By Mr. PASSMAN:

H.R. 16705. A bill making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes.

By Mr. PATMAN (for himself and Mr. BARRETT):

H.J. Res. 1301. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act; to the Committee on Banking and Currency.

By Mr. ABOUREZK:

H. Res. 1120. Resolution calling for the immediate suspension of American assistance to Uganda; to the Committee on Foreign Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

283. The SPEAKER presented a petition of the National Association of Regulatory Commissioners, Washington, D.C., relative to air quality standards for sulfur dioxide emissions, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE—*Monday, September 18, 1972*

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

PRAYER

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

Spirit of God, descend upon this place to illuminate Thy servants with spiritual power and wisdom beyond their own as they undertake the tasks of a new week. Spare them from feelings of discouragement, impotence, cynicism, or fear. May they fear only divine disapproval. May they have faith in what is true and good. Move them to greater deeds for strengthening the Nation's institutions, serving the people's needs, and improving the prospects for peace throughout the world. In these days of hard decision, awaken the people to a new and elevated patriotism and a refined sense of civic responsibility which blesses each person and serves the needs of all.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 15, 1972, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce, the Committee on Armed Services, the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs, and the Subcommittee on Internal Security of the Committee on the Judiciary may be authorized to meet during the session of the Senate today.

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

JUDGMENT IN FAVOR OF THE DELAWARE TRIBE AND THE ABSENTEE DELAWARE TRIBE OF INDIANS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1069, H.R. 14267.

The PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 14267. To provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission Docket No. 72, and for other purposes.

The PRESIDENT pro tempore. 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 Interior and Insular Affairs with amendments, on page 3, line 18, after the word "manner", strike out "99" and insert "90"; and, in line 20, after the word "and", strike out "1" and insert "10".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THE IRONY OF 1976

Mr. SCOTT. Mr. President, as I am always delighted to share news of my Pennsylvania constituents, however temporary they may be, I ask unanimous consent that an article published in the Philadelphia Inquirer be printed in the RECORD.

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

IT'S THE IRONY OF '76

Whether you're for or against him as a Presidential candidate, the modesty and good humor of Sen. George McGovern in acknowledging the undeniable popularity of his campaign stalwart, Sen. Edward Kennedy, have to be admired.

The McGovern wit sparkled at his Broad and Chestnut rally. After Sen. Kennedy had received the tremendous applause he invariably receives when introducing the Democratic Presidential nominee, Sen. McGovern wryly observed: "There's only one trouble with this arrangement. He's a very tough act to follow."

Then the South Dakotan told of an incident at Pittsburgh earlier in the day: "A woman practically knocked me down to shake Sen. Kennedy's hand. She said, 'Oh, Sen. Kennedy, we can hardly wait until 1976.' Then she saw me and said, 'Oh, Sen. McGovern, I'm sorry. But that's just the way we feel out here.' "

How many voters feel that way, not only in Pennsylvania but across the nation, is one of the great questions of this election. But surely it has occurred to Sen. McGovern, as his colleague from Massachusetts travels with him on the campaign circuit, drawing enthusiastic crowd response everywhere, that there can be no Presidential campaign for Sen. Kennedy in 1976 unless Sen. McGovern losses in 1972.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) is now recognized for not to exceed 15 minutes.

THE COST OF LIVING AND INFLATION

Mr. PROXMIRE. Mr. President, last week, in Portland, Maine, Senator McGOVERN made what I think is one of the most important speeches in the campaign on the cost of living and the inflation program and the remarkable and dramatic failure of the administration to stop inflation in spite of its control program.

Mr. President, the figures show that in the 4 years since President Nixon has been in office, the Consumer Price Index, the most widely accepted figure on inflation, has risen twice as rapidly as in the 8 years before President Nixon took office.

The GNP deflator which is, for most economists, a better indicator of inflation, has also risen more than twice as fast in the 4 years that President Nixon has been in office compared to the preceding 8 years.

The wholesale price index, which is the best indicator of what will happen in the future, and is the fairest way to measure the success or failure of the anti-inflation program, rose three times as fast in the 4 years that President Nixon has held office.

Mr. President, these statistics do not mean much to many people. What I am doing this morning is to indicate what this means when the housewife goes to the store.

In January 1969, when she went to the grocery store to buy a 1 pound can of sliced peaches, for example, it cost 20 cents for this can which I hold in my

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hand. Today when she goes to the store, it costs 26 cents, an increase of 30 percent.

A giant can of kidney beans, when she went to the store in January 1969, when President Nixon took office, cost only 15 cents. Today it costs 21 cents, a rise of 40 percent.

When she went to buy 1 pound of balogna, it cost 63 cents in January 1969—but today the cost is 89 cents, an increase of 41 percent—more than 10 percent per year since President Nixon took office.

On frankfurters, which is a staple on so many tables throughout America, the cost of 1 pound—and I hold 1 pound of frankfurters in my hand—was 69 cents in January 1969, but today the cost is $1.13, an increase of 63 percent.

Mr. President, I asked the staff of the Joint Economic Committee to be very careful and go to the same store to get the same prices. We took the January 1969 prices from advertisements in the newspapers at that time. We actually went to the store on Saturday last to make these purchases and these were the comparisons.

Mr. President, I realize that these are selective but they are demonstrable reasons why the housewife is very much upset. She is convinced the consumer is getting the worst of it.

While these statistics to which I have just referred really make good sense when we dramatize them in the kind of costs which the housewife has to pay, the question arises whether Senator McGovern would have a better program to cope with this than President Nixon. In my view, he would. In the speech that Senator McGovern gave when he spoke in Portland, Maine, on inflation, he outlined a program in which he would try to cope with the situation. He had five steps to offer in his program.

