain Federal financial assistance to purchase equipment and other items needed to serve school lunches. And, as I indicated earlier, it included my amendment establishing a 2-year pilot program of grants to States to make available to pregnant or lactating women and infants supplemental foods needed by them to avoid the ill effects of malnutrition.

I should also like to call the Senate's attention to a statement I asked to be included in that report about the effective date of the funding provisions of this bill. It is the final sentence of the report. It states:

> The conferees wish to make clear that all funding authorized by this bill applicable to Fiscal 1973 shall become effective July 1, 1972, and apply to the entire Fiscal Year.

The reason for this language, Mr. President, is to let the administration know that Congress expects the new and higher reimbursement rates provided in this bill to be applied for the entire school year, not just beginning with the date this bill is signed into law.

While I believe this particular bill will result in a major strengthening of our objective to improve the nutrition of our Nation's schoolchildren and the very young, I must mention my disappointment with the provisions of the bill relating to the sale of competitive food items in schools.

As you know, Mr. President, I joined Senator CASE in cosponsoring an amendment on the Senate floor during consideration of this bill that deleted the Senate committee's amendment removing the Secretary of Agriculture's authority to regulate this matter. The Senator from New Jersey's amendment was amended on the Senate floor exempting senior high schools from such regulation as long as the proceeds from such sales inured to the benefit of the school lunch fund. Although I had some reservations about this change in Senator CASE's amendment I did support it because it did provide protection to elementary and secondary schools against possible "vendor" pressures to sell nonnutritious and empty calorie-type foods in such schools. Unfortunately, the language that was adopted in conference concerning this matter is the worst, in my judgment, that could have been accepted. The provisions adopted by the conference will make it possible for any type of food item to be offered in any school at any time with the proceeds from such sales inuring to the benefit of schools or student organizations approved by the school. The proponents of this amendment advocated the adoption of this amendment in order to shift the regulation of this matter from the Secretary of Agriculture to local school officials.

While I would support such a position concerning most matters, I do not believe that the action taken in this particular case is either warranted or appropriate. This particular conference amendment could result in a subversion of our total school feeding program. The amendment will now put local school officials under pressure of both vendors and students to permit the sale of food items that will directly compete with the school lunch and breakfast programs.

Vendors have an obvious motive in wanting to expand their sales in this particular market—profit. Students will now be provided with an incentive under this amendment to pressure their school officials to permit such sales so they—the students—can generate revenue for many of their student activities. The question here is, Can local school officials withstand or appropriately regulate this important matter against such dual pressures?

Another question which Congress should be considering is: Will this shift in regulating this matter likely result in the subversion of the national objective established by Congress to improve the nutrition of our Nation's schoolchildren?

The estimated Federal cost of our school feeding programs this school year is almost $1.5 billion. I happen to believe if Congress is going to be asked to appropriate this amount of money in the name of improving the nutrition of our Nation's schoolchildren, it is appropriate for them to insist that the sale of competitive food items in these schools be nutritious and do not result in subverting that objective.

Mr. President, although I am gravely concerned about this particular provision, I do not think Congress should hold up enactment of this bill because of it. There are too many other provisions in this bill that are needed, especially those establishing higher reimbursement rates to schools for general assistance.

I hope that Congress will examine this matter of competitive food sales in schools more carefully later. I am sure if this is done, that the provisions in this bill will soon be amended.

Mr. President, I also would like to express my hope that the appropriate committees of Congress will be asked to undertake a comprehensive review of all our child nutrition programs and legislation between now and the beginning of the school year in 1973. These programs have evolved over the years and we now have a patchwork of legislation which is making it increasingly difficult for Members of Congress, the Executive, and State and local school officials to

understand and administer these programs. I believe the time has arrived when general oversight hearings should be held on these programs with the objective of streamlining and simplifying them to the benefit of all concerned.

There are a number of bills now pending before Congress to accomplish this objective ranging from the President's child nutrition legislative proposals to my Universal Child Nutrition and Nutrition Education Act proposal.

All of these proposals should be carefully examined during the coming year along with the administration of existing programs. I wish to indicate my willingness to participate in this effort and to work with all concerned to improve these vitally important programs.

Mr. President, I wish to commend the distinguished chairman of the Committee on Agriculture and Forestry (Mr. TALMADGE) and the distinguished Senator from Alabama (Mr. ALLEN) for their leadership and efforts in getting this bill through committee and the Congress. They have been both patient and cooperative with me and other Senators who have worked with them on this bill.

It is also important that I once again remind both the administration and Congress that full funding for the provisions of this bill should be provided at the earliest possible date. I wish to serve notice now that I will be carefully following developments in that regard.

Mr. President, I urge the adoption of the conference report and urge the President to sign the bill at the earliest possible date. The school year already has begun, and school officials are awaiting enactment of this bill so they might proceed with their school year planning concerning these programs.

Mr. ALLEN. Mr. President, I move that the report be adopted.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

FEDERAL-AID HIGHWAY ACT OF 1972

The Senate resumed the consideration of the bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. STAFFORD. Mr. President, I call up an amendment I have at the desk, which I offer on behalf of myself and the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 8, line 15, insert the following: "Any state not having a designated urbanized area, may designate routes on the Federal-aid urban system for its largest population center, based upon a continuing planning process developed cooperatively by State and local officials and the Secretary."

Mr. STAFFORD. Mr. President, my amendment is designed to guarantee that each of the 50 States will receive a share of the $800 million that is authorized in the bill for the Federal-aid urban system.

The language in section 105 of the bill clearly allocates a minimum of one-half of 1 percent of the $800 million to each State. And, I believe clearly that is the intention of the Committee on Public Works.

Yet, there seems to be a question in some places whether a State, like Vermont, that has no city with a population of 50,000 or more would be eligible to use the money it would be allocated.

For example, the General Counsel's Office of the Federal Highway Administration has interpreted the language of the bill to preclude three States—Vermont, Wyoming, and Alaska—from receiving any funds under section 105 because each of those three States does not have an urbanized area, using the criteria of a city with a population of at least 50,000.

The amendment I have introduced would clear up this question.

Stated simply, my amendment says that any State that does not have a city of at least 50,000 population would be able to designate its largest city to meet the requirement for an urbanized area—and, thus, be eligible for the minimum allocation of one-half of 1 percent of the $800 million authorized for the Federal-aid urban system.

I have been informed that identical language to my amendment is being included in the bill to be considered by the House of Representatives. And, the General Counsel's Office of the Federal Highway Administration has told me that this language will make clear the intention of the Public Works Committee and will guarantee that the three States—Vermont, Wyoming, and Alaska—will be treated as the committee intends they should.

Mr. President, I have conferred with the chairman of the committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), in connection with this amendment, and I hope that the chairman will be willing to accept the amendment.

Mr. RANDOLPH. Mr. President, I have had the privilege of discussing this amendment with the Senator from Vermont, who is a very valuable member of our committee, and I am sure that the distinguished Senator from Kentucky (Mr. COOPER) has also addressed himself to the amendment. I feel that we can accept it, if agreeable to the Senator from Kentucky, and we will take the amendment to conference.

Mr. STAFFORD. I appreciate that. Mr. President, I am prepared to yield back my time.

Mr. RANDOLPH. I yield back my time.

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

The question is on agreeing to the amendment of the Senator from Vermont (Mr. STAFFORD).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. The Chair recognizes the Senator from Kentucky (Mr. COOPER).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COOPER. 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. COOPER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 28, beginning on line 11, strike out all through line 22.

Mr. COOPER. Mr. President, I offer this amendment on behalf of myself and the distinguished Senator from Utah (Mr. Moss).

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. COOPER. Five minutes.

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

Mr. COOPER. Mr. President, this amendment deals with the subject of highway beautification. The Senate will recall that Congress has been struggling with this problem for many years—since 1958, I believe, although there was some legislation before that time. Legislation was enacted to provide for protection of our interstate highways, giving bonus payments to the States which enacted legislation to remove signs from the interstate highways. A long time after that, in 1965, the legislation was amended to provide for the removal of signs on primary highways, as well as interstate highways.

For years the 1965 Highway Beautification Act was ineffective because the States were slow to enact the necessary legislation and Congress, while passing legislation, failed to provide funds to the States for the payment of the just compensation required by that act and for the removal of the signs.

Thus, we have had two problems: One, the failure of the States to enact legislation or enter into agreements with the Secretary, and, two, the failure of the Federal Government to provide the necessary funds for billboard removal.

By 1970, it seemed that Congress was coming to grips with the problem and it began to provide significant sums to the States for billboard removal. Now, in the pending bill, we are authorizing the use of funds from the Highway Trust Fund—$50 million for the fiscal year ending June 30, 1974, and another $50 million for the fiscal year ending June 30, 1975.

Thus, the money is assured, at least from the Federal Treasury. The States, also, are now coming into compliance.

However, a provision was included in the committee bill, on page 28, beginning on the 14, which states:

(o) No directional sign, display, or device lawfully in existence on June 1, 1972, giving specific information in the interest of the traveling public shall be required by the Secretary to be removed until December 31, 1974, . . .

The argument is made that certain "directional" signs, such as those which point out restaurants, hotels, and motels, service stations, and similar facilities are of interest to the traveling public.

I remind the Senate that these signs can now be placed—they are permanent signs—not only in areas which are zoned for industrial and commercial uses, but also in areas which are not so zoned but which are determined by States to be industrial or commercial in use.

There are ample areas now in which to place such signs. There may be some occasions of inconvenience, of course, but the Highway Act of 1970 established a Commission on Highway Beautification to study the whole program. The language which established the Commission stated specifically that it was not intended the study would in any way derogate the on-going work of highway beautification.

I think we should wait until the Commission's final report is available before altering the program.

The argument is also made that the proposed moratorium will help small roadside businesses, small tourist motels, and small gasoline stations. In my judgment, it will have exactly the opposite effect. It will work to the advantage of the largest businesses, franchised chains, oil companies, and the large sign companies which have great capital resources. It will help the conglomerate organizations which have established motels and gasoline stations all over the country.

The main point, Mr. President, is that after all these years—14 years—just as we are beginning to provide adequate funds for a meaningful beautification program, and just as we are on the way to accomplishing some highway beautification, we are now being asked to take this backward step. I earnestly hope that we will not do that.

Now is the time to go forward with the beautification program, not undercut it, as this provision would do.

Mr. MOSS. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I am very glad to yield to my cosponsor, the distinguished Senator from Utah (Mr. Moss), such time as he desires.

Mr. MOSS. Mr. President, I thank my colleague from Kentucky, and I wish to congratulate him for the action he has taken to remove this rather iniquitous moratorium provision which has crept into the bill.

PRESERVING OUR COMMITMENT TO THE HIGHWAY BEAUTIFICATION PROGRAM

Mr. President, after years of struggle, the highway beautification billboard removal program has finally gotten off the ground. As of January 1971, only 14 States had enacted legislation in compliance with the requirements of the Highway Beautification Act. Now, 49 States have enacted adequate programs. As these figures reveal, the past year has been one of significant progress providing the final breakthrough in the creation of State programs. I have in my hand a chart which shows the signs removed to date which indicates clearly that the removal program is just beginning to really pick up steam. New Jersey and New York, for example, took down more signs in June of 1972 than in any other month. In fact, almost one-third of their total sign removal occurred in that month. This indicates that they are just beginning to really gather momentum in the sign removal program. The same is true for many other States.

For the Federal Government to take action now that would slow down the removal program would be a serious breach of faith.

All States, except one, have enacted the necessary legislation and are now eligible for Federal funding for sign removal. They are now at a point where their investment in time and money is substantial, and virtually all States are ready to move ahead.

The moratorium on signs "giving specific information in the interest of the traveling public" will necessitate each State reevaluating their sign removal program and procedures to decide which signs fall under the moratorium and which signs do not. This involves literally hundreds of thousands of billboards.

A number of States are investigating the possibility of sign removal via the purchase of entire inventory of signs owned by companies and the removal of all signs along a given stretch of highway. Both of these highly effective methods of billboard removal could not be carried forward if there is a moratorium on the removal of part of the sign population.

The Federal Highway Administration has just completed what has been a long and arduous 2-year process to issue carefully structured regulations dealing with the actual process of sign removal. All their regulations and policy directives will have to be reconsidered and reissued in light of the moratorium, thus adding to the delay in implementing the program.

One of the major problems in convincing States to move ahead with this program has been its on-again, off-again nature. It was not until 1970 that funding was finally made available for billboard removal. Under the moratorium funding will now only be available for certain signs yet to be determined. The States may justifiably feel that they should not move ahead rapidly in an area where the Government's behavior is quite so eccentric.

In those States where the removal of signs not covered by the moratorium moves ahead prior to the moratorium expiration date, the State highway department will have to deal with sign companies twice. First, in negotiating removal of the signs which do not fall under the moratorium, and then several years hence in removing the remaining signs when the moratorium ends.

It seems fairly clear that the language of the moratorium will give rise to a number of law suits over the meaning of the phrase, "giving specific information in the interest of the traveling public," and whether it applies to a particular sign.

The State highway department will have to maintain almost daily vigilance to insure that the advertising content which places a sign under the moratorium is not changed to a message making it subject to the act. Clearly, sign companies cannot be relied upon to inform the States that their billboards are subject to removal.

It has been suggested that the moratorium provision is in the interest of the small store and motel owners, the so-called "mom and pop operations." In point of fact, precisely the opposite is true. The small businessman cannot afford to advertise along the interstate systems, and by placing a moratorium on the removal of the signs of his larger competitor, alternative means of advertising which he may perhaps be able to afford—such as traveler brochures and tourist information centers—will not be established. Clearly, this measure is directed toward helping big business.

Likewise, small billboard companies will find themselves forced out of business by larger corporations who are part of a conglomerate. Few financial institutions will be willing to extend a line of credit to businesses which must go out of business by January 1, 1975. Conglomerates, on the other hand, are fully able to make corporate funds available to their subsidiaries.

I know the committee did not intend to do harm to the billboard removal program. The effect of the moratorium would be more substantial than many people realize. For this reason, I urge the Senate to strike the moratorium from the bill.

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

Mr. MOSS. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, as one leaves the State of Connecticut and goes into the State of Rhode Island on one of the main highways, the State has a sign that reads, "You are now entering the State of Rhode Island, vacationland of Presidents." Does this provision mean that sign would have to come down?

Mr. MOSS. No, but if the sign said, "Buy Wheaties. It will make your breakfast better," that would not be permitted.

Mr. PASTORE. Mr. President, in other words, if it is a commercial sign, it has to come down.