First, voluntary guidelines to restrain prices not just wages.

Second, that we should set profit guidelines.

Third, Senator McGovern pointed out that we should concentrate on those firms and unions—the big ones—which contribute most to inflation.

Fourth, to provide for a review board.

Fifth, after the present controls lapse next April, we should provide the President with power to reverse flagrant violations of the new guidelines.

Now, Mr. President, this program has been attacked by the administration as being weaker and softer and as being a voluntary program that will not work because, they say, voluntary programs have not worked before.

The key to the McGovern anti-inflation program—will it work or not, and is it enough to stop inflation—lies in how it will be administered. The program coud do the job, or it could be too weak.

Success or failure depends entirely on how it is to be administered. I think it will do the job the present program is not doing, because I think George McGovern recognizes what a President must do to make this work.

Mr. President, it has been a long, long time since any candidate nominated for the Presidency by a major political party was as free from obligations either to big business or big labor as George McGovern. If ever a President was free to move in and crack down on whatever group is the more responsible for inflation, it is George McGovern. At last we have a candidate who wears no man's collar.

Mr. President, the administration's reply to the McGovern program is that it will not work because voluntary programs have never worked. Well, the administration could not be more wrong. The only time a voluntary wage price program was tried it worked. And it worked brilliantly.

This kind of program was instituted in 1962 under John F. Kennedy. It stayed in effect during the first 2½ years of the Johnson administration. And what happened to prices? Price increases averaged less than 2 percent during this period. Mr. President, how would you like to have only a 2-percent inflation now? Inflation was less than half of what it has been under the Nixon administration.

How about those who charge that the only way prices were held down was with rising unemployment and idle plant capacity? How about it? During this period from 1962 to 1966 unemployment was steadily falling until it fell down to less than 4 percent, far below today's 5½ to 6 percent. We were enjoying steadily improving economic recovery. Our factory capacity was not operating at today's recession level of 78 percent. Instead it rose steadily up to 85 percent.

So voluntary controls worked. They worked with falling unemployment. They worked with rising prosperity that used more and more of our resources. They worked because President Kennedy and President Johnson were willing to bite the bullet, to crack down on steel and copper and aluminum and in other areas with the full and powerful force of that great office, the Presidency of the United States.

Since the Nixon administration has taken over, inflation has been far worse than it was when unemployment was lower.

Why? Any economics student who wrote that this could take place would be flunked. The economists say it cannot be done. They say higher unemployment means lower prices. Well, the economics professors are wrong. And they are wrong because they ignore the immense effect that the President of the United States can have on the economy. President Nixon announced promptly after he took office that there would be no guidelines, no presidential jawboning, no power plays to roll back unjustified price increases, or to stop inflationary-wage increase.

So what happened? The big business boys and the big labor boys got the signal. They can read, and they pushed up wages and prices.

Then about a year ago the President decided he would try to stop inflation with controls. His first action was right and it worked. He called for a mandatory, legal freeze on wages and prices for 3 months. That worked. Inflation stopped—for 3 months. Then came phase II.

Phase II has not worked. This is hard to believe but the facts are clear. Prices have actually risen faster since phase II—when the controls went into effect than they did before we had any controls and far faster than they did when we had a voluntary wage price guideline system of the kind that George McGovern is now advocating.

How could this be? How could prices rise faster—actually faster with controls than without controls?

Does this make any sense at all? Let me again repeat for the Record that the consumer price index and the gross national product indicators have all risen far more rapidly. Furthermore, most prices have risen more rapidly since the controls went into effect in November of last year than they did in the 6 months before when we had no controls at all, 6 months before the freeze.

Once again, Mr. President, it only makes sense when we consider the administration of the controls. No system is any better than its administration. And in this case the administration of price controls has been weak, indecisive and pathetically ineffective. Above all the price control system has been a failure because it has been conducted in secret. Until a few days ago the law passed by this Congress calling for regular hearings for price increases has been deliberately violated by the administration. For almost a full year not a single public hearing on a price increase was held. Not one. Virtually every application for a price increase was approved automatically. Almost none were rolled back.

Yesterday the Gallup poll reported that the American people want stronger price controls not weaker. Frankly some may interpret this as a disagreement with the McGovern so-called voluntary approach. I emphatically do not. I think the people are right. We need a stronger system of holding down prices. And I also think McGovern is right. His so-called voluntary system can be and I am convinced under McGovern would be tougher, stronger—more effective than the Nixon phase II system.

This all means President McGovern must crack down as Kennedy and Johnson cracked down. He must roll back price increases. He must stand up to any inflation action by business or labor with the power of the great office he would hold as President, and I am convinced that—as a man who wears no man's collar—as a man who is as independent of economic pressure groups as any candidate nominated by either major party in a long, long time, he would do exactly that.

Finally, Mr. President, Senator McGovern is asking for a power that neither President Kennedy nor President Johnson ever had. And this is why his program is really a far stronger proposal than they asked. McGovern is asking for a shotgun in the closet. As he put it in his Portland speech:

> We should provide the President with the power to reverse flagrant violations of the new guidelines.

Now there we have it. This exceptional legal power—greater than either Presidents Kennedy or Johnson had would mean that Senator McGovern could not

only call for price roll backs when big business or big labor got out of line, he could move in legally and stop their action.

He could not only plead and jawbone, and cajole and use the power of his office. He could act—legally—to reverse the price or wage increase.

For all these reasons, Mr. President, I think the prospects for reaching price stability as well as full employment are far better under President McGOVERN than under President Nixon. McGOVERN would mean a stronger, surer, swifter restraint against unjustified price inincreases. The McGovern election would mean that this pound of hot dogs would not rise 63 percent by a painful 43 cents as it did under President Nixon than this can of kidney beans would not go up 40 percent.