Mr. MOSS. The Senator is correct.

Mr. PASTORE. And what if it is a sign that is for the information of tourists?

Mr. MOSS. Again, it depends on whether or not it is a commercial sign.

Mr. PASTORE. After all, the State is trying to sell the State and its business.

Mr. MOSS. If a State is announcing that one is coming into the boundaries of that State, it can do that in any language it wants.

Mr. PASTORE. It goes further than that. In addition to telling tourists that they are coming into Rhode Island, it also tells them what a beautiful State it is.

Mr. MOSS. A little fluff does not harm. However, if it goes further and mentions that a tourist should stop at JOHN PASTORE's Camp and spend the night there, that would not be permissible.

Mr. PASTORE. That is a commercial sign. I am not talking about that.

Mr. MOSS. Other types of signs are not permitted.

Mr. PASTORE. The signs I have talked about are not included in the amendment.

Mr. MOSS. No. The moratorium is not necessary to protect it.

Mr. President, there is one other matter that I want to call attention to. This amendment was inserted as an amendment in the committee. And the day following that, Secretary Volpe of the Department of Transportation sent a message to the committee. And in this message he says among other things:

> The latest Committee Print includes a provision which would allow signs providing "specific information in the interest of the traveling public" to remain in place until December 31, 1974, or until the State certifies that the information displayed "may reasonably be available to the motorist by some other method." The very broad language of this provision would result in a two-year moratorium on the removal of this visual blight from our nation's highways. The program would be seriously disrupted, if not brought to a complete standstill. This provision would halt the significant progress since January, 1971, which has seen the number of States in compliance increase from 14 to 49. It is essential that this provision be deleted if the commitment of the Congress, the Administration, and the 49 complying States is not to be negated.

The PRESIDING OFFICER. All time of the Senator from Kentucky has expired.

Mr. MOSS. Mr. President, I strongly urge adoption of the amendment.

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

The PRESIDING OFFICER. The Senator from West Virginia has 15 minutes remaining.

Mr. RANDOLPH. Mr. President, I yield 5 minutes to the Senator from New York (Mr. BUCKLEY), a member of the committee.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. RANDOLPH. Mr. President, I respectfully ask that we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order. The Senator from New York may proceed.

Mr. BUCKLEY. Mr. President, the amendment which specifies the provisions of the bill which would be deleted was introduced by the distinguished Senator from Tennessee (Mr. BAKER) and myself. Its purpose is not to delay progress on the removal of the signs, but rather to provide the time within which the Commission on Highway Beautification can complete its hearings and make a final report to the Congress to carry out the final policy on sign removal.

I might add that this provision which would be stricken by the amendment of the Senator from Kentucky was introduced at the specific recommendation of the Commission on Highway Beautification, of which I am a member, following some extensive hearings in which it was determined that to carry through on the removal of all signs which are addressed to tourists and travelers on our highways would be a disservice to those same travelers.

The fact is that these chaste little signs that say "Food, lodging, and gas" do not give the average motorist who happens to be in a strange area the kind of information which he requires. One does not know whether he is going to a hotdog stand or to a place where he can have a full dinner.

In the Finger Lakes area of New York, and in area after area of this country, we have primary highways which are the principal source of travel by tourists. And the kind of accommodations on which tourists depend have no way of communicating with the motorists except for a small sign which says "Take the next left to find this motel" or something of that sort.

As I say, the purpose of the amendment is to give the Commission instituted by the Congress for the purpose of making this final examination of the program and to make a final recommendation to Congress, time in which to complete its report and submit it to Congress. So, before all signs, whatever their nature, are eliminated, we should have the full benefit of these extensive hearings.

If we proceed now and do not provide this breathing space, then we will find in area after area that not only has the traveling tourist been inconvenienced, but also that small business after small business will be forced totally out of business because they do not have any effective alternative way in which to alert the motorists as to where they are located.

I would state further, Mr. President, that this moratorium, so called, does not in any way affect the ability of any State to proceed with its own policy with respect to signs. All it does is to stay the hand of the Secretary of Transportation in mandating the elimination of these signs.

Finally, I would note the fact that the guidelines of the Secretary of Transportation have given this kind of sign the lowest priority in removal.

Mr. RANDOLPH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 11 minutes remaining.

Mr. RANDOLPH. Mr. President, I commend the Senator from New York (Mr. BUCKLEY) on stating the situation as it is.

The word "moratorium" would seem to have a connotation that we are throwing aside all we have been doing in connection with the beautification programs, the removal of certain types of billboards, and the situation as affects general beautification, the junkyards, and so forth. That is not true. Is that what the Senator is saying?

Mr. BUCKLEY. That is right; not moratorium, but something to stay the hand of the Secretary in decisions which might affect permanently the investment of hundreds and hundreds of small enterprises across the country while this study is being completed.

I assure the distinguished chairman that the members of this Commission are as much interested in doing away with the curse of indiscriminate signs as any Member of the Senate. They have that desire and intention, but they become more aware, perhaps, than any Member of the Senate of the specific problems that have to be coped with.

Mr. RANDOLPH. On the time I have allotted, I wish to ask the Senator if he is a member of the Highway Beautification Commission. Is that a fact?

Mr. BUCKLEY. Yes.

Mr. RANDOLPH. And the recommendation contained in this measure is that not the recommendation of the Highway Beautification Commission?

Mr. BUCKLEY. That is correct.

Mr. RANDOLPH. Then it was placed in this bill as it comes to the Senate by the Senator from New York and the Senator from Tennessee (Mr. BAKER). Is that correct?

Mr. BUCKLEY. Also correct.

Mr. RANDOLPH. There are over 800,000 signs to be removed. Is that correct?

Mr. BUCKLEY. Highly correct.

Mr. RANDOLPH. Yes. And only $50 million per year is available for removal of signs. Is that correct?

Mr. BUCKLEY. The chairman is very well informed.

Mr. RANDOLPH. The signs which I think help the travelers should be kept in preference, very frankly, to the general product signs. Do I have agreement on that point?

Mr. BUCKLEY. The Senator from New York totally agrees.

Mr. RANDOLPH. The language in the bill is not mandatory for the States. Is that correct?

Mr. BUCKLEY. No; any State is free to follow any policy it wants to during suspension of the enforcement.

Mr. RANDOLPH. What is the situation about the authority of the Secretary of Transportation?

Mr. BUCKLEY. It merely states that for a period certain the Secretary will not force the removal of this particular category of signs which is of great importance to the motorist, as it is to the enterprise which places that sign.

I would add, if I may, as I judge the preliminary deliberations of this Commission, in due course recommendations will come out, they will set up ground rules by which necessary information that motorists require will be made available to him in a manner which does not ruin the landscape.

Mr. RANDOLPH. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 6 minutes remaining.

Mr. RANDOLPH. Mr. President, the chairman of our Subcommittee on Roads at the time the hearings were held on this measure, the Senator from Indiana (Mr. BAYH), is prepared to address himself to this subject. He went into it thoroughly with other members of the subcommittee. I yield to him for 5 minutes.

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

Mr. BAYH. Mr. President, I shall be

brief, and perhaps it will not take 5 minutes.

I read with a great deal of interest the other day an article in one of the local newspapers in which a well-intentioned reporter said that this provision was intended to gut the entire provision of highway beautification. We would be naive if we did not recognize that there are some who want to accomplish this purpose, but certainly the Senator from Indiana does not and I know of none of my colleagues who have this goal.

It is difficult to oppose my good friend from Kentucky on an issue like this, but the reason for the moratorium is in recognition of two basic facts. First of all, we have never been able to appropriate enough money to take down all the billboards that the States want to take down in any given year now, and we have not come close, and it is unreasonable for us to believe that Congress is going to suddenly ladle out millions of dollars next year, and the year after to increase the number to be taken down. That is not going to happen. We are going to have so many dollars. That is one point.

Point No. 2 was, given a limited amount of funds, do we not have the responsibility, as Members of Congress, to determine what priority of signs is in the best interest of the traveling public?

Frankly, it is the opinion of the Senator from Indiana as he traveled across the country that there is much more interest to find out where a lodging place might be than it is to find out what kind of cigarettes makes one feel younger, or what kind of beer happens to have a certain effect, or what kind of aspirin one should take when he has a headache. So what we have tried to do is to say that during the period of the moratorium we would use limited funds to take down those billboards that do not have a direct relationship to how the traveling public uses the highways; namely, directional signs. That is what we are trying to do. It is not intended to gut the billboard program.

If Congress should suddenly come up with three times or two times the annual appropriation to take down billboards, then I would be inclined to take the opposite position, but we have had to fight for every dollar we have gotten in connection with this matter and I do not think the pressures will be any less tomorrow than they are today. For that reason, I must reluctantly oppose the amendment of the Senator from Kentucky.

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

Mr. BAYH. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. I would like to ask this question. As one goes along the Connecticut Turnpike, the John F. Kennedy Thruway that runs through New Jersey, Delaware, and Maryland, or any other highway, they have signs that read "service station 2 miles ahead." Does that kind of sign come down?

Mr. BAYH. No.

Mr. PASTORE. Will that kind of sign ever come down?

Mr. BAYH. No, in my opinion. The kinds of signs that might come down are the signs that might say "John Jones filling station" or "Texaco filling station 2 miles ahead."

Those directional kinds of signs are the kinds of signs covered by the moratorium which would not be mandated to be taken down during the moratorium. The signs we are discussing have a greater interest to the public and would be more important to the public than private signs, such as the sign that says "Lawn Boy lawnmower."

Mr. PASTORE. I understood the Senator to say that if he had enough money he would take them all down. Certain signs would stay up if they are of assistance to the traveler.

Mr. BAYH. That is absolutely the point.

Mr. PASTORE. I hope so. I hope we do not lose all sense of reason. I am for highway beautification and I am for taking down ugly signs. As motorists go along now for miles they can see big, big poles with the Shell gasoline sign on it or an Esso sign on it. They are building them up to where one might think they are on a launching pad almost ready to be shot off to the moon.

They can be seen for 5 or 10 miles. I do not see how necessary that is.

Mr. BAYH. Those are permanent signs.

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

Who yields time?

Mr. RANDOLPH. Mr. President, I have a desire to accommodate my colleague from Kentucky. I ask unanimous consent that there be an additional 7 minutes on this amendment, equally divided between the Senator from Kentucky and the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COOPER. I thank the Senator.

Mr. President, the Senator from Utah wants to speak on this subject, and I will yield him most of the time.

I would like to say that the Secretary of Transportation strongly opposes the amendment which has been incorporated in the bill. On page 50 of the report of the Committee on Public Works, containing the administration views, Secretary Volpe said:

> The very broad language of this provision would result in a two-year moratorium on the removal of this visual blight from our nation's highways. The program would be seriously disrupted, if not brought to a complete standstill. This provision would halt the significant progress since January, 1971, which has seen the number of States in compliance increase from 14 to 49. It is essential that this provision be deleted if the commitment of the Congress, the Administration, and the 49 complying States is not to be negated.

I would like to say that this bill, in one section, provides that the jumbo signs, erected beyond the present limit of 660 feet, must be removed. The provision we are talking about, if it is retained, provides on the contrary that they may be retained for another 2 years.

It is said that we do not have the money to remove all the signs. That is correct. But for the first time we do have $50 million to move ahead. This provision could effectively stop the beautification program for 2 years.

Finally, who is going to determine what is in the public interest? It is possible that the jumbo signs will be determined to be "in the interest of the traveling public," while a sign for a small motel or a filling station would be removed because a product was advertised as part of the display. This section presents an obstacle to the orderly execution of the program. I hope the amendment to strike it will be agreed to.

I yield to the Senator from Utah.

Mr. MOSS. I thank the Senator. I will try to be brief.

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

The yeas and nays were ordered.

Mr. MOSS. Mr. President, I will try to be very brief——

Mr. RANDOLPH. Mr. President, may I inquire what the time situation is?

The PRESIDING OFFICER. The Senator from Kentucky has 1½ minutes remaining. The Senator from West Virginia has 3½ minutes remaining.

The Senator from Utah.

Mr. MOSS. Mr. President, I call attention to the fact that the Secretary of Transportation strongly opposes the moratorium and says it will disrupt the operation of the program.

I also want to call attention to what this does to the small sign owner by citing a case in my part of the country, where a small sign owner notified the State of Wyoming that it wished to divest itself of the signs and was ready to take them down. That request was turned down by the State of Wyoming, which said they were not interested in that right now, and then, a matter of 7 months later, the owner got a notice from the State of Wyoming that the paint was peeling and needed to be repaired—signs that were standing vacant because they are nonconforming.

So it can be seen what sort of delay we have gotten into as a result of the failure of the States to enforce the sign removal program, and the need for the power in the Secretary to require compliance in order to receive funding that is provided in the statute. This moratorium will, in effect, further stall the program and may cause failure of the beautification and sign removal program.

I strongly urge approval of the amendment of the Senator from Kentucky.

Mr. RANDOLPH. Mr. President, I think it is very, very important that Senators who are on the floor recognize that the Subcommittee on Roads and the full Committee on Public Works, all the members of which may not have been in agreement on this proposal, were in no wise constrained to weaken the provisions of the Highway Beautification Act. I know the Senator from Kentucky will agree with that, because I joined him in the passage of the Beautification Act as did other members of the committee. Also, the Senator from New York (Mr. BUCKLEY) is a member of the Highway Beautification Commission, and he is against the Cooper amendment. Certainly no one would attach to him a desire to weaken the provisions of the present law.

I was of the opinion that a substantial amount of information to the traveling public is offered in billboards and other commercial signs. The committee feels that the States have a responsibility for assuring that there is no breakdown or unnecessary letdown in the traveling public's information system because of the outdoor advertising control laws.

I yield back the remainder of my time, or, if I have any time, I yield for a question to the Senator from New York.

Mr. BUCKLEY. Mr. President, will the Senator yield 1 minute?

Mr. RANDOLPH. I yield whatever time I have.

Mr. BUCKLEY. Mr. President, for the benefit of recent arrivals to this Chamber, I would like to make one point, namely, that the whole problem of the dramatic inconvenience to the traveling public which would result from the removal of any kind of indication as to where they get meals or lodging, other than signs that merely give those three words, "gas, food, and lodging" has been studied by the Highway Beautification Commission, which has held extensive hearings on this matter, and which believes that there should be a policy which allows, under certain conditions, some sort of information to the traveling public as to how it finds these places. By the same token, the Commission feels that any precipitate action taken before a report gets submitted to Congress will not only inconvenience the traveling public but that many small enterprises that service that public will simply go out of business because nobody will be able to find them.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senators from Maryland (Mr. BEALL and Mr. MATHIAS), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

I further announce that the Senator from Oklahoma (Mr. BELLMON) is detained on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 31, nays 44, as follows:

[No. 424 Leg.]

YEAS—31

Aiken	Javits	Roth
Bentsen	Magnuson	Saxbe
Brooke	Miller	Schweiker
Case	Moss	Scott
Church	Muskie	Smith
Cook	Nelson	Stafford
Cooper	Packwood	Stevens
Cranston	Pell	Stevenson
Fong	Percy	Taft
Fulbright	Proxmire	
Hart	Ribicoff	

NAYS—44

Allen	Eastland	Mansfield
Bayh	Ervin	McClellan
Bible	Fannin	Metcalf
Boggs	Gambrell	Mondale
Brock	Gurney	Montoya
Buckley	Hansen	Pastore
Burdick	Hollings	Pearson
Byrd, Harry F., Jr.	Hruska	Randolph
	Hughes	Spong
Byrd, Robert C.	Humphrey	Stennis
Cannon	Inouye	Symington
Cotton	Jackson	Talmadge
Curtis	Jordan, N.C.	Tower
Dole	Jordan, Idaho	Weicker
Eagleton	Long	Williams

NOT VOTING—25

Allott	Goldwater	McGovern
Anderson	Gravel	McIntyre
Baker	Griffin	Mundt
Beall	Harris	Sparkman
Bellmon	Hartke	Thurmond
Bennett	Hatfield	Tunney
Chiles	Kennedy	Young
Dominick	Mathias	
Edwards	McGee	

So Mr. COOPER'S amendment was rejected.

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

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOSS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 28, line 22, insert the following:

Provided, A state may not refuse to purchase and remove any directional sign, display, or device voluntarily offered to the state for removal by a sign owner if funds are available in the Department of Transportation.

Mr. MOSS. Mr. President, this amendment has to do with the right of a small sign company, if it wishes, to offer its signs to the State, and requires the State to accept them if the money is available in the Department of Transportation.

The intent of section 131(o) of this bill is to prevent a State from causing injury to advertisers whose signs serve to direct the public to their business establishments, but the section should not in any way alter the authority of the Secretary of Transportation to proceed with the purchase and removal of nonconforming signs where sign owners offer their nonconforming signs to the States for purchase and removal.

Many small sign owners have been adversely affected by the Highway Beautification Act. The act jeopardizes their ability to continue operation as banks have withdrawn support and employees sought refuge in a more certain and stable industry. These sign companies relied upon the 1965 Highway Beautification Act which promised them sign removal as of July 1, 1970 and just compensation for their nonconforming signs.

The amendment I now propose will not only guarantee the sign companies rights to voluntarily enter into a sale of their nonconforming signs to the States but will assure them of the expeditious administration of their claim. It is the intent of this amendment to prevent a State from waiting until a sign company can no longer maintain its signs and then acquire those signs at distressed prices because of their deteriorated condition. The refusal of a State administratively to process voluntary offers by sign owners or to seek funds for the purchase of such signs will be in noncompliance and subject to penalty.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter dated October 1, 1971, in which a sign company offered its signs and was rejected, and a notice dated June 22, 1972, in which the same sign owner was stated to be in noncompliance because his sign was in poor repair.

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

OCTOBER 1, 1971.

Mr. W. G. LUCAS,
Superintendent and Chief Engineer,
Wyoming State Highway Commission,
Cheyenne, Wyo.

DEAR MR. LUCAS: Enclosed, herewith, is a comprehensive analysis made by Snarr Advertising, Inc. of all of Snarr Advertising's billboards within the State of Wyoming. This analysis includes the number of signs, the location of each sign, the sizes, types of construction, the types of illumination, and estimated value of each sign based upon the same procedures and figures used by the State of Utah and State of Colorado in the purchase of Snarr Advertising's signs in both highway construction projects and beautification projects.

I have also enclosed a takedown schedule, and you will note we can have our signs removed in Wyoming by the end of this year.

The purpose of this presentation is to put the State on notice that because of the Federal and State Compliance Laws, we are unable to continue to operate and maintain our signs in the State of Wyoming. We are protected by law and promised that we will be entitled to "just compensation" upon the removal of those signs. It is increasingly clear that as each day goes by, without us being allowed to take our signs down, the compensation will be less and, in fact, it is possible for a state to stall and delay implementation of the Beautification Program, forcing the sign companies to abandon their signs and then appraise the signs when they are in a run-down condition and maintain that there is no value there.

We would like to operate our signs, but we cannot guarantee our advertisers how long the signs will remain and, therefore, are unable to enter into three-, four-, or five-year

contracts, which time is needed to amortize out the cost and realize a profit.

Since all of our signs are vacant in the State of Wyoming, we would like to take them down immediately. We recommend that the State of Wyoming does the same thing Utah did, as follows: Appraise our signs, agree upon a value, enter into a contract with our firm, apply for funds, allow us to take our own signs down, and pay us for the signs. We hope we can work this out in the next few weeks so that we can have this matter resolved before the end of the year.

Would you please advise us in writing as to what the State of Wyoming is going to do regarding our signs that we can no longer operate and maintain in the State of Wyoming because of the law.

Thank you.

Very cordially yours,

DOUGLAS T. SNARR,
President.

WYOMING STATE HIGHWAY COMMISSION,
Cheyenne, Wyo., June 22, 1972.

SNARR ADVERTISING,
Salt Lake City, Utah.

DEAR SIR: Our investigation reveals that you are the apparent owner of sign adjacent to Highway US 14, 16, 20 in Park County, Wyoming. In the approximate area of milepost number 34.2, this sign has been deemed unlawful by the Wyoming Highway Commission in accordance with the provisions of Chapter 250, Session Laws of Wyoming 1971.

The sign described above has been declared unlawful for the following reasons.

Poor State of Repair: Permit No. 5–0313—If the times listed below are repaired within 30 days, no action will be taken. Paint peeled, needs repainting.

If the corrective action is not taken as indicated above, it is the intent of said Commission to remove this sign. You are further notified that you may request a hearing by said Commission regarding removal by filing a request within 15 days after the date of this notice. If no action is taken by you, the sign will be removed by the Commission.

Inquiries concerning the violations should be directed to: A Schepp, Traffic Operations Engineer, P.O. Box 1708, Cheyenne, Wyoming, 82001.

Requests for a hearing should be directed to: Mr. Thomas Ralty, Commission Secretary, P. O. Box 1708, Cheyenne, Wyoming, 82001.

Very truly yours,

A. J. SCHEPP,
Traffic Operations Engineer.

NOTE: Please notify this office when repairs are completed.

Mr. MOSS. Mr. President, I believe that this amendment will achieve the purpose of permitting the small sign companies to conform with the act and at the same time preserve their ability to survive and not be subject to loss.

I reserve the remainder of my time.

Mr. RANDOLPH. Mr. President, I am ready to accept the amendment offered by the able Senator from Utah. I believe that the Senator from Kentucky, who understands this amendment as do I, knows that it retains the authority within the States to act in these matters; and if it is agreeable to the Senator from Kentucky, I will accept it.

Mr. COOPER. Mr. President, I welcome the amendment. It assures that the States will be able to remove billboards. I am glad it is being offered.

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

Mr. MOSS. 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 Utah.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Beginning with line 9 on page 61 strike out all section 147 through line 11 on page 62.

On page 62, line 13, strike out "Sec. 148" and insert in lieu thereof "Sec. 147."

Mr. BUCKLEY. Mr. President, I yield myself 5 minutes.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. Mr. President, the Senate is not in order, and we cannot hear. I know that the matter to be brought before the Senate now is of extreme importance to the Senator from New York and to all Senators, and I ask the the Senate be in order during discussion of this amendment.

The PRESIDING OFFICER (Mr. HARTKE). The Senate will be in order. Discussions will be conducted outside the Senate Chamber.

The Senator from New York may proceed.

Mr. BUCKLEY. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 7 minutes.

Mr. BUCKLEY. Mr. President, my amendment would strike section 147 of S. 3939, the proposed Federal-Aid Highway Act of 1972. That section is designed to overturn an order of the U.S. Court of Appeals for the Fifth Circuit enjoining the State of Texas from constructing a six-to-eight lane Federal-aid highway, the North Expressway, through the Brackenridge-Olmos Basin Parklands, in San Antonio, Tex. The basis for the court's decision was that the State and Federal Governments had not complied with important Federal environmental statutes: section 4(f) of the Department of Transportation Act; section 138 of the Federal-Aid Highway Act and the National Environmental Policy Act. By its terms, section 147 is limited to San Antonio and while on its face it may seem of limited and narrow application, I see underlying that section a real and immediate threat to the environmental and social safeguards which have been enacted by the Congress upon the expenditure of Federal-aid funds for highways and other large public works projects. Section 147 if passed would, I believe, be the first step in an unending process of undermining on a case-by-case basis the environmental protection statutes which we now recognize as essential to safeguard the country's environment. This section would be the first step in involving the Congress in an endless round of specific adjudications over whether this highway or that dam or this canal should be exempted from compliance with Federal environmental statutes. It would thrust the Congress into the realm of the courts into the adjudication of sharply contested specific disputes.

We would be faced, as we are here, with serious factual questions raised by the parties to the dispute but with no satisfactory means to resolve them. We would be asked not only to take on the function of the courts, but also that of the Department of Transportation and make judgment about where highways should or should not go.

I do not believe that we should take that first step. I believe it unwise as a general matter and unnecessary in this case. It would be the beginning of a whittling away of the strong and important safeguards incorporated into statutes such as NEPA. Given my general objection to special legislation of this nature, it is with some hesitation that I embark upon a discussion of the particular facts underlying the dispute over the construction of this highway in San Antonio. For I do not believe that the issue here is whether under the facts of this case Texas should or should not be permitted to proceed immediately with the construction of this highway in violation of Federal law. Rather the issue is much broader. It is whether the Congress should attempt to substitute its judgment for that of the Department of Transportation and the Federal courts in an individual case.

Nevertheless, in order to present fully my objections to section 147, it is necessary to review in at least a summary fashion the basic outline of the dispute. As I pointed out above, this dispute, like all hotly contested environmental issues, has raised a number of factual disputes among the interested parties. I have tried to avoid having to sort out the various contentions and facts, thus I rely primarily upon the court decision and a DOT report on the North Expressway for my information.

SAN ANTONIO FACTS

The construction of the North Expressway has been under consideration by the Texas Highway Department for over a decade. It was conceived of and planned throughout as a Federal-aid route. Although a bond issue was approved in 1961 for acquisition of right-of-way, final action to authorize construction was not to come for many, many years.

In May of 1968 the Texas Highway Department requested that then Secretary of Transportation Alan Boyd approve construction of the North Expressway. Boyd refused to approve the route unless four important design changes designed to minimize the environmental impact were incorporated into the plans. Texas refused to accept those conditions and negotiations with the Federal Government continued. Secretary Volpe replaced Secretary Boyd in January 1969 and, like Boyd, he too refused to approve the route proposed by Texas. He specifically said on December 23, 1969, that he "could not justify approval for construction of the North Expressway between Mulberry and Tuxedo Avenue." The section which he refused to approve, known as the middle segment of the expressway, was that portion which takes the most parkland.

In August 1970 the Texas Highway De-

partment and Secretary Volpe reached agreement. Secretary Volpe approved two segments of this route at either end of the parks and the Texas Highway Department agreed that an independent consultant would study alternatives to the "middle segment" also approximately 2 miles long.

LITIGATION

Following Secretary Volpe's approval of the two end segments litigation ensued. The U.S. Court of Appeals for the Fifth Circuit, which had under consideration only the segments at either end of the highway since the Secretary was still studying alternatives to the middle segment, enjoined construction of the two end segments because it found, in a unanimous opinion, that there had been no compliance with the National Environmental Policy Act or with section 4(f) of the Department of Transportation Act or section 138 of the Federal-Aid Highway Act. The court said, in a comprehensive opinion written by Judge Homer Thornberry, a respected Texan himself and long a Member of the House of Representatives.

Our task is simplified greatly to begin with because it is undisputed that the Secretary of Transportation complied with none of the above-quoted statutes [Section 4(f) of the Department of Transportation Act, Section 138 of the Federal-Aid Highway Act, and NEPA] in his approval of the two "end segments" of this expressway. No environmental study under NEPA has been made with respect to these two "end segments" and the Secretary has demonstrated no effort by anyone to examine the section 4(f) "feasible and prudent" alternatives to the route followed by these two "end segments," which come right up to, if not into, the Parklands from both the north and south. Thus, it requires no discussion to establish that there has been no compliance with any of the above-quoted statutes.

Following the decision of the court of appeals, the Department of Transportation report on the middle segment was published. The study, impressive in its detailed presentation of alternatives to the middle segment, recommended that the route proposed by Texas not be used but instead that an alternative set forth in that report be chosen in order to minimize the impact upon the park. As of yet, however, there has been no decision by the Secretary as to alternatives to the entire route, as the court said there should be.

CURRENT STATUS

Thus the status of this dispute at present is that construction of the North Expressway is enjoined by order of the court until the State and the Secretary make the required study.

It is important to underscore the current status of this project as it demonstrates even more vividly the inappropriateness of legislation at this point. Despite the requirements of the Department of Transportation Act, the Federal-Aid Highway Act and NEPA that alternatives to the use of parklands such as that involved here be thoroughly examined, the court found that there has been no such examination here. The court has not said that Texas cannot build the North Expressway nor has it even said that Texas cannot build it along the alinement it has so stubbornly put forth over the past 10 years. Instead the court has held that Texas may not proceed until it makes an analysis of alternatives to the use of the parkland. Rather than produce such a study Texas asks Congress to overturn the court decision and allow it to proceed.

It seems to me entirely inappropriate to overturn that decision without a thoroughgoing professional analysis of alternatives, particularly where two Secretaries of Transportation have refused to approve the route which Texas will use if this legislation is enacted and since the limited study of alternatives done by the Department of Transportation demonstrated beyond question that there are alternatives which would minimize the impact upon the parks. We are being asked to pass legislation which would permit construction before Texas has initialed any efforts whatsoever to comply with the Federal statutes.

Two of the most fundamental and important requirements of recent environmental legislation are the requirement that an analysis must be made of the impact of the environment from the construction of projects and that an analysis be made of available alternatives.