It would mean, furthermore, that these eyeglasses which I have in my hand that cost $30, 4 years ago, including the cost of consultation with the physician, would now cost $36.

The cost of painting a living room—and we get this from the Bureau of Labor statistics, and it is not something we dreamed up—is now 40 percent more than it was when President Nixon took office.

In my view, when we vote for GEORGE McGOVERN, it will be a vote to stop the Nixon type of inflation.

I think that the McGovern proposal, because it is voluntary, can be misunderstood and misinterpreted. However, in view of the fact that he has asked for the shotgun in the closet, the power for the President legally to roll back prices, means that he will be able to crack down on pressure groups and stop this Nixon inflation. Under these circumstances I think the McGovern proposal can be strong and effective.

Mr. President, I am now happy to yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I thank the Senator from Wisconsin for having enlightened us on the fact that bologna is inflated 37 percent nowadays. I would have thought it would have been more than that in view of the McGovern campaign and rhetoric generally. That is lower than I thought.

I am glad the Senator feels that his candidate wears no man's collar, although I would infer from that that his candidate is rather loose at the neck, or perhaps from the neck up.

The claim that inflation is the fault of the Nixon administration reminds me again of the ancient story of the man who murdered his father and mother and then threw himself on the mercy of the court on the ground that he was an orphan.

Inflation occurs and results directly from spending money for nonproductive programs; namely, Vietnam, which has cost at the rate of $30 billion a year.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CRANSTON. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the Senator from California, and I yield briefly to the Senator from Pennsylvania.

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

Vietnam has cost at the rate of $30 billion a year. It is now down to $6 billion a year. And the inflationary pressures have always come after the lag built up without reason. During this period of time the inflation is now being controlled and checked.

I would like to point out to the Senator from Wisconsin simply this, that the Senator from South Dakota (Mr. McGOVERN) voted for the economic controls in phase II. He also made the point that they were 2 or 3 years late. Having criticized the fact that the strict controls were not put into effect 2 or 3 years earlier, he now proposes to eliminate mandatory controls and have voluntary controls and let the economy run wild, adding a cost of up to $25 billion a year additional by having taxes on inflation.

He calls that a program. I call that baloney. And I do not call it 40-percent baloney. I would use the 1,000-percent multiplier and call it 1,000-percent inflation.

I thank the Senator for having brought out the fact that the Senator from South Dakota wears no man's collar. I consider it a loose-neck program.

Mr. PROXMIRE. Mr. President, let me respond briefly to the Senator from Pennsylvania by pointing out certain facts. One, the Senator from Pennsylvania did not and he could not refute the fact that the inflation record of the Nixon administration has been twice as bad during his 4 years in office as it was during the 8 preceding years; and, two, the war is still going on, the war President Nixon said he would end when he attacked the preceding administration. He has had 4 years to end the war, and he did not end it.

Furthermore, since the phase II program went into effect, the whole purpose of which is to stem inflation, the rise in prices has been almost as bad with respect to consumer prices and worse with respect to wholesale prices than it was during the preceding period before we had any inflation control program.

It seems to me the case is just overwhelming that this administration has failed and failed dismally to halt inflation. It has gotten worse, not better. What I have not mentioned and what the Senator from Pennsylvania did not mention is the fact that during this entire period unemployment has become almost twice as bad as when President Nixon took office and it is incredible an economic miracle in reverse that we have a combination of high inflation and severe unemployment at the same time.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, are we in the morning hour?

The PRESIDENT pro tempore. No. The Senator from California is recognized under the previous order for 12 minutes.

Mr. CRANSTON. Mr. President, I see they are building the inaugural platform once again on the Capitol steps. As I pass the workmen each day, I am reminded of Inaugural Day nearly 4 years ago; the day President Nixon began his term in office.

It was January 20, 1969. America was in the 95th month of the greatest period of sustained economic expansion in history. The previous month unemployment was charted at 3.3 percent—the lowest since the Korean war.

The man who stood on the platform had promised the American people—other things—to control inflation and stabilize the economy, without unfairly burdening any one segment of the economy and especially without increasing unemployment.

That seems like long ago, indeed. Since then the economy has become a roller coaster riding through still higher inflation, soaring prices, record high welfare costs and spiraling debt, then plummeting into the valleys of sagging industrial production, lower wages, a shrinking tax base, and rockbottom-low employment.

While wage earners and taxpayers went through the wringer, the President adopted a hands-off policy. Those first 2½ years of Nixonomics we noted these dubious distinctions:

Unemployment reached 6.1 percent nationally. In my home State of California it hit 7.7 percent, the highest since the great depression.

Interest rates reached their highest in 100 years. Interest on home mortgages hit 8.27 percent in 1970. Just 2 years earlier, a family buying a home borrowed at 6.83 percent.

Wholesale prices were leaping at an annual rate of 8.4 percent.

The Consumer Price Index was going up 7 percent a year.

The price of gold in the international market was climbing steadily, further eroding confidence in the dollar.

The second quarter balance of payments for 1971 was the worst in the Nation's history.

Twenty-seven percent of our Nation's industry lay idle in 1971.

In the fall of the year, the Nixon administration could look ahead to end of the year projections and see the first balance-of-trade deficit in this century.

In August 1971, with his economic policies totally discredited, the President flip-flopped—doing something he had sworn he would never do—and imposed a freeze on wages and prices. He also floated the dollar on the international market in an effort to rein in his runaway economy.

A year has passed since then. I think we all know who has profited and who has lost under the President's lopsided exercise of economic controls.

Under phase II, profits went up 20 percent in the first quarter of 1972, while real wages rose at the annual rate of only 3 percent. In July there was no increase in real weekly wages for workers.