This is essential if those charged with making the important decisions on highways or related projects are to be alerted to the environmental damage that may be done and ways to avoid that harm. If a State or agency may proceed without making even a cursory examination of alternatives, the fundamental purpose of the statutes will be destroyed. Of course, compliance with these laws places some additional burden upon decisionmaking and construction of projects. In some cases it means a delay in time; in others it may mean both a delay in time and added expense. The price is cheap, however, for the added protection that these statutes have given our air, water, park, and recreation facilities and historic sites. Secretary Volpe, who is deeply concerned about the effects of transportation projects on the environment has said, "If environmental quality costs more, it is worth more" and "We think that protection of the environment is worth some delay." Thus, the fact that Texas may be delayed somewhat by a necessity to comply with these statutes is no occasion to afford them specific legislative relief. Some of these laws have been on the books since as early as 1966; yet, as late as August of 1971, the court found that there has been no consideration of alternatives. The enactment of new legislation undoubtedly creates a burden for ongoing projects, such as this, but where the State has failed over a 4-year period to consider alternatives clearly required by law I do not believe that we should come to their rescue.

As we move beyond the broader effect of legislation, narrow application of this legislation, to the broader consequences it becomes self-evident that this legislation, even though restricted in its terms for San Antonio, would have a nationwide impact and threaten the effectiveness of statutes such as NEPA. If relief is granted to Texas, we will have firmly established the precedent of intervening in specific highway disputes whenever a State highway department finds itself enjoined for failure to comply with the laws. If the Texas Highway Department is granted specific relief here, every other State highway department now under an injunction will demand similar legislation and I do not see on what basis we could refuse their request. Although Texas may argue that its situation is unique and therefore it should be entitled to some special treatment, I have serious reservations about that. Of course, every highway dispute is in some sense unique; perhaps, in the same sense that every individual is unique. However, many State highway departments would undoubtedly be able to present the same type of case as Texas for relief.

There are many other aspects of section 147 which deeply disturbed me. As this section is drafted it would permit Texas to repay the Federal aid it has received and proceed to construct this project with State funds. While in the ordinary case it might be reasonable to allow the State to withdraw from the Federal-aid project if it desired to do so, here it is obvious that the effort to withdraw is an effort to circumvent Federal environmental legislation. During the time this litigation was pending, Texas advised the court that it intended to withdraw and construct this expressway with its own funds and thus sought to avoid an injunction on that basis. The court, however, found that this effort by Texas was an attempt at "circumvention of an act of Congress" and refused to permit it. This was even made clearer by the fact that Texas conceded that in fact it would not be giving back the Federal aid it had received and was programed to receive for the North expressway. It would under those circumstances shift that Federal money to other highway projects within Texas and thus not sacrifice a dime of Federal aid. I do not believe that we should create a precedent of allowing a State through the shifting of bookkeeping entries to avoid Federal obligations that come with the expenditures of Federal funds.

We have in the recent past witnessed various attempts to carve out exceptions to the National Environmental Policy Act where its provisions have begun to have some effect. I may cite the granting to the Atomic Energy Commission of special interim licensing privileges in the face of emergency situations. These attempts related primarily to the authority of the Atomic Energy Commission to issue interim operating licenses for nuclear powerplants and the authority of the Environmental Protection Agency to issue water quality permits. Similar legislation was designed to expedite Government decisions with respect to major electric power facilities. Thus far, we have been successful in protecting NEPA against any piecemeal amendments which would undermine its protections. However, I fear that we now see another strategy for circumventing the requirements of NEPA and enumerating its requirements on a selective basis. Can one really doubt that if this amendment is passed to allow the Texas Highway Department to proceed with this route, we will not get similar requests from the Atomic Energy Commis-

sion for particular power projects or from the Army Corps of Engineers or from other State highway departments?

The effects of NEPA and other environmental statutes are now beginning to be felt, but only now. Of course, they make construction of projects somewhat more difficult, in that they require much broader analysis of the social consequences of these projects before they are undertaken. That should not, however, be viewed as an unfortunate consequence of the legislation. Indeed, the environmental protection laws were specifically designed to require that greater study, attention, and care be given in these large public works projects which have in the past often been responsible for serious and irreparable injury to the environment.

If this legislation is adopted, it will be a clear signal to the State highway departments as well as others, including the courts, that Congress has begun to turn its back on the environmental protections included in statutes such as NEPA and section 4(f). It will hold out hope to those who wish to avoid compliance with those laws that if they resist long enough they may be rescued by special legislation.

To be effective, the environmental protection laws must be followed not only to the letter but also interpreted in the spirit in which they were enacted. Enactment of these laws and their enforcement has not been easy. Yet they represent a great step forward in this Nation's effort to reverse a long trend of environmental degradation. It is vital that they be protected against collateral attack.

Mr. CASE. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I yield.

Mr. CASE. I cannot refrain from expressing my deep appreciation to the distinguished Senator from New York (Mr. BUCKLEY) for the fine statement he has just made.

It is gratifying to have a man of his deep ability and deep concern for the public welfare, holding somewhat different views on many things with those of the Senator from New Jersey sometimes, on the same side of this environmental question as I am.

I should point out that this is not the first time he has taken this position. We are very much together on matters affecting our two States regarding the Delaware River and Tocks Island and I have been aware of the other situations in which his support of the Environmental Policy Act in our program has been noteworthy. It will pay off in the long run.

His position on this amendment is utterly sound.

Mr. BROCK. Mr. President, if the Senator from New York will yield, may I add that I, too, am persuaded by the eloquence of the Senator from New York.

I might point out to the Senator from New Jersey (Mr. CASE) that conservatism and conservation go hand in hand, in my opinion.

I very much appreciate the stand of the Senator from New York on this question.

Mr. CASE. I thank the Senator from Tennessee very much. If this is conservatism then I am a conservative, believe me.

Mr. BROCK. Bless you.

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. If the Senator wishes to use his time——

Mr. RANDOLPH. Mr. President, I ask the attention of my beloved friend, the Senator from New Jersey (Mr. CASE). He has just complimented, and rightly so, the Senator from New York (Mr. BUCKLEY) for his attention to this matter and has expressed his intention to stand with him, on this amendment. I only wish that he had stood with the able Senator from New York a few moments ago when we had a rollcall vote when he showed there his attention to the preciseness, and rightfully so, of the bill presented by the Beautification Committee, of which he is a member.

Mr. CASE. Mr. President, the Senator used my name. Will he yield?

Mr. RANDOLPH. Mr. President, I yield to the able Senator from New Jersey as much time as he requires.

Mr. CASE. Mr. President, the Senator was talking about the amendment of the Senator from Kentucky (Mr. COOPER)?

Mr. RANDOLPH. The Senator is correct, the amendment that was opposed by the Senator from New York (Mr. BUCKLEY).

Mr. CASE. It is a hard choice to make when one has to choose between such fine gentlemen.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 13 minutes remaining. The Senator from New York has 6 minutes remaining.

Mr. RANDOLPH. Mr. President, do I understand that the Senator from New York is through at this point?

Mr. BUCKLEY. Mr. President, I have two requests for time. I know that the distinguished Senator from Texas would like to speak in the interest of San Antonio. I am frankly concerned about the time limitation in this case. This is a question with the deepest implications, not just for the highway bill under consideration, but also for the general environmental legislation.

I wonder if the Senator might entertain a unanimous-consent request to extend debate on the amendment by another 30 minutes to be equally divided.

Mr. President, I ask unanimous consent that the time be extended for an additional 30 minutes on this amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. RANDOLPH. Mr. President, I did not hear the unanimous-consent request.

Mr. BUCKLEY. Mr. President, I asked unanimous consent that the time limitation be extended for another 30 minutes to be equally divided.

Mr. RANDOLPH. Mr. President, I ask the Senator from Kentucky if he would want to do this. What is the opinion of the Senator from Kentucky on the matter?

Mr. COOPER. Mr. President, I would say that the Senator from New York feels very strongly about this; I would urge my colleagues to grant the Senator 30 minutes additional time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. RANDOLPH. Mr. President, the chairman of the committee desires to be cooperative and he tries especially to cooperate with the ranking minority member of the committee. I am therefore going to agree to an extension of 30 minutes to the 30-minute limitation on amendments to the bill as it was brought to the floor. I am sure that we could settle the situation adequately in the time allotted as we have on other amendments. However, on this amendment I will not object.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from New York?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the Chair indulge me a minute?

Mr. President, will the Senator from New York kindly withhold the request until all the time on the amendment is used up? The matter can be explored at that time.

Mr. BUCKLEY. Certainly.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator

Mr. BUCKLEY. Mr. President, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Leon G. Billings of the staff of the Public Works Committee be granted the privilege of the floor.

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

Mr. RANDOLPH. Mr. President, I yield 10 minutes to the able Senator from Texas, a member of the Public Works Committee.

The PRESIDING OFFICER. The Senator from West Virginia only has 9 minutes remaining. He cannot yield 10 minutes.

Mr. RANDOLPH. Mr. President, I yield 9 minutes to the Senator from Texas, a member of the Public Works Committee.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment of the Senator from New York to strike section 147 of the Federal Aid Highway Act.

The question is whether we are going to give equity to the people of San Antonio who have made a very major investment of their money in this project. They have some $15 million at stake. That is what the city has at stake and that is what the State has at stake in this project.

It has been said that this is an environmental issue. I really do not believe that is the case.

I am not against parks. On our committee I have worked for more parks and

I have worked to protect the wilderness areas. And I will continue to do that.

If I thought the amendment was that kind of an amendment, I would not have supported it in the committee. We are talking about Brackenridge Park in San Antonio, Tex. We have 323 acres involved. Originally San Antonio had asked for this road in 1959.

If the Department of Transportation had acted expeditiously and responsibly, this matter would have been concluded long before now. We are talking about a road that cuts across 4 acres of a golf course at the corner of Brackenridge Park. And across 5 acres that were already isolated on the golf course. The golf course has now been changed for 3 years. People have been playing on it.

The request was made by the State of Texas of the Secretary of Transportation for approval of the Federal Government on this project. And the agreement was made that they could proceed on the end sections, and if they could not arrive at an agreement on the middle section, then the State of Texas could withdraw and the city of San Antonio could withdraw. And that is what they have done. An agreement was made and relied upon by the people of San Antonio. They have sent the $1.8 million of Federal money back.

We are talking about a $20 million project, and only $1.8 million of it was Federal funds. San Antonio has asked to withdraw from the Federal project and the Federal financing.

We also have the question of a flood plain here. San Antonio has some 700 acres in the Olmos Flood Plain and approximately 100 acres of that flood plain will be utilized for the highway. But the people of San Antonio have the right to make the decision as to the most important use of this unimproved tract. They have made that decision.

Every elected official of whom I have knowledge in the city of San Antonio supports this project.

The people of San Antonio voted on a bond issue on this specific project by a vote of 2-to-1 that they thought this is where the freeway should be built. And Brackenridge Park is highly treasured in San Antonio; the people would not vote to see it destroyed.

There was a petition signed by 103,000 people in a city with a little over 600,000 people. And the people signed that petition in less than 6 months because they thought this project was necessary and they thought that we should proceed on it.

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

Mr. BENTSEN. Mr. President, the Senator did not yield to our side on his time. I have very little time remaining. I would appreciate it if the Senator would let me proceed.

San Antonio had an agreement given by the Secretary of Transportation, by the Federal Government. In compliance with that agreement the State of Texas and the city of San Antonio went ahead and spent $7 million in buying the right-of-way and relocating the residents. Then they came along and spent $4 million on construction.

They now have $4.5 million worth of lawsuits against them due to construction being halted.

The Senator from New York says that they can have a little more delay. It has been since 1959 that they have asked for this project.

The Senator says that San Antonio can go back and follow the procedures again. Does the Senator know how long the estimates are for going through the procedures? That process can take another 5 years. Another 5 years, and they have been waiting since 1959.

Does anyone want to see a flow chart and what they have to do? This is what they would have to do—and I would be glad to have any Senator examine it—to try to get this project approved again. We have had enough of the Federal Government in this project.

The people of San Antonio in the State of Texas are ready to pay for it, and they want to proceed to construction. This inequity should be corrected.

What has happened here since this process started has been a change in the rules of the game. They are trying to make it retroactive. A self-appointed group, created in San Antonio, said they wanted it routed through a different area. Mr. President, do you know where they wanted it routed? They wanted it to go through 41 blocks of low-income homes and to disrupt those people and move them out of their homes. I think the environmental issue in this particular project is a phony issue.

Mr. President, let us talk about the question of precedent. I, too, was concerned about that. I went back and redrafted this amendment to be sure that it was localized and applied only to San Antonio. What is the uniqueness in it? The uniqueness is this is a highway solely in the city of San Antonio; it is not interstate like other highways. What is the further uniqueness of it? Secretary of Transportation Volpe said that the State and the city, if they could not come to an agreement on this middle section, could withdraw from the program and refund the money. That is what the people have done—they have exercised self-determination. That is another uniqueness of this particular project.

I do not think we are setting a precedent that will give us a problem down the line. Let me say again that construction only started on this project after two courts refused to stay construction, after two courts had spoken on it.

With regard to these other projects that concerned the Senator from New York, and also concerned me, these projects were begun subsequent to the enactment of 4(F). The San Antonio situation developed before 4(F) was enacted; it can be differentiated.

So let the people of San Antonio exercise their will. Let them pay their way. Let them use self-determination. They love their parks; they are concerned about the beauty of their city.

I do not know how many Senators have been down to the great city of San Antonio. Look at the San Antonio River and see what they have done for beautification down there. It is a progressive and forward-looking city, concerned about its environment. San Antonio has done more for the San Antonio River than we have done for the Potomac River.

I ask Senators to join me in defeating this amendment and finally bringing justice and equity to a project for the people of San Antonio.

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

The PRESIDING OFFICER. The time of the Senator from Texas as allocated by the chairman of the committee has expired. The Senator from New York has 6 minutes remaining.

Mr. BUCKLEY. Mr. President, I have been asked by my cosponsor, the Senator from Wisconsin (Mr. NELSON) for some time and I would like to yield to him for 3 minutes at this time.

I will say, Mr. President, that I shall ask unanimous consent to extend the time for this debate at the conclusion of his remarks.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, my concern about the bill today is that it would certainly establish a precedent by which federally bid highway projects in the future may get exemptions from the provisions of the National Environmental Protection Act by the simple device of special legislation. I note that the circuit court of appeals, in making reference to the argument of the State, stated in footnote No. 29:

> We would point out to the State that it was neither this Court nor the Supreme Court, but rather the defendants, who made the decision to commit large sums of public money to a highly controversial project, *the legality of which was still in question and over which an appeal was still pending.* Finally, we now know from the *Overton Park* case that courts should not shrink from halting construction of projects such as the North Expressway which are being erected in clear violation of the law.