Price controls have now been lifted from three-quarters of all retail stores, according to the AFL–CIO.

Twenty-one percent of all items on the Consumer Price Index are not subject to any controls, according to the Council of Economic Advisers.

Food prices increased 5.4 percent during the 6 months prior to controls. They

went up 7.4 percent in the 5 months that followed.

In the month of July alone, food prices—especially meat—increased another 0.9 percent. There is every sign they will go still higher. And what does the consumer get from the Nixon administration? He gets Secretary Butz and his Marie Antoinette-style condolences.

Housing costs, spurred by high-interest rates, have become a national scandal.

The "floated" dollar was coupled with an import surcharge that threatened to touch off a world trade war and damaged our trade relations with Japan and West Germany.

Windfall breaks given big business—with the intent of allowing benefits to "trickle down" to the public—has sent the national debt skyrocketing and has abetted evasion of price controls.

There are many, many more examples of economic injustice inherent in the President's policies. My mail from Californians includes endless accounts of Mr. Nixon's broken promises.

A constituent from Sherman Oaks writes that his health insurance has increased 25 percent. He was advised by the agency that the increase "has been filed with the proper regulatory authority."

Rentals in a Los Angeles apartment building were raised 30 to 40 percent. When I looked into it I was told by the Internal Revenue Service that the building "has correctly interpreted the stabilization regulations."

A Costa Mesa man advised me the price of a Federal Government publication has gone up 45 percent. Federal fees and services, I learned are exempt from controls.

A man in San Francisco was surprised to find his Blue Cross policy increased by 70 percent. I checked with the Price Commission only to find that Blue Cross is not a "prenotification" company and is not required to file with the Commission before setting a rate increase.

It may be that some form of controls or wage-price guidelines will be necessary for a while longer. But I don't know where it says controls or guidelines can't be fair. I think most Americans are willing to endure temporary restraints to end inflation as long as the burden is shared equally.

These are not the most disturbing letters I get from constituents. By far the most heartbreaking stories are those told by men and women out of work; forced out of their jobs in a misguided and wrongheaded attempt to balance the economy.

As I have noted, a month before Mr. Nixon's Inaugural Day, unemployment was at a 15-year low—3.3 percent, or about 2.8 million workers. This summer economists marked officiall unemployment at 5.9 percent, or more than 5.2 million workers—an increase of 85 percent.

And that is just the tip of the iceberg. The number of people working only part time for economic reasons jumped from 1.7 million in 1968 to almost 3.2 million this July. Workers on unemployment insurance nearly doubled. Several hundred thousand are forced to accept jobs far below their qualifications and potential. Still more have stopped looking for work, after months of fruitless search, and are no longer included in the official unemployment count.

Hundreds of American cities and towns are officially classified economic disaster areas.

But there is more than statistics here. There are whole communities depressed; families shattered, careers cut short and hopes obliterated.

In California there are aerospace engineers; men who built their lives upon service to our Nation in space and defense, who are now exhausting their unemployment insurance and are finding themselves driven to welfare—when that is available. There are 518,000 aerospace workers—100,000 in California alone—who have been added to the welfare rolls during the Nixon years. Their children are hungry, their pride is gone, and their families are collapsing.

Veterans who have risked their very lives and often lost limbs or been otherwise maimed in the Nation's service, are unable to find jobs upon returning to this great, generous Nation. There are 750,000 Vietnam-era veterans now on welfare rolls.

The staggering unemployment among blacks, Mexican Americans and youth is testimony to this administration's continued inability to deal fairly with the minorities.

What has the President done about the unemployment crisis?

He vetoed the 1970 comprehensive manpower bill.

He vetoed the poverty bill, with its child care title that would have freed welfare mothers for gainful employment.

He vetoed this year's Labor-HEW appropriation including $250 million for public service jobs.

In fact, the President has resisted every effort to stimulate jobs in the private sector.

He has gone beyond the mere power of the veto. Programs that would rebuild America have been authorized by Congress and signed into law, but a politically-hamstrung Office of Management and Budget has impounded the necessary operating funds.

Not only is the country cheated of needed programs, but the jobs that would be created and the sales that would be boosted are also under Mr. Nixon's political lock and key.

Mr. President, our country's economy is still in very serious trouble. This administration can play a good numbers game. It will try to cover the record with a few short months of mini-recovery. But the slogans and boosterism are not going to fool working people. Instead of inspiring confidence, this administration's chorus of patently untrue economic forecasts will only bury further the peoples' lost confidence in their Government.

The optimistic reports we are getting today only look good when compared to the disastrous statistics of the first 3½ years of President Nixon's policies—policies which cost the American economy $160 billion in lost productive output, $70 billion in lost Federal revenues, and over $100 billion in lost wages to American working men and women.

Even as the economy is taking the first few tenuous steps toward recovery, the administration once again threatens to reach for the fiscal and monetary brakes, and deliberately throw still more Americans out of work in order to "cool down" the machinery.

And so, after 3½ years of Nixonomics and "game plans", with the lives and fortunes of millions of Americans hanging in the balance, this is how the ledger reads:

Three and one-half years of the worst unemployment in a generation.

Three and one-half years of continued inflation.

Three and one-half years of more and more welfare, and more and more taxes to pay for it.

Three and one-half years of higher and higher prices.

Three and one-half years of lopsided "breaks" for big business and wealthy individuals while working people are driven from their homes and off their farms.

Three and one half years of broken promises.

Four more years of this, Mr. President? That is not what I want. I do not think it is what the American people want, either.

Let me say the people have a chance to answer this, and that is to elect GEORGE MCGOVERN.

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

Mr. CRANSTON. I yield.

Mr. PROXMIRE. I want to commend the Senator for an excellent speech, and for putting this in a different dimension. We not only know it is a fact that the cost of frankfurters and hamburgers and almost everything else one has to buy has greatly increased under this administration, but also, as has been well documented by the Senator from California, we have a recession level rate of unemployoment. A 5.5 percent rate of unemployment is a level of unemployment that would be intolerabe except as compared with the somewhat worse rate of unemployment suffered earlier in the Nixon administration.

As the Senator has said so well, it is only by comparison with the very poor record during the first 3 years of this administration that the last few months look good, but, as compared with previous standards, certainly as compared with the Kennedy administration or the Johnson administration, or what I think would be the record of the McGovern administration, it is poor. Senator McGOVERN says it is possible to have stable prices with a low level of unemployment. He is right. What we have to do is have a firmly administered anti-inflation program. That is exactly what needs to be done, and he is in a position to do it.

Mr. CRANSTON. I thank the Senator, and wish to say that his opening presentation was most effective. This is the very key point the Senator responded to. Only when one compares it with the record of the Nixon administration for the first 3 years——

The PRESIDENT pro tempore. The time of the Senator has expired.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to exceed 15 minutes, with a 3-minute limitation on statements therein, and that the Senator from California be recognized for 3 minutes.

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

THE COST OF LIVING AND INFLATION

Mr. CRANSTON. I thank the Senator from Wisconsin. We have made our case, and I am perfectly content at this point to yield the floor.

The PRESIDENT pro tempore. Is there further morning business?

Mr. SCOTT. Mr. President——

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

Mr. SCOTT. I yield.

Mr. COOPER. Mr. President, I would suggest that in the future the distinguished majority leader and the distinguished minority leader advise us, so that we will be on notice, that the first half-hour or 45 minutes, particularly when we meet at 9 or 8:15 in the morning, will be known as the campaign hour, and particularly the campaign hour for Senator GEORGE MCGOVERN.

It is not often that I comment on such a matter, but as I listened to the two speeches we have just heard, I found it impossible not to do so.

I have regard for the distinguished Senator from Wisconsin as head of the Joint Economic Committee, Senator PROXMIRE, but I suggest his comments on the economy would be much better accepted but for the absolutely partisan tone of his campaign speech in the Senate this morning. The Senator has a right to speak as he pleases, but I certainly would not classify it as a speech on the economy.

Let me say—and this is a brief comment I will make—I remember in 1963 the rate of unemployment was exactly what it is today, from 1962 through 1963, and we passed the kinds of bills the Senators have talked about as necessary, and 1 year later the unemployment rate was just about the same. The war came along and, of course, because of the war machine, unemployment was ended. Why? Because of the vast number of men drafted in the Armed Forces and because of the necessities of a war economy.

The Senator also referred to the number of people on welfare. I remember hearing, as we passed welfare bill after welfare bill, increasing the cost, doubling them, tripling them, quadrupling them, the cry was from those who were speaking on the other side as well as this side, that it was a compassionate thing to do, that there were people still below the level of poverty, and should receive aid. Now, a few years later, in a campaign they are talking about the very bills they initiated and supported and against compassion.

I just want to say that if political speeches are to be made here, let us have real campaign speeches and hear from this side as well. The statements of the Senators are patently incorrect, and they ought to be answered.

Mr. SCOTT. Mr. President, will the Senator yield me his 3 minutes since he used my 3 minutes?

Mr. COOPER. Yes.

Mr. SCOTT. Mr. President, I know the Senator from Wisconsin is sincere, but I want to get a correction in here first. I said earlier the Senator from South Dakota had voted for the economic controls. As a matter of fact, as usual, the Senator from South Dakota was absent. The vote was 86 to 4. The Senator from Wisconsin was one of the four voting against it. The Senator from South Dakota not only did not vote on this important matter of economic controls for the United States, on which he now speaks as an expert, but he offered no amendment, made no suggestions and, as far as I can find out, took no part in the debate.

The Senator has talked about a windfall. What is a windfall? A windfall, I suppose, is something one person gets under the tax laws which someone else thinks is more than he should have. But there is no windfall made available by the executive department. If there is any windfall from anyone, it comes from the tax laws, which the Senator from Wisconsin, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Pennsylvania, myself, voted for. So if there are windfalls, there is no windfall that we do not provide. If there are burdens on the taxpayers, there are no burdens on the taxpayers that we did not apply, and the Senator should not be here trying to imply that the administration somehow is giving benefits of the tax laws which have been established as the laws of this Union. That is, of course, merely campaign rhetoric, and nothing else, aside from being untrue.

Now to come here and say that they would do something about it makes one wonder why nothing was done about it by the critics at a time when they had an opportunity to vote, and if they tried to do something which was defeated, then it is the will of the Senate that nothing be done about it. That makes me think the laws are fair and that they have to be administered by the word of the law.

We have heard about unemployment and inflation and statements about them as if they were the facts, and I say this because someone might say, "Oh, I read it in the CONGRESSIONAL RECORD, and it must be so." Dear reader of the CONGRESSIONAL RECORD: Be warned. Much of it is not worth reading and a lot of it is wrong. If it is right, it is so only coincidentally. Make your own judgment, just as you do when you read and hear television reports and radio and newspapers.

The fact of the matter is that the real spendable income for the average worker did not increase at all between 1965 and 1968 because inflation offset wage hikes.

Since the introduction of the new economic policy——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCOTT. Will the Senator from Maryland yield me his 3 minutes?

Mr. MATHIAS. Mr. President, I yield my 3 minutes to the Senator from Pennsylvania.