What concerns me is that there is an attempt by all kinds of agencies to avoid the requirements of the Environmental Protection Act. It seems to me that is what is being avoided here.

The State would receive upwards of $2 million as a federally aided project, and then has returned the money to the Federal Government, and I guess it is not clear at this point whether or not the Department of Transportation will then ultimately reroute that $2 million back to Texas in some other Federal project.

I would like to point out a colloquy in the RECORD in 1968 between the distinguished chairman of the committee and the then Senator from Texas (Mr. Yarborough):

> Mr. YARBOROUGH. I want to give an example of what happened in my own state, and this has been a matter of controversy for 5 years. Brackenridge Park is located along the San Antonio River in San Antonio. It was set out by a veteran of the War Between the States, and comprises 323 acres in the city of San Antonio. . . . It was the first great park in Texas. Texas has no State or National park like it.

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

Mr. BUCKLEY. Mr. President, I yield the Senator 3 additional minutes.

Mr. NELSON. Mr. President, I ask unanimous consent that an excerpt from

this colloquy which appeared in the RECORD may be printed in the RECORD at this point.

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

Mr. YARBOROUGH. Now a superhighway is projected to go through it from the north. This is a natural park along the river, and there is not enough open land left over for another park site. Yet, they want to put the highway right through the middle of the park. It has been fought for years. I have no doubt that the city council which has jurisdiction over this city park, is going to say the park has no historic significance. But do the Federal officials have authority to withhold the 90-percent Federal share for the highway?

I want to know if the Federal authorities have a right to protect this park.

Mr. RANDOLPH. Yes; they could withhold funds.

Mr. YARBOROUGH. . . . If you run a highway through a long, slender park of 323 acres you do not have to pay any tax money for right-of-way. Thus the city council, hard pressed for money, is seeking to run a highway right through the center of one of the best parks in the state.

Mr. RANDOLPH. We are not going to allow that.

Mr. YARBOROUGH. This bill will not permit that?

Mr. RANDOLPH. The Senator is correct. 114 *Cong. Rec.* 24036–37 (1968).

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

Mr. NELSON. I do not have any time to yield.

Mr. TOWER. Would the Senator yield to me 30 seconds for a question?

Mr. NELSON. On the Senator's time.

Mr. TOWER. I do not have any time. Will the Senator yield for a question?

The PRESIDING OFFICER. There is no time left to the Senator. The time yielded to the Senator from Wisconsin is 1 minute.

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

Mr. TOWER. Is the Senator aware that Mr. Yarborough's viewpoint did not prevail with the majority of voters in Texas, nor with the majority of voters in San Antonio and that is why Senator BENTSEN is here today?

Mr. NELSON. I thank the Senator from Texas.

Mr. President, I have a memorandum brief prepared by Mr. John Vardaman, representing the freeway opponents, and I ask unanimous consent that it may be printed in the RECORD at this point.

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

MEMO BY JOHN VARDAMAN, ATTORNEY REPRESENTING THE FREEWAY OPPONENTS

Memorandum Re: Proposed Legislation To Overrule a Court Decision Prohibiting Construction of the North Expressway in San Antonio Pending Study of Alternatives That Would Avoid The Brackenridge Olmos Basin Parks.

There are bills (H.R. 15426 and S. 3751) presently pending in the House and the Senate which, although cast as general amendments to the Federal-Aid Highway Act, are designed to overturn a court order [1] that presently prohibits Texas from constructing a federal-aid highway through the Brackenridge-Olmos Basin parklands in San Antonio. We set forth below in detail our reasons for opposing those bills. Those reasons may be summarized as follows:

(1) The Brackenridge-Olmos Basic Parklands are invaluable urban parks located in San Antonio. Construction of the North Expressway on the state's alignment would require between 116 and 250 acres of those parks for right-of-way and excavation of another 130 acres.

(2) The issues involved in this controversy have been throughly litigated and the court of appeals for the fifth circuit, in a comprehensive opinion written by Judge Homer Thornberry, held that the state and federal governments have not complied with section 4(f) of the Department of Transportation Act nor with National Environmental Policy Act.

(3) The court of appeals enjoined construction until the state and federal officials considered alternative alignments that would avoid the parks or minimize the impact. The state has made no such study; instead it has continued to litigate and finding no relief in the courts it now seeks relief from Congress.

(4) There are alternatives to the route chosen by Texas, some of which would avoid the parks completely, others would drastically reduce the use of parkland. Many of those are set forth in a study of one segment of the route done for the Department of Transportation by Gruen Associates, an independent consulting firm.

(5) Since the decision of the court of appeals, those opposing the route through the parks have offered to discuss alternatives with the state. The state has refused such discussions.

(6) We believe it unwise for Congress to intervene in individual, specific highway disputes which are pending in the courts, particularly in order to assist a state that has refused to comply with important federal laws designed to protect the environment.

1. THE PARKS

The Brackenridge-Olmos Basin parks are unique urban parks and recreation areas situated at the headwaters of the San Antonio River. Within those areas are the San Antonio Zoo, San Jacinto Park, Olmos Basin picnic area, two golf courses, an open air theater, sunken gardens, Franklin Fields, the Alamo Stadium, playing fields, hiking trails and many acres of parklands. The Department of Housing and Urban Development said of this area:

". . . San Antonio is fortunate in possessing one of the finest in-town park areas of any of our cities. This park area, incorporating as it does a number of kinds of facilities and serving a variety of uses, represents the type of urban open space asset which we are trying to encourage."

These parks are used by nearly a million people a year.

In the Senate debate over section 4(f) of the Department of Transportation Act, 49 U.S.C. § 1653(f), Senator Yarborough of Texas discussed the threat to pave over Brackenridge Park and said: "It was the first great park in Texas. Texas has no state or national park like it." 114 *Cong. Rec.* 24037 (1968) He was assured by Senator Randolph, Chairman of the Public Works Committee, that section 4(f) would not permit use of this park for a highway. 114 *Cong. Rec.* 24037 (1968).[2]

2. THE HIGHWAY

The North Expressway, as proposed by Texas, would be a 9.6 mile elevated north-south highway of six-to-eight lanes which would connect at either end with interstate highways (I–10 and I–35). The route twists and turns so as to follow the path of the slender Brackenridge-Olmos Basin parks. The precise number of acres that would be used for right-of-way is disputed, but it is somewhere between 116 and 250. An additional 130 acres within the parks would be excavated in order to provide the "fill" on which to build the elevated portions of the highway.

3. THE EFFECT OF THE PARKS

The effects of this highway on the parks will be disastrous. The Gruen Report done for the Department of Transportation, which studied only one of three segments of the highway or a total of 2.7 of the entire 9.6 miles, gives some of the effects:

The construction will necessitate the closing of a small scenic road on the edge of the Brackenridge Park.

There will be substantial noise, air and dust pollution in the area of the outdoor theater.

The expressway will separate the Zoo from its future expansion site and will be visible from the Zoo.

In Olmos Basin the "Expressway will fragment and isolate various parts of Olmos Basin Park . . . The visual and sensual character of the park will no longer be the same."

The noise and air pollution impact, the visibility of passing vehicles and trucks, the diminution of afternoon sunlight on the Creek, and the difficult-to-maintain underside of the arches—all will contribute to the downgrading of one of the most significant and valued natural assets, the picnic-creek area in Olmos Basin Park."

During the construction phase of the Expressway, there is a strong possibility that the fragile and sensitive nature of the Creek might be entirely destroyed when bulldozers start to operate in the area.

The massive viaduct proposed to cross over the top of Olmos Dam will create a major visual and noise impact on the entire surrounding area.

The Expressway, with its wide embankment, will displace many beautiful groves of live oaks, pecan trees and elms at the picnic grounds and the area next to the Damm and Devine Road. The total wooded areas to be displaced will be approximately 29 acres. (Green Associates, San Antonio North Expressway Study (1971), pp. 38–43.)

4. PLANNING OF THE HIGHWAY AND LITIGATION

The idea of the North Expressway was born in the mid 1950's although no action was undertaken until the 1960's. The right-of-way cost was to be shared between the city, the state and the federal governments. From the beginning the North Expressway was planned as a federal-aid highway and the federal government was involved at every step.

In 1961 the state sought approval for right-of-way acquisition, which the Bureau of Public Roads granted. In 1963 the state held the public hearing required by the Federal-Aid Highway Act, 23 U.S.C. § 128. In April, 1964 the Bureau of Public Roads approved that hearing. Planning for the North Expressway continued and in 1967 those opposing the highway filed an action seeking to enjoin its construction through the parklands. The Department of Transportation advised the district court that there had been no final federal approval and requested that all proceedings be stayed until a final decision had been reached.

After former Secretary Boyd completed his review, he refused to approve the route unless four important design changes were incorporated. When the state refused to accept those conditions negotiations continued. Finally, in August, 1970, Secretary Volpe approved the two segments at either end of the 9.6 mile highway, generally referred to as "end segments," which approached and actually entered the parks from both the north and the south. The state and Volpe agreed that an independent consultant, Gruen Associates, would study alternative locations for the middle segment.[3] The state submitted plans, specifications, and estimates for the end segments which were approved by the Bureau of Public Roads. Under 23 U.S.C. § 106

Footnotes at end of article.

that approval constituted "a contractual obligation of the Federal Government for the payment of its proportional contribution" for the highway. Following the § 106 approval the state began construction of the end segments and the federal government paid the state $1,818,600 for its share of the construction costs. Subsequently the court of appeals enjoined construction and further reimbursement by the federal government.

The court of appeals resolved every issue in favor of those opposing the route. To reiterate, at issue in the court of appeals were only the "end segments," at the north and south ends of the parks. The "middle segment," which would require the taking of the most parkland, was still under review by Volpe because he had refused to approve the alignment proposed by Texas. With respect to the two end segments the court of appeals first observed that:

"No environmental study under N.E.P.A. has been made with respect to these two 'end segments,' and the Secretary has demonstrated no effort by anyone to examine the section 4(f) 'feasible and prudent' alternatives to the route followed by these two 'end segments,' which come right up to, if not in to, the Parklands from both the north and the south. Thus, it requires no discussion to establish that there has been no compliance with any of the above-quoted statutes."

The court then considered the Secretary's ploy of splitting this highway, which had heretofore always been considered one "project," into three "projects," and approving segments which led up to and within the park from both the north and the south With respect to this the court said:

"Patently, the construction of these two 'end segments' to the very border, if not into, the Parklands, will make destruction of further parklands inevitable, or, at least, will severely limit the number of 'feasible and prudent' alternatives to avoiding the Park. The Secretary's approach to his section 4(f) responsibilities thus makes a joke of the 'feasible and prudent alternatives' standard, and we not only decline to give such an approach our imprimatur, we specifically declare it unlawful."

In the court of appeals the state argued that even though it had planned the highway as a federal-aid route, and was seeking federal reimbursement for construction, it was nevertheless committed to construct the North Expressway with its own funds if the court should find that it was not eligible for federal-aid reimbursement. This contention was raised by the state only after the court of appeals had issued a preliminary injunction halting construction of the highway. It was nothing more than a last minute gambit to try to avoid federal jurisdiction. From the beginning, this highway had been planned as a federal aid route. As we set forth above, the whole planning process was conducted in coordination with the federal government. Furthermore, the state did not intend to forfeit any federal aid, it merely intended to shift the money allocated to the North Expressway to other projects within the state. Thus all that was contemplated was a shift in bookkeeping entries. During the argument before the court of appeals the state represented, incorrectly, that it had received no federal aid as of the time of the argument. Nevertheless, the court flatly rejected the state's argument that it could construct the highway with its own money in violation of federal law. The Court said:

"If we were to accept [the argument], we would be giving approval to the circumvention of an Act of Congress. The North Expressway is now a federal project, and it has been a federal project since the Secretary of Transportation authorized federal participation in the project on August 13, 1970. As such, the North Expressway is subject to the laws of Congress, and the State as a partner in the construction of the project is bound by those laws. The supremacy of federal law has been recognized as a fundamental principle of our Government since the birth of the Republic. United States Constitution, Art. VI, cl. 2. The State may not subvert that principle by a mere change in bookkeeping or by shifting funds from one project to another."

While one member of the panel, Judge Clark, dissented on this point, at a later point in the litigation after it was disclosed that the state had received nearly $2 million in federal reimbursement for construction, he agreed with the majority that the state could not proceed with its own money in violation of federal law. That issue was raised again in the district court, the court of appeals, and the Supreme Court and on each occasion the state's argument was rejected.

Thus, the state has had a full opportunity to present its case to three federal courts: the district court, the court of appeals, and the Supreme Court. The Congress is now being asked to change the law to overturn the court's judgment.

5. CURRENT STATUS

The court of appeals ordered that construction of the North Expressway cease until the state officials and the Secretary of Transportation had reviewed the entire North Expressway under the provisions of Section 4 (f) and the National Environmental Policy Act. The court of appeals did not say that Texas could not build the North Expressway. It did not say that Texas could not construct it on the present route. All it said was that the state and federal governments must consider alternatives to the entire route and must consider measures to minimize the harm to the park, as well as prepare an environmental impact statement.

The state government did not investigate alternatives. Instead it continued to litigate, first by a petition for rehearing in the court of appeals, then a motion to dismiss in the district court. Once that was denied they attempted to appeal the denial of that motion. The fifth circuit refused to allow the appeal and the Supreme Court denied review of that order. Thus one year after the court of appeals decision neither the state nor the federal government has begun the study of alternatives required by law. The only study which has been done is the study of the middle segment which was published shortly after the court of appeals decision. The court held that such a study was not a full consideration of alternatives since it did not consider alternatives to the *entire* route, but only to one segment.

It is obvious that there are alternatives which would miss the parks entirely or at least greatly minimize the impact of the highway. For instance the Gruen Report, which considered eight alternatives to just the middle segment of the highway, recommended adoption of an alternative which, it concluded, would minimally encroach upon the parklands and "can be virtually hidden from both the residents in the city of Olmos Park and the uses of Olmos Basin Park." (Gruen Report 119)

Once alternatives to the entire route are considered, we believe that even better alternatives can be found. At any rate, there simply is no question but that there exists alternatives which would comply with the law. Those opposing this highway have taken the position throughout that they are willing to discuss alternatives in an effort to break the impasse. The state has arrogantly refused even to discuss compromising its selected alignment.