Mr. SCOTT. Since the introduction of the new economic policy last August, which we voted for, all except four of us—and the Senator from South Dakota, as usual, was not here to vote—real earnings have risen at a rapid annual rate of four-tenths of 1 percent, and this has increased buying power—the real test and the real increase in wages. The Consumer Price Index has risen at an annual rate of only 2.91 during 11 months of phase I and II, continuing its declining trend since 1969. Inflation has been cut in half. Unemployment is dropping, and employment has increased sharply, spurred by rapid growth of output.

In July, the number of civilians employed was 2.4 million higher than a year ago. We are adding new jobs at the highest rate since 1955.

Yes, there have been jobs lost, over 2 million of them, in war-related industries and among the Armed Forces—if you call that a job. But in that same period of time, 4.5 million new jobs have been added, and the objective of this administration is, for the first time in modern times, to have full employment in peacetime, because the record of the previous administrations was that you could not have full employment without a war.

It should not take a war to make jobs. It is peace we want—peace with jobs and jobs with peace.

I now yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, may I be recognized in the morning hour?

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Let me say to the Senator from Kentucky that there is no man I admire more than he. No Senator is more objective nor less partisan, by and large, than the Senator from Kentucky. But I point out to him that nothing Senator CRANSTON or I said is demeaning of President Nixon, his character, or anything else. We said nothing demeaning of the President. He is a good man or a man of good character. I admire the President's character. I have said so many times, and say so this morning. This was not a personal attack upon the President in any sense.

Mr. President, the Senator from Kentucky asked, "Why we do not do this in the middle of the day?" I would love to do it in the middle of the day, if only I could. Look at the press gallery: There are two or three people there now. When we started, there was one. Look at the other galleries. Look at the floor of the Senate. I would love to come out here at 12 o'clock or 1 o'clock and make this kind of speech. I cannot do it, as the Senator very well knows.

The Senator said there was no one here to answer. Mr. President the most effective debater in the Republican Party is here to debate—the Senator from Pennsylvania (Mr. SCOTT). He was here every moment while I spoke, and he has

answered me not only once, but two or three times already.

Furthermore, I am afraid the Senator from Kentucky is mistaken in his facts. It was not the Vietnam war that ended the high level of unemployment. Every study shows that it began to come to an end in January 1961, and from that period on we had uninterrupted progress in unemployment dropping, in the economy expanding and improving right along, steadily. We had the longest period of uninterrupted prosperity we have had in this century from 1961 to 1970.

Furthermore, Mr. President, the argument made by the distinguished Senator from Pennsylvania that it is the end of the Vietnam war, or I should say the slowing down of the Vietnam war, that has caused the increased unemployment does not add up when you recognize our experience in the two previous wars. We can even be bipartisan in this. Both President Truman and President Eisenhower did a far better job. After World War II, we had 16 million people in the armed services, most of whom were immediately demobilized. But we had very little unemployment, under President Truman we held that down to a level of 4 percent or so.

After the Korean war, we had similar sudden transition from war to peace, with far less unemployment. Furthermore the war is not over. Americans are still dying; and while I think the President deserves credit for having withdrawn many of our forces and having cut down on our casualties, the fact is that we are still spending over $6 billion in Vietnam.

The PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. SCOTT. Mr. President, will the Senator from New Jersey yield me his 3 minutes?

Mr. CASE. I yield.

Mr. SCOTT. Mr. President, the Senator from Wisconsin has evidently forgotten 1961, the year that I referred to before, when we got involved in the Vietnam war during the administration of President Kennedy. Before that, unemployment was higher than it is today. I believe the figure was 5.7 percent. It was even higher than that at one point during the year. But unemployment in peacetime under the Kennedy administration was higher than unemployment today, while we are winding down a war.

Unemployment in wartime always falls, because we send people to war and we put them in defense industries. My point is, the objective is to have people not at war and working. It is peacetime employment which we ought to compare with peacetime employment, and wartime employment should be compared with wartime employment. It is just as simple as that.

I think most of this talk we are hearing is an attempt to have the average citizen forget who brought us into war, who waged the wars, and to take credit for the employment without somehow taking responsibility for the war. I do not think you can have it both ways.

Both parties supported that war in Congress. Both parties gave their unstinting support for many years, and then gradually various members dropped off in their support. But we cannot say that this country is worse off today because it is spending $24 billion less a year in Vietnam. We cannot say this country is worse off today when the casualties are down to one death a week, though one is too many, as against 250 or 300 a week. We cannot say this country is worse off today when the number of military personnel in Vietnam is down from 543,000 to 39,000, and headed for 27,000. We cannot say this country is worse off today when 83 million people are employed—more than at any other time in our history. We cannot say this country is worse off today when we are employing more people every month, at a better rate and a higher rate, than we have been doing since 1955.

No, the country is better off, and we ought to face it.

The PRESIDENT pro tempore. All time for the transaction of morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended 3 minutes.

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

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I want first to join with the Senator from Wisconsin (Mr. PROXMIRE) in stating my own admiration for the Senator from Kentucky and for the Senator from Pennsylvania. I concur wholeheartedly also with the remarks of the Senator from Wisconsin that we would much prefer to be doing this at some other time of the day, but this is the only time available to us. The Senator from Kentucky is personally familiar with the way the Senate is now operating. If you want time, you get 15 minutes at the beginning of the day and maybe you can get some at the end, but you never know when the day will come to an end under the present levels of Senate business, and all time in between, under the effective and wise leadership of the Senator from Montana, the Senator from West Virginia, and the Senator from Pennsylvania, is so tightly scheduled that there is no time to talk about anything except the measures before the Senate. Look at today's schedule. There is no other time for our "slipping in." I am sorry the Senator used that language, because we both abide by the Senate rules, and if I slipped in he slipped in this morning.

The Senator spoke of welfare. Let us read the record on welfare. Instead of 8.2 million Americans on welfare, as when President Nixon took office, we have nearly 14 million Americans receiving welfare assistance today, not because of changing rules, but primarily because so many more people who want to work cannot work, have been put out of work by President Nixon's policies, and have had to resort to welfare. The cost of the program has jumped from $9.4 billion a year, as it was when President Nixon entered office, to today's $20.9 billion.

Has this been because of increased take by the individuals on welfare? No, it has not. The individual welfare check is averaging only $9 per month more than it averaged in 1968. The answer to this plainly should be not more welfare but jobs, and that has proved rather difficult under the Nixon administration, not only because their economic policies put people out of jobs but also because the Nixon administration resists programs designed to create jobs.

I do not think the Senator from Pennsylvania or the Senator from Kentucky can challenge any one of the figures used by the Senator from Wisconsin or any one of the figures used by the Senator from California. If they can find any inaccuracy, I would be very interested in seeing in which figure they could find that inaccuracy.

The Senator from Pennsylvania said that the objective is full employment in peacetime under President Nixon. I totally agree. I know that the Senator from Pennsylvania is a man of peace. I know that we must have full employment in peacetime. I do not believe the capitalistic system requires war in order to thrive. If it did, we should change the system. But are we going to have peace under Nixon? There is no sign we will. So we will never have any opportunity to see about this while he is President.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Management of lands and resources," Bureau of Land Management, for the fiscal year 1973, had been apportioned on a basis which indicates a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON FEDERAL CONTRIBUTIONS—PERSONNEL AND ADMINISTRATION

A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on Federal Contributions—Personnel and Administration, for the fiscal year ended June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT ON FINAL DETERMINATION OF CLAIM OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination relating to Docket No. 22–J, the Northern Tonto Apache Tribe or group, each group and band thereof, ex rel., Harrington Turner; the Yavapai and the groups and bands thereof, ex rel., Calloway Bonnaha, Harry Jones, Fred Beauty, and Warren Gazzam; the Western Apache and each group and band thereof, ex rel., Clarence Wesley, Jess J. Stevens, Nelson Lupe, Sr., Harrington Turner and Ernest Cutter; the Yavapai-Apache Indian Community, the Fort McDowell Mohave-Apache Community, the San Carlos Apache Tribe of Arizona, the White Mountain Apache Tribe of the Fort Apache Indian Reservation, each on its own behalf, on behalf of the several bands and groups of each of them, respectively, and each on behalf of the Northern Tonto Apache Tribe or group, and each group and band thereof. Plaintiffs, v. the United States of America, Defendant (with accompanying

papers); to the Committee on Appropriations.

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on Federal Contributions Program Equipment and Facilities, for the quarter ended June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT OF EXPORT-IMPORT BANK OF THE UNITED STATES

A letter from the Government Affairs Officer, Export-Import Bank of the United States, transmitting, pursuant to law, a report of that Bank, for the fiscal year ended June 30, 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF AMTRAK

A letter from the Vice President of Public Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report of that Corporation, for the month of August, 1972 (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Operation of the Law Permitting Waiver of Erroneous Payments of Pay," dated September 15, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a secret report on military assistance and commitments in the Philippines (with an accompanying report); to the Committee on Government Operations.

REPORT ON THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying papers); to the Committee on the Judiciary.

REQUEST FOR WITHDRAWAL OF A PROSPECTUS

A letter from the Acting Administrator, General Services Administration, requesting the withdrawal of a prospectus on the Post Office and Courthouse in Springfield, Ill., submitted to the Congress on July 28, 1971; to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

A resolution adopted by the National Association of Regulatory Utility Commissioners, praying for the enactment of legislation relating to the environment; to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. Res. 296. Resolution to designate the Old Senate Office Building as the "Richard Brevard Russell Office Building" (Rept. No. 92-1161).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6575. An act to amend the Act entitled "An Act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma," approved October 31, 1967 (81 Stat. 337) (Rept. No. 92-1164).

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

S. 2401. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes (Rept. No. 92-1163), together with minority views.

By Mr. JACKSON (for Mr. Moss), from the Committee on Interior and Insular Affairs, with an amendment:

S. 630. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes (Rept. No. 92-1162).

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

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes (Rept. No. 92-1165);

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard (Rept. No. 92-1166);

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants (Rept. No. 92-1167);

S. Res. 178. A resolution to refer the bill (S. 2721) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1168);

S. Res. 357. A resolution to refer the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1169);

S. Res. 361. A resolution to refer the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1170);

S. Res. 366. An original resolution opposing the suspension of deportation of Jesus Maria Guereca-Morales and Donall Terrance Todd (Rept. No. 92-1171);

H.R. 14173. An act for the relief of Walter Edward Koenig (Rept. No. 92-1172); and

H.R. 15865. An act for the relief of Richard L. Krzyzanowski (Rept. No. 92-1173).

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

S. 180. A bill for the relief of Kuay Ten Chang (Kuay Hong Chang) (Rept. No. 92-1174).

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

S. 2518. A bill for the relief of Anna Kolbriasz (Rept. No. 92-1175).

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO HAVE 1 EXTRA DAY TO FILE ITS REPORT ON HIJACKING BILL

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Committee on Commerce be allowed one extra day to file its report on the so-called hijacking bill (S. 2280).

The distinguished Senator from Nebraska (Mr. HRUSKA) and I subscribe to that.

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

EXECUTIVE REPORTS OF COMMITTEES

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

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

Claude W. Brock, and sundry other officers, for promotion in the Coast Guard; and

Paul D. Bridges, and sundry other Coast Guard Reserve officers, to be permanent commissioned officers in the Regular Coast Guard.

By Mr. EASTLAND, from the Committee on the Judiciary.

Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States.