It is clear that if the pending legislation passes, even the alternatives to the middle segment will be scrapped and Texas will proceed, in violation of the important federal legislation, to construct this highway along its chosen alignment and devastate the Brackenridge-Olmos Basin parkland. In the Gruen Report the authors concluded that in order to accomplish the best alternative "the various affected parties . . . must pull together in a bond of common interest." (Gruen Report p. 119.) Those opposing this highway have offered to do that. The state refused. The Congress should not condone their activities.[4]

6. GENERAL CONSIDERATIONS

We have set forth above why we believe it is inappropriate to overturn the decision of the court of appeals and permit Texas to construct this highway without compliance with federal law. We should also point out that if this legislation passes it will have ramifications far exceeding the San Antonio case. It might, for instance, overrule the decision in *La Raza Unida* v. *Volpe*, 337 F. Supp. 221 (N.D. Cal. 1971) in which a highway was enjoined for failure to comply with section 4(f) and the National Environmental Policy Act. There may be other court decisions which would also be affected by this legislation. In short, we believe it would create a giant loophole in the federal environmental safeguards.

The proponents of this legislation may argue that it is necessary to amend the Federal-Aid Highway Act to permit states to withdraw routes from the federal-aid system. We do not believe any such legislation is needed. Even if it were, it should only be enacted after hearings and consultation with DOT staff. And surely such legislation should not permit a state to withdraw a project *after* it has received federal aid and where the sole purpose is to avoid federal environmental protections.

Finally, if Congress establishes a precedent of intervening in individual highway disputes which are pending in the courts, we believe it unlikely that any state will attempt realistically to comply with federal environmental statutes.[5] They will proceed with the knowledge that if they are enjoined, they may turn to Congress for relief. If the precedent is established of exempting highways from federal legislation whenever that legislation appears effective in preventing the destruction of parklands or recreation areas by federal aid highways, then the effectiveness of statutes such as the National Environmental Policy Act and Section 4(f) will be destroyed.

FOOTNOTES

[1] See *Named Individual Members of the San Antonio Conservation Society* v. *Texas Highway Dept.* 446 F. 2d 1013 (5th Cir. 1971). A copy of the opinion is attached hereto. Also attached is a later order and concurring opinion of Judge Clark in which he expresses his agreement to part VII of the opinion. He had originally dissented from that part.

[2] The entire colloquy was as follows:

"Mr. YARBOROUGH. I want to give an example of what happened in my own state, and this has been a matter of controversy for 5 years. Brackenridge Park is located along the San Antonio River in San Antonio. It was set out by a veteran of the War Between the States, and comprises 323 acres in the city of San Antonio . . . . It was the first great park in Texas. Texas has no State or National park like it.

* * * * *

"Now a superhighway is projected to go through it from the north. This is a natural park along the river, and there is not enough open land left over for another park site. Yet, they want to put the highway right through the middle of the park. It has been fought for years. I have no doubt that the city council which has jurisdiction over this city park, is going to say the park has no historic significance. But do the Federal officials have authority to withhold the 90-percent Federal share for the highway?

"I want to know if the Federal authorities have a right to protect this park.

"Mr. RANDOLPH. Yes; they could withhold funds.

"Mr. YARBOROUGH. . . . If you run a highway through a long, slender park of 323 acres you do not have to pay any tax money for right-of-way. Thus the city council, hard

pressed for money, is seeking to run a highway right through the center of one of the best parks in the state.

"Mr. RANDOLPH. We are not going to allow that.

"Mr. YARBOROUGH. This bill will not permit that?

"Mr. RANDOLPH. The Senator is correct." 114 *Cong. Rec.* 24036–37 (1968).

[3] Once the Secretary reached a decision on the middle segment the state would have to concur or not only be ineligible for federal aid for the middle segment but also refund the amounts for the end segments.

[4] The state may argue that since it had already begun construction at the time the court of appeals issued its order, it would be a waste of public monies and a great inconvenience for it to abandon that construction in its chosen alignment. This contention was answered forcefully by the court of appeals in footnote 29 in which it said "we would point out to the State that it was neither this Court nor the Supreme Court, but rather the defendants, who made the decision to commit large sums of public money to a highly controversial project, the legality of which was still in question and over which an appeal was still pending. Finally, we now know from the *Overton Park* case that courts should not shrink from halting construction of projects such as the North Expressway which are being erected in clear violation of the law."

[5] The inappropriateness of this type of legislation is demonstrated vividly by the controversy over the District of Columbia highway legislation and the Three Sister's Bridge dispute.

Mr. NELSON. Mr. President, does the Senator from New York intend to ask for the yeas and nays?

Mr. BUCKLEY. We have not requested the yeas and nays. The Senator from New York does not know if he will request them. If the Senator from Wisconsin would like to request them that is his decision.

Mr. NELSON. If there is no objection on the part of the Senator from New York, I request the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that we have 30 minutes of additional time, to be equally divided between both sides.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, reserving the right to object, will the Senator yield me 30 seconds to file a report?

The PRESIDING OFFICER. Is there objection? If there be no objection to the additional 30 minutes that have been requested——

Mr. BENTSEN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The question is on the amendment. The yeas and nays have been ordered. There is no other time remaining for any other business of the Senate except on the amendment, the yeas and nays having been ordered.

Mr. BUCKLEY. Mr. President, I ask unanimous consent——

Mr. RANDOLPH. Mr. President, I know——

The PRESIDING OFFICER. There is no time.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. RANDOLPH. Mr. President, I know of the intense feeling of my colleague from Texas in reference to this matter. I know of the feeling expressed by the Members who have a different viewpoint. I am going to ask that unanimous consent be given for an additional 10 minutes, 5 minutes to a side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I be allowed 30 seconds to file a report.

Mr. RANDOLPH. I yield to the Senator from Missouri.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE A REPORT ON S. 2318 BY MIDNIGHT THURSDAY, SEPTEMBER 14, 1972

Mr. EAGLETON. Mr. President, the Committee on Labor and Public Welfare has ordered reported S. 2318, the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972.

I ask unanimous consent to report the bill S. 2318 and request permission to file the report by midnight Thursday, September 14, 1972.

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

FEDERAL-AID HIGHWAY ACT OF 1972

The Senate continued with the consideration of the bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself such time as I may require.

I wish to direct attention to the comment just made by my able friend from Wisconsin. I recall the colloquy with Senator Yarborough. I want to make the very emphatic statement at this point that here we are not involved in a park as such. It is a flood plain situation. It is not a park or the cutting up of park areas that is involved.

Mr. NELSON. No parkland at all is involved?

Mr. RANDOLPH. I do not say there was not some parkland, but I said it was not a park situation such as it was at the time it was discussed with Senator Yarborough.

I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I yield myself 3 minutes.

The junior Senator from Texas spoke with very great eloquence, and I wholeheartedly subscribe to his sentiments with respect to the right of a community to make its own decisions, but I point out that whenever a community reaches out for Federal funds, it becomes subject to Federal regulations.

I have total sympathy for the people of San Antonio wanting to determine their own destiny, but we are involved here in a legislative attempt to circumvent Fifth Circuit Court decision involved, because of the requirements of NEPA.

I am trying to find out, and certainly the junior Senator from Texas did not point out, why the situation in San Antonio is distinguishable from any other situation throughout the country where we have strips of highway and cloverleafs going through every city in the United States with Federal funds involved. Most of those projects probably were on the drawing board before the NEPA legislation was enacted. Yet decision after decision affected by NEPA legislation covers such projects, whether they be channelization or dams or highways.

I am concerned, because of the emotional appeal of the case of the two Senators from Texas, that we will have in fact a legislative situation and an exception, and that if we do so, every other place that is inconvenienced will merely repay the moneys for the Federal project while applying for more money for a new project. So it is not correct to say that it is being financed by the local government.

Mr. BENTSEN. Mr. President, I shall be glad to answer the comments of the Senator from New York. I understand his sincerity and his concern and that of the Senator from Wisconsin. The uniqueness of this project is the fact that all of the right-of-way was acquired and all of the people were relocated with State funds prior to the enactment of the law. The State of Texas is one of the few States that uses State funds—non-Federal funds—for the acquisition of the right-of-way. That was done in this particular instance.

The Senator from Wisconsin quoted from comments from the CONGRESSIONAL RECORD which, if I remember them correctly, stated that this was a 323-acre-long park with a freeway going through the center of it. That is an incorrect statement of the fact. I have a photograph of the park, and where this particular freeway crosses the corner of it. It intrudes on 9 acres only. As I said before, 4 acres of it were used for the golf course and the other 5 acres that were used were already separated by the golf course. If we have done anything, we have inconvenienced some golfers, but for 3 years they have played on new holes that were put there. That is accomplished.

Let us go to the Overton Park case which was referred to by the Senator from Wisconsin. The Overton case involves Interstate 40.

The PRESIDING OFFICER. The 3 minutes of the Senator from New York have expired.

Mr. BUCKLEY. I wonder if the Senator can proceed on his own time.

The PRESIDING OFFICER. The Senator from Texas has 2 minutes.

Mr. BENTSEN. I have intruded on the Senator's time. Does he want me to yield him some time?

Mr. BUCKLEY. Would the Senator

mind proceeding on his own time? We are interested in having for the RECORD how this in any way supports NEPA.

Mr. BENTSEN. The other case is the Arlington case, which affects Route 66—also an interstate.

Then we get to the LaRaza case in California. That is a situation where it was proposed to put a road through that particular area and the locality objected and it was withdrawn.

So these are the kinds of distinctions we run into in this situation.

Mr. BUCKLEY. Mr. President, I wonder if someone could ask the chairman of the committee if he could come on the floor, because I want to ask him a few questions on certain aspects of this matter.

I yield myself 2 minutes.

I would like to pose a question to the chairman of the committee. I know the chairman of the committee is desirous of protecting our environmental laws. Does he believe the situation in San Antonio is distinguishable from any other situation that might be brought before the Senate as it affects compliance with the NEPA legislation?

Mr. RANDOLPH. Mr. President, I appreciate the question of the Senator from New York. Had I not felt so, I would not have supported the proposal of our colleague from Texas in the committee. I gave, as did the Senator from New York and other members of the committee, very careful attention to this subject. I appreciate what the Senator has said. The chairman of the committee is interested in preserving the environmental protections—in fact, strengthening the quality of life. I feel that we in no way do violence to the environmental program of this country in reference to the project which is incorporated in this legislation, which was brought to our attention, and which has been discussed thoroughly by the Senator from Texas (Mr. BENTSEN).

Mr. BUCKLEY. Would the distinguished chairman oppose any proposal for future legislation in a situation which involved the public works fund, whether for highways or for any other kind of projects, where the local community decided to reimburse the Federal Government rather than comply?

The PRESIDING OFFICER (Mr. MONTOYA). The time of the Senator from New York has expired. The Senator from West Virginia has 1 minute remaining.

Mr. RANDOLPH. Did the Senator complete his question?

Mr. BUCKLEY. Would it be the position of the distinguished chairman that he would oppose any attempt to avoid NEPA by a reimbursement of the Federal Government, for whatever reason which might be advanced at the local level?

Mr. RANDOLPH. Again I say to the able Senator from New York, I hope we would not have such a situation that has arisen. I would hope we could avoid it. But the Senator from West Virginia would make no promise as to the consideration of a future item. He would give to it when it arose the same consideration as he gave this project, as would the Senator from New York.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Mr. President, it seems to me that this matter can be disposed of with a voice vote, without a rollcall. Would it be in order to ask unanimous consent to vacate the order for the yeas and nays?

The PRESIDING OFFICER. Yes, that can be done.

Mr. TOWER. I ask unanimous consent that the order for the yeas and nays on the amendment be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. BUCKLEY. Mr. President, reserving the right to object without necessarily objecting, I believe I will need to object unless the Senator from Wisconsin (Mr. NELSON), who asked for the yeas and nays, is on hand to make that decision.

The PRESIDING OFFICER. Is there objection?

Mr. RIBICOFF. Mr. President, on behalf of the Senator from Wisconsin, unless he returns to the floor, I object.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my suggestion.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the request of the Senator from Texas?

Mr. NELSON. What is the unanimous consent request?

The PRESIDING OFFICER. To do away with the yeas and nays and have a voice vote on the amendment.

Mr. NELSON. I object.

The PRESIDING OFFICER (Mr. MONTOYA). Objection is heard. The question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I also announce that the Senator from California (Mr. TUNNEY) is absent because of illness.

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

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senators from Maryland (Mr. BEALL and Mr. MATHIAS), the Senators from Delaware (Mr. BOGGS and Mr. ROTH), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Tennessee (Mr. BAKER) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting, the Senator from Tennessee would vote "yea" and the Senator from South Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. MATHIAS) would each vote "yea."

The result was announced—yeas 24, nays 49, as follows:

[No. 425 Leg.]

YEAS—24

Bayh	Eagleton	Packwood
Bellmon	Hart	Pell
Brock	Hughes	Proxmire
Brooke	Javits	Ribicoff
Buckley	Metcalf	Schweiker
Case	Mondale	Spong
Church	Muskie	Stevenson
Cranston	Nelson	Williams

NAYS—49

Aiken	Fannin	Montoya
Allen	Fong	Moss
Bentsen	Gambrell	Pearson
Bible	Gurney	Percy
Burdick	Hansen	Randolph
Byrd, Harry F., Jr.	Hartke	Saxbe
	Hollings	Scott
Byrd, Robert C.	Hruska	Smith
Cannon	Humphrey	Stafford
Cook	Inouye	Stennis
Cooper	Jackson	Stevens
Cotton	Jordan, N.C.	Symington
Curtis	Jordan, Idaho	Taft
Dole	Long	Talmadge
Dominick	Magnuson	Tower
Eastland	McClellan	Weicker
Ervin	Miller	

NOT VOTING—27

Allott	Goldwater	McGovern
Anderson	Gravel	McIntyre
Baker	Griffin	Mundt
Beall	Harris	Pastore
Bennett	Hatfield	Roth
Boggs	Kennedy	Sparkman
Chiles	Mansfield	Thurmond
Edwards	Mathias	Tunney
Fulbright	McGee	Young

So Mr. BUCKLEY's amendment was rejected.

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

Mr. TOWER. I move to lay that motion on the table.

The motion was agreed to.

Mr. BIBLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 62, beginning with line 12, strike out through line 12 on page 63, and insert in lieu thereof the following:

RAILROAD RELOCATION DEMONSTRATIONS

SEC. 148. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) Federal grants or payments for the purpose of this section shall cover 70 per centum of the costs involved.

(c) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(d) There is authorized to be appropriated not to exceed $1,000,000 in the case of Lincoln, Nebraska, and $1,400,000 in the case of Elko, Nevada, from the Highway Trust Fund, and not to exceed $2,000,000 in the case of Lincoln, Nebraska, and $2,800,000 in the case of Elko, Nevada, from money in the Treasury not otherwise appropriated, for carrying out the provisions of this section.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Nevada yield?

Mr. BIBLE. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. May we have order, Mr. President, please?

The PRESIDING OFFICER (Mr. MONTOYA). Will all Senators please take their seats so that we may expedite the business of the Senate.

The Senator from West Virginia may proceed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Nevada (Mr. BIBLE) will retain his right to the floor.

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

Mr. ROBERT C. BYRD. Mr. President, it is the intention of the leadership to remain in session today as long as Senators have amendments which they wish to call up to the pending business, the Federal-aid highway bill.

For the convenience of all Senators interested in this bill, I take the floor at this time to inquire as to how many such amendments there are which will be offered. My understanding is that the distinguished Senator from Kentucky (Mr. COOPER) has another amendment. Do I understand correctly?

Mr. COOPER. I will offer the amendment so that I can talk about it, but I do not intend to ask for a vote at this time.

Mr. ROBERT C. BYRD. Very well. Are there any other amendments? My understanding is that the yeas and nays will not be asked for by the distinguished Senator from Nevada (Mr. BIBLE) on the pending amendment.

Mr. BIBLE. Mr. President, I have no such intention. I have cleared this with both the chairman of the committee and the ranking minority member, and I do not think we will have any problems with the amendment.

Mr. ROBERT C. BYRD. Mr. President, we have just heard from the distinguished Senator from Kentucky (Mr. COOPER) that he will not ask for the yeas and nays on his amendment.

Mr. COOPER. It could be offered next week. Perhaps, after I have discussed it, I will ask for the yeas and nays. I believe I would rather just present my views now.

Mr. ROBERT C. BYRD. Mr. President, there is no indication that any additional amendments will be offered today on the bill which would require yeas and nays.

Therefore, there will be no more yea and nay votes today.

It will be the intention of the leadership, once all amendments that have been mentioned up to now are disposed of, to set the bill aside and move to take up the land use bill, but with no action thereon—just taking it up and establishing some kind of status for it, probably for consideration as a second track item at some point later on.

Thus, it will be well if the Senator from Nevada will allow me to proceed for another 30 seconds——

Mr. BIBLE. I am happy to yield, but will this be on my time or the Senator's time?

Mr. ROBERT C. BYRD. The Senator has been very patient.

Senators should be reminded that a vote will occur on the motion to invoke cloture on Senate Joint Resolution 241 tomorrow morning at about 10 or 15 minutes after 10 a.m.

Mr. President, I ask unanimous consent that the time I have just consumed not be charged against either side.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

Mr. NELSON. Mr. President, will the Senator from Nevada yield for a question?

Mr. BIBLE. I yield for that purpose.

Mr. NELSON. May I ask the distinguished Senator from West Virginia, did I understand correctly that there would be no vote on final passage on the pending legislation tonight?

Mr. ROBERT C. BYRD. Not tonight. There will be no more rollcall votes tonight.

Mr. NELSON. I thank the Senator very much.

Mr. BIBLE. Mr. President, the amendment which has just been stated is presented on behalf of myself and my distinguished colleague, Mr. CANNON.

Section 148 of the committee bill authorizes the Secretary of Transportation to enter into such arrangements as may be necessary to carry out a demonstration project in Lincoln, Nebr., for the relocation of railroad lines from the central area of that city and thereby remove serious hazards to highway traffic and to improve the safety of highway travel.

Our amendment broadens section 148 to authorize such a demonstration project for the city of Elko, Nev., as well.

Elko, Nev., had its beginning as a railhead for northeastern Nevada, connecting the booming mining industry with the commercial market of the West.

The Central Pacific Railroad built through Elko in 1869 rushing to meet the Union Pacific Railroad at famous Promontory Point, Utah, to complete the first transcontinental railroad in the United States.

Elko is one of the many Western cities which owes its existence to the railroads. In early days, the city grew and prospered due to the commercial enhancement of the railroad influence and the business and residential community was centered on the railroad.

The railroad also in its early days survived on the small Western towns along its route and depended upon the commercial and business community to provide the food and housing of its patrons.

However, times have now changed and the railroads and the communities find themselves less dependent directly on one another and the location of the railroad tracks and the numerous grade crossings are a detriment to both.

Plans to correct this problem must be developed in order for both to prosper.

Elko is divided by two operating railroads—the Southern Pacific Co. and the Western Pacific Railroad.

These two railroads combined operate some 40 trains daily directly through the heart of the community.

The downtown business district is suffering and deteriorating because of the direct adverse influence of the railroads. Residences have 16,000 horsepower diesel engines in their front yards.

The general public is continually annoyed and harassed by the hazards of 17 grade crossings in the city streets.

As in the case of the Nebraska project, this proposed demonstration project would show how the two separate railroad barriers can be consolidated into a single corridor. This will minimize the disruptive effects of rail operations on the economic and social life of the community, and which will also improve the efficiency of rail operations.

The project will demonstrate to other communities throughout the West how problems such as Elko's should be solved.

I have been advised by the Department of Highways of the State of Nevada that they support the efforts of the city of Elko to develop a demonstration project for the removal of the railroads in downtown Elko. The department feels the city's proposals for the project are warranted and feasible; that the plan they have prepared is well done and concise, and should be supported by the Department of Transportation.

As in the case of the Lincoln, Nebr. project, Federal grants and payments for the purpose of the Elko project would cover 70 percent of the costs involved.

Our amendment authorizes appropriations not to exceed $1,400,000 for the project from the highway trust fund, and not to exceed $2,800,000 from money in the Treasury not otherwise appropriated. A total of $4,200,000.

I submit, Mr. President, that this modest sum will be well spent on the Elko demonstration project. The project will pay national dividends in demonstrating the best means for the relocation of railroad hazards from our central cities.

I urge that the amendment be accepted.

Now, Mr. President, I yield 5 minutes to my very distinguished colleague (Mr. CANNON).

The PRESIDING OFFICER. The Senator from Nevada (Mr. CANNON) is recognized for 5 minutes.

Mr. CANNON. Mr. President, I thank my colleague for yielding to me.

Mr. President, I rise in support of the Bible-Cannon substitute amendment for section 148 of the bill now under consideration. Our amendment is a simple one which recognizes the urgent need for relocation of railroad lines in specific instances where intolerable conditions exist.

Such is the case in Elko, Nev., where the railroad literally divides the community in two and serves as a wall within the community that has stifled progress and worked great hardships on the community.

Elko is unique in that it has taken the initiative and made substantial expenditures of private funds and public enterprise in conceiving a plan. It would relocate a small portion of the railroad. This plan has the full support of the community and the State of Nevada. Our amendment recognizes that a similar demonstration project was approved for Greenville, S.C. and section 148(a) would authorize such a project for the central part of the United States at Lincoln, Nebr. Our amendment would simply establish a community in the West where this program could be demonstrated and I urge its approval.

Mr. BIBLE. Mr. President, I have previously discussed this amendment with the chairman of the committee. I have also discussed it with the ranking member of the committee, the distinguished Senator from Kentucky (Mr. COOPER). I hope the amendment will be accepted.

Mr. BENTSEN. Mr. President, acting for the chairman of the committee, the Senator from Texas finds this to be most meritorious amendment and in keeping with the kind of interest that the distinguished Senators from Nevada (Mr. CANNON and Mr. BIBLE) have shown support for, which will be in the long-term interests of the country.

Acting for the chairman of the committee, I now yield to the distinguished Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, this would be rather expensive if extended throughout the country. However, the committee gave this problem consideration, with particular respect to Lincoln, Neb. I am very happy to join with the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Texas (Mr. BENTSEN) in supporting the amendment offered by the Senators from Nevada (Mr. BIBLE and Mr. CANNON).

Mr. BIBLE. Mr. President, I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER (Mr. HOLLINGS). All time has been yielded back. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. COOPER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 43, beginning on line 20, strike out all through line 17 on page 51.

Mr. COOPER. Mr. President, I said a few moments ago, I would offer this amendment, but would not ask for a rollcall vote. If time were available, I would ask for a rollcall vote. Or if the matter could be postponed to next week so that there would be an opportunity to explain and debate it, I would ask for a rollcall vote.

I doubt very much, Mr. President, that we will be able to do this. However, I wanted to offer the amendment at this time to at least place in the RECORD the material, so that something will be available to the conferees when the House and Senate conferees meet.

I believe the section that my amendment would strike is very important. It is important in the sense that its effect and impact upon the Federal-aid highway program will be great, and, I believe, unfortunate.

This section is called "Alternative Federal-Aid Highway Procedures." It has the strong support of the chairman of our committee, the Senator from West Virginia (Mr. RANDOLPH), who, together with the able members of the staff, had a great deal to do with developing the section. It is a long section, covering several pages.

Essentially, this section would accomplish two objectives:

First, it would provide that with respect to highway programs—particularly the primary system of highways—the State, after having been certified by the Secretary of Transportation as being competent to perform its duties, would be practically free from supervision by the Department of Transportation.

Mr. President, that would mean that the Department of Transportation would no longer supervise the initiation or the inspection of projects, to assure that each project was meeting all standards. The Department, instead, would rely upon the Secretary's prior certification. My objection is that the highway program, though with some delays, has been rather outstanding in the quality of construction and in its freedom from graft and corruption. And I think it is a forward-going program.

I feel that it may be a backward step to practically turn the construction of our primary system over to a State and limit the Department of Transportation's ability to supervise the construction of these roads, or to intervene until some audit after they have already been constructed.

Mr. President, a further provision in this section, to which I object, is the attempt to deny to the executive branch the authority to withhold funds. I know that is a subject of great controversy. We have voted in the Senate by an overwhelming majority that the Executive should not be allowed to withhold highway funds that have already been authorized and apportioned to the States.

It has been argued many times that this is a constitutional question. I think it is. And I doubt very much if we can solve it.

For myself, while I do not agree that large sums of money should be held by the executive branch, I think in times of economic crises and financial difficulty the Executive ought to have the power to withhold funds in order to support the economy of the country as a whole.

With regard to this particular program, I supported President Johnson when he withheld funds. And I have supported President Nixon when he withheld funds. If a President were required to spend all of the money that Congress authorizes and appropriates, we would be in a worse fiscal situation than we are.

The Department of Transportation opposes this section of the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire letter written by Secretary Volpe to the chairman of our committee, in which he outlines all of the objections to the bill and gives a great deal of attention to this section called "Alternative Federal-aid Highway Procedures. I also ask unanimous consent to have printed in the RECORD that portion of my own supplemental views which indicates the reasons why I opposed this section when the committee was making the final draft of the bill.

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

AGENCY VIEWS

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 18, 1972.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will follow up our conversation today regarding the 1972 Federal-Air Highway bill ordered reported by your Committee on August 17. During your deliberations on this bill, I deeply appreciate the opportunity that you have provided the Department of Transportation to make our views known to the Committee. Now that you have completed deliberations and are preparing to report your bill to the Senate, I would like to provide you with my assessment of the bill.

The Committee bill contains several forward looking and progressive features. For the first time, your proposal would open the highway trust fund to the purchase of mass transit buses. While I would argue that the bill should go even further in broadening the use of the trust fund for rail transit, I do think that this provision represents a very important first step in providing State and local officials with additional flexibility in solving their urban transportation problems.

Also, the Committee bill would provide funds directly to Metropolitan Transporta-

tion Agencies. This recognizes the important role that local officials must have if the highway program is to be responsive to the needs of the local communities. Now for the first time the major urban centers of this nation will receive a direct source of Federal revenue, so sorely needed by them to undertake highway-related capital improvements.

With nearly 80 percent of the Interstate system now open to traffic, you have recognized the need to reduce the Interstate authorizations and provide flexibility to allow Interstate funds to be used for other urban transportation requirements where impasses exist.

Although these provisions of the bill are most progressive, there are still a number of serious reservations that I have on other provisions. The most serious of these are discussed below:

1. ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

The Committee bill would incorporate a new Chapter I–A in the current highway statutes. The stated purpose of this chapter is to provide State and local governments the maximum degree of flexibility while still insuring that highway projects are consistent with the social, environmental and economic objectives of the applicable Federal laws. It proposes to do this by establishing an alternative procedure whereby the DOT would certify and approve the *procedures* that a State adopts to implement its program. The Department then would be in the position of monitoring those procedures after the fact to insure compliance.

If adopted, this program would eliminate the ability of the Executive Branch to effectively establish program priorities and overall funding levels. This alone makes this Chapter unacceptable. Further, it would disrupt the cooperative Federal/State relationship that has existed for better than 50 years. And finally, from our reading of this provision, we are convinced that it would result in the proliferation of red tape and delays far in excess of anything that is now experienced. We feel very strongly that if the highway program is to stand as a prime example of a successful Federal/State cooperative venture, it is of the utmost importance that this chapter be deleted from the bill.

2. FUNDING PUBLIC TRANSPORTATION

While the step taken by the Committee of opening the Highway Trust Fund to highway related public transportation projects—including purchase of buses—is an important step toward broadening its use, this provision is still too restrictive. Although buses alone can help in many urban areas, in other areas there is the requirement for both bus and rail rapid transit to meet their critical transportation needs. I believe that it is most important that all modes providing urban passenger transportation be eligible for funding under this program—including the rail mode—if our nation's transportation problems are to be resolved.

3. BILLBOARD REMOVAL MORATORIUM

The latest Committee Print includes a provision which would allow signs providing "specific information in the interest of the traveling public" to remain in place until December 31, 1974, or until the State certifies that the information displayed "may reasonably be available to the motorist by some other method." The very broad language of this provision would result in a two-year moratorium on the removal of this visual blight from our nation's highways. The program would be seriously disrupted, if not brought to a complete standstill. This provision would halt the significant progress since January, 1971, which has seen the number of States in compliance increase from 14 to 49. It is essential that this provision be deleted if the commitment of the Congress, the Administration, and the 49 complying States is not to be negated.

4. 100 PERCENT FEDERAL FUNDING FOR BUSES

The Committee bill would continue the very sound practice of requiring States to financially participate with the Federal Government in highway projects. In most instances the Federal contributions would be 70 percent and the State share would be 30 percent. However, the Committee bill in the case of funding for buses, and in this one instance only, would have the Federal Government pay 100 percent of project costs. As currently drafted, the bill provides for 100 percent Federal financing of bus purchases out of the Highway Trust Fund. We object to this provision which favors one mode over another. It is our desire to provide State and local officials flexibility to solve their transportation problems, not to bias them in favor of one mode of transportation over another. We believe that the Federal share of the cost of bus purchases should be 70 percent.

5. CATEGORICAL GRANTS

One of this Administration's major objectives has been to reduce the number of categorical grant-in-aid programs. This bill would do just the reverse, and result in the proliferation of still more grant programs. In most instances, the purposes of these grant programs can be satisfied through the present highway programs. We do not favor establishing special purpose programs to satisfy objectives that can currently be met out of these existing programs.

6. FUNDING LEVEL

The overall funding level contained in this bill is far in excess of the level we recommend and well beyond the level which is fiscally responsible. Now, when we are finally reducing inflation, it is more important than ever to practice restraint in setting the funding levels on even our most important programs. The total funding level in this bill should be significantly reduced.

I would hope that before this bill is passed by the Senate, these views can be considered.

Sincerely,

JOHN VOLPE.

SUPPLEMENTAL VIEWS OF MR. COOPER

ALTERNATIVE PROCEDURES "CHAPTER 1–A"

Section 133 of the Committee bill proposes to add a new "Chapter 1–A" to Title 23, United States Code, providing an alternative Federal-aid highway procedure for all systems except the Interstate system, upon delegation by the Secretary to those States he determines to be competent. This provision represents a major departure, more fully discussed in the Committee report, and presents three issues. I opposed "Chapter 1–A" in Committee, and moved to strike the section. It is opposed by the Administration.

First, I consider that the Federal-aid highway program has proved itself over many years to be a singularly well-managed program, remarkably free of any charges of Federal incompetence, mismanagement, waste, or possibly corruption. It has assured high standards of construction, of safety, and adherence to environmental and equal employment standards. Given this acknowledged high level of performance and professionalism, which is also relied upon by the States, I believe we should take pains to maintain and build upon such a record of accomplishment. I prefer to approach with great caution any such fundamental change as delegating all procedures for the approval of programs and projects, except Interstate, to the State highway departments—granting the competence they have developed under the existing safeguards. While the Federal Highway Administration would retain the authority to audit and conduct "spot checks", I am concerned that difficulties and improper actions would only be exposed after the fact, instead of being maintained under continuous Federal supervision.

Second, it is argued that Federal "red tape" impedes highway construction and creates uncertainties and delays. I think it must be recognized that much of the so-called "red tape" arises from the increasing procedural complexity surrounding all projects, and every Federal-aid program, if not most other enterprises in recent years. Many of these requirements are imposed by other Acts of Congress, themselves necessary and desirable, such as the Uniform Relocation Assistance Act, the National Environmental Policy Act, the Equal Employment Opportunities Act, and others—which this alternative procedure could not avoid and in fact might make more difficult of properly insuring.

If enacted, I believe the States may find that the proposed alternative procedure will not reduce "red tape", for the comprehensive agreement which the State must carry out promises itself to impose formidable requirements upon State highway departments—assuring their performance under regulations issued by the Secretary of all the work they now do, and presumably much of that now being performed by the Federal Highway Administration.

The requirements for consideration of social, economic and environmental impacts in the planning and execution of highway projects, and for close coordination with other Federal programs, including statutory requirements recommended by our Committee, either would not be avoided by this alternative procedure—or if avoided, could result in undesired consequences. I consider that the proper remedy for unnecessary delays lies in improved administrative procedures within the present cooperative Federal-State relationship, and in more careful workmanship by the Congress within its various jurisdictions in designing statutory requirements, which too often have resulted in a confusing web of cross-checks and proliferating program requirements.

Third, the alternative procedure presents the issue of the ability of the Executive Branch to establish program priorities and maintain budgetary controls. It would do so by removing project approvals from the Federal Highway Administration, and by the specific language of new subsection 174(c). Chapter 1–A is strongly opposed by the Administration for this reason. And of course, the attempt to prohibit "highway cutbacks" and the administrative withholding of apportioned highway authorizations is the reason, in addition to the reduction of "red tape", stated by the majority in recommending the adoption of the provisions.

I point out that in any event the prohibition could apply only to those States to which the Secretary chose to delegate authority, and even in those States would not apply to the Interstate funding which is the largest part of the highway program. It therefore represents a half-measure, at most, and raises the possibility of different treatment among the States.

I also moved in Committee to strike the portion of new subsection 174(c) which purports to prohibit withholding. I do not know whether enactment of the section would clearly raise the Constitutional question between the executive and legislative branches, but my own position has been consistent. While I recognize that there may have been delays and postponements, I have maintained under both Administrations that the national economy and the national interest are more important than always maintaining highway construction at the level authorized by the Congress in some earlier year.

Mr. COOPER. Mr. President, I have offered the amendment in order to place in the RECORD the views of Secretary Volpe of the Department of Transportation, and my own views in opposing the amendment, with the hope that in the conference they will be stricken.

I now withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 60, between lines 20 and 21, add the following:

"(e) A route from Interstate Highway 380 from Waterloo, Iowa, via Dubuque, Iowa, to Interstate Highway 90 at Rockford, Illinois; and an extension of Interstate Highway 74 from the Davenport, Iowa-Moline, Illinois, area through Dubuque, Iowa, to Interstate 90 at La Crosse, Wisconsin.

Mr. MILLER. Mr. President, starting on page 59 of the bill is a section entitled "Feasibility Studies." The purpose of my amendment is to include the minimum routes in the feasibility studies to be carried out by the Bureau of Public Roads.

Mr. President, I must apologize to my highway commission for not bringing these routes to the attention of the Committee on Public Works. They did not know that the feasibility studies would be included in the report. However, they have long felt very strongly about these.

Dubuque, Iowa, is being linked under the feasibility studies both with La Crosse, Wis., and what is called the quad-city area. Dubuque, Iowa, is one metropolitan city that is not on the Interstate System.

I know from my own personal experience that the volume of traffic between the cities mentioned here is very heavy. As a matter of fact, La Crosse, Wis., is already tied in with the Twin Cities of Minnesota by an interstate highway, and one of the routes that have been named would tie it in with that.

Mr. President, I have discussed this with the distinguished chairman of the committee and with the staff, and I would hope that since this is merely a feasibility study that the amendment would be agreed upon.

Mr. BENTSEN. Mr. President, the Senator from Texas, acting for the chairman, has studied the amendment and finds it compatible with the tenor of the legislation and does no violence to it. We are pleased to accept the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MILLER. I yield back my time.

Mr. BENTSEN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. BENTSEN. Mr. President, the Senator from Texas proposes an amendment and sends it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 53, beginning line 1, strike out all through line 15 and insert in lieu thereof the following:

"HIGHLAND SCENIC HIGHWAY

"SEC. 136. (a) The Secretary of the Interior, in cooperation with the Secretary of Agriculture (acting through the Forest Service), is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob.

"(b) The route from Richwood, West Virginia, to U.S. 250 near Barton Knob, via West Virginia State Route 39 and the parkway authorized by subsection (a) of this section, shall be designated as the Highland Scenic Highway.

"(c) Such Secretaries are authorized to acquire rights-of-way, lands containing such rights-of-way, and interests in land, including scenic easements, necessary to carry out the purpose of a scenic highway.

"(d) Funds available for parkways shall be available for signs on Interstate highways, Appalachian Highways and other appropriate highways at natural points of access to such geographic area, indicating the direction and distance to the Highland Scenic Highway and to Richwood as 'Gateway to the Highland Scenic Highway.'

"(e) Funds available for parkways shall be available for upgrading that portion of West Virginia State route 39 designated as the Highland Scenic Highway to appropriate standards for a scenic and recreational highway, including the construction of vistas and other scenic improvements.

"(f) Upon construction of the Highland Scenic Highway as authorized by subsection (a) of this section, such road and all associated lands and rights-of-way shall be transferred to the Forest Service and managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

"(g) Any parkway authorized in the future to proceed southward in such area shall begin in the immediate vicinity of Richwood, West Virginia."

Mr. BENTSEN. Mr. President, this is a series of perfecting amendments to the bill and they do not change the purpose of the bill. I offer them at the request of the Senator from West Virginia (Mr. RANDOLPH). The committee recommends they be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the pending measure is again called up before the Senate next week the distinguished Senator from Connecticut (Mr. WEICKER) may be recognized to call up an amendment to this bill.

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

Mr. ROBERT C. BYRD. Mr. President, under the agreement previously entered, only two amendments in the first degree could be offered when action on the bill is resumed next week, but the Senator from Connecticut (Mr. WEICKER) misunderstood the request I was informed later. I think it only fair, therefore, that he be permitted to offer his amendment in view of the fact that he agreed to the unanimous consent request under a misunderstanding.

FEDERAL-AID HIGHWAY ACT OF 1972 TEMPORARILY LAID ASIDE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time the pending measure be laid aside.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9222. An act to correct deficiencies in the law relating to the crimes of counterfeiting and forgery, and

H.R. 10670. An act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit plan, and for other purposes.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 830, S. 632, with the understanding there will be no action thereon today.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment.

INTERIM AGREEMENT ON LIMITATION OF STRATEGIC OFFENSIVE WEAPONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour for debate on the motion to invoke cloture, under rule XXII, on Senate joint resolution 241 begin running tomorrow at 9 a.m.

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

ORDER FOR RECESS TO 8:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until tomorrow at 8:15 a.m.

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

ORDER FOR RECOGNITION OF SENATOR SPONG AND SENATOR BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the distinguished junior Senator from Virginia (Mr. SPONG) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Indiana (Mr. BAYH) for not to exceed 15 minutes.

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

ORDER FOR TIME LIMITATION ON S. 750, S. 33, H.R. 15883, AND H.R. 8389

Mr. ROBERT C. BYRD. Mr. President, having cleared the following requests with the distinguished Senator from Arkansas (Mr. McCLELLAN) and the distinguished Senator from Nebraska (Mr. HRUSKA), I ask unanimous consent that there be a time limitation of 1 hour on each of the following bills at such time as they are called up and made the pending business before the Senate: S. 750, S. 33, H.R. 15883, and H.R. 8389.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with respect to each of the bills I have just enumerated, there be a time limitation on any amendment in the first degree of 30 minutes, to be equally divided between the mover of such and the manager of the bill; that there be a time limitation on any amendment in the second degree, debatable motion, or appeal, of 20 minutes, to be equally divided between the mover of such and the manager of the bill, except in any instance in which the manager of the bill favors such, in which instance the time in opposition thereto be under the control of the distinguished majority leader or his designee.

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

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the agreement just entered into with respect to time on S. 750 be negated.

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

Mr. ROBERT C. BYRD. There is already a time limitation on that bill to become effective at such time as it is called up.

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 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.

FEDERAL ADVISORY COMMITTEE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4383.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. HOLLINGS) appointed Mr. MUSKIE, Mr. HUMPHREY, Mr. CHILES, Mr. METCALF, Mr. PERCY, Mr. ROTH, and Mr. BROCK conferees on the part of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8:15 a.m., following a recess. After the two leaders have been recognized under the standing order, the distinguished junior Senator from Virginia (Mr. SPONG) will be recognized for not to exceed 15 minutes, after which the distinguished junior Senator from Indiana (Mr. BAYH) will be recognized for not to exceed 15 minutes, after which the distinguished junior Senator from Oklahoma (Mr. BELLMON) will be recognized for not to exceed 15 minutes.

At no later than the hour of 9 o'clock a.m. the Senate will resume consideration of Senate Joint Resolution 241, the Interim Agreement on Offensive Missiles. In accordance with rule XXII, a cloture motion having been presented on yesterday, and in accordance with the order entered earlier, the 1 hour of debate under the rule will begin running at 9 a.m., and at 10 a.m. the Chair will ask the clerk to proceed with the establishment of a quorum.

Upon the establishment of a quorum, about 10:15 a.m. or 10:20 a.m., the clerk will call the roll on the motion to invoke cloture. That will be a yea-and-nay vote as required by the rule.

If cloture is not invoked the Senate will continue tomorrow with the debate on Senate Joint Resolution 241 and amendments thereto, if such are called up.

If a hiatus is reached, it being the desire of the Chair to put the question, I assume that the majority leader would propose that the Senate go to other business during the day tomorrow, for example, perhaps, the land use bill. In view of the fact that another cloture motion is waiting in the wings, it would then be voted on the following day, Friday. However, if cloture is invoked tomorrow, rule XXII will be applied fairly strictly, and the unfinished business will remain the unfinished business to the exclusion of all other business until it is disposed of. That would mean there would be several yea-and-nay votes on amendments tomorrow, I would suspect, and there is a fairly good chance that Senate Joint Resolution 241 would be disposed of tomorrow. If it is not disposed of in that event tomorrow, then it would spill over into Friday, and votes on amendments thereto would continue.

The cloture rule is like a bear trap, and once it is invoked, its claws never let up. Each Senator is, of course, restricted to 1 hour in all on the unfinished business, amendments or motions affecting the same.

So there will be yea-and-nay votes tomorrow in any event. There will be yea-and-nay votes Friday in any event.

Mr. President, I would almost bet my shirt that there will be a session this Saturday, and if there is a session, there will be yea-and-nay votes Saturday. All Senators will be notified in ample time, however, if there is a change in the wager I have just made.

RECESS UNTIL 8:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess until 8:15 a.m. tomorrow.

The motion was agreed; and at 6:31 p.m. the Senate recessed until tomorrow, Thursday, September 14, 1972, at 8:15 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, September 13, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He looked for a city which hath foundations, whose builder and maker is God.—Hebrews 11: 10.

Almighty God, our Father, from whom comes all good gifts and whose mercy attends us all our days, move within the hearts of these representatives of our people that they may realize anew the strength of Thy spirit and the life of Thy love. In all the duties of this day keep them ever mindful of Thy presence, eager to serve our country and ready to be of help to our fellow men.

Bless this Nation we love with all our hearts. Save her from violence and discord, from pride and prejudice, and from every evil way. Mold her citizens into a people united in purpose, seeking the good of all, and making righteousness and good will realities in our time.

To our President, our Speaker, our Members of Congress grant the spirit of wisdom that they may lead our country in the paths of peace, along the lanes of liberty to that kingdom which has foundations whose builder and maker Thou art.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.