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. ANDERSON:

S. 3996. A bill to require States to disregard the amount of any increase in social security cash benefits in determining eligibility of social security beneficiaries for medicaid. Referred to the Committee on Finance.

By Mr. BOGGS:

S. 3997. A bill to provide for the mailing, free of postage, of certain periodical publications to members of the Armed Forces of the United States serving overseas. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE:

S. 3998. A bill for the relief of Mr. and Mrs. Luis R. de la Torre. Referred to the Committee on the Judiciary; and

S. 3999. A bill to remove the prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE:

S. 4000. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOGGS:

S. 3997. A bill to provide for the mailing, free of postage, of certain periodical publications to members of the Armed Forces of the United States serving overseas. Referred to the Committee on Post Office and Civil Service.

Mr. BOGGS. Mr. President, I am introducing a bill today to provide free mailing of hometown newspapers to servicemen stationed overseas.

As anyone who has been far from his family and friends knows, news from home takes on great significance. This

is especially true of young servicemen who are often away from home for the first time.

For servicemen who easily feel cut off from their hometown life for long periods of time, newspapers can help fill the void. They are a vital link with familiar names and places.

I believe we owe this small service to our servicemen. It would, I feel sure, boost their morale.

Under this legislation, newspaper publishers would be permitted to mail their publications to servicemen with overseas addresses free of charge. The expense incurred by the Postal Service as a result of providing this service would be borne by the Department of Defense.

Mr. President, I ask that the text of this short 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. 3997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3406. Mailing of periodical publications to members of Armed Forces of the United States in overseas areas

"(a) A copy of any publication published once each week or more frequently, and entitled to a periodical publication rate, may be mailed by the publisher of the publication to a member of the Armed Forces of the United States on active duty, at no cost to the sender—

"(1) if the publication is mailed to that member at an address of an Armed Forces post office in an overseas area; and

"(2) if a substantial portion of the news or information of the publication, as determined by the Postal Service, relates to the State, territory, or possession of which the member is a resident.

"(b) The Department of Defense shall transfer to the Postal Service as postal revenues, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service, for matter sent in the mails under authority of this section."

(b) The analysis of such chapter 34 is amended by adding at the end thereof the following new item:

"3406. Mailing of periodical publications to members of Armed Forces of the United States in overseas areas."

By Mr. INOUYE:

S. 3999. A bill to remove the prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, I would like to introduce a bill to amend the Federal Employees' Compensation Act—FECA. As the following background information explains, my proposed bill calls for the long-overdue removal of serious inequities in the current administration of the Federal Employees' Compensation Act.

Briefly, my bill seeks to remove the existing prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Under existing law, Federal employee compensation cannot be paid at the same time as any other type of remuneration from the United States, except pay for services actually performed and pensions for military service. An injured employee is permitted to elect between compensation and any other benefits payable for the same injury.

When an employee is entitled to both compensation and military retirement pay, the Office of Federal Employees' Compensation—OFEC—notifies the military agency that compensation is payable. The military agency then decides whether the retirement pay is subject to the dual payment prohibition. If so, the military agency then gives the employee the opportunity to elect between his retired pay and compensation.

In practice, the employee in the above situation invariably must choose between retired pay and compensation. Restated in other words, the theoretical exception for pay for services actually performed and pensions for military service is illusory in practice. The exception is misleading because a controlling court decision holds that military retired pay simply does not qualify as a "pension" for military service. Consequently, former military personnel receive their benefits earned by previous service—for example, retired pay, VA benefits, compensation—only so long as they work full time under civil service and remain healthy. As soon as such personnel are injured at work and begin receiving Federal employees' disability compensation, they forfeit their benefits due to prior service.

Existing legal practice compounds the original inequity, since retirement pay and other related benefits often are not halted immediately upon receipt of disability compensation. Thus, unwary individuals often discover that not only is there military retired pay unexpectedly terminated, but they are also burdened with a debt to the Government for an overpayment. This unexpected burden always falls hardest upon lower ranking retired enlisted men, who have relatively small retirement pay and low Government salaries.

Mr. President, several bills have been introduced in recent years to allow military retirees to receive both their retirement pay and compensation under the FECA at the same time. Several of the bills were introduced in the 92d Congress: H.R. 719, H.R. 2309, H.R. 53541, H.R. 9714, H.R. 9871, and H.R. 10096. Generally speaking, both the Department of Labor and the Comptroller General have favored such legislation.

Mr. President, since I think the above inequity in our law must be removed, I am now introducing this bill.

By Mr. MONDALE:

S. 4000. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

THE FARM PROPERTY ESTATE TAX VALUATION ACT

Mr. MONDALE. Mr. President, urban sprawl and the Federal estate tax are combining to force the involuntary sale of family farms.

The problem addressed by the bill which I introduce today arises where land presently in use for farming has a much higher value if employed for nonfarm use. For example, land worth $400 per acre for farming might be worth $10,000 per acre for location of high-rise apartments. Often this is the case where farm property is located on the outskirts of a metropolitan area, or in the path of a corridor connecting metropolitan areas.

Section 2031 of the Internal Revenue Code provides for inclusion in the gross estate, for Federal estate tax purposes, of all real property owned by a decedent. While Internal Revenue Service regulations do not speak specifically to this issue, IRS practice has been to value property for estate tax purposes at "fair market value"—its value on the open market—at its "highest and best use."

Under the doctrine of "highest and best use," the farmland would be valued for Federal estate tax purposes at the higher amount, even if the farm has been bequeathed to surviving family members who want to continue its operation. Payment of the increased estate tax would certainly cause hardship and might require the heirs to sell the farm

Section 6166 of the present law protects closely held family businesses, including farms, by permitting payment of estate tax over a 10-year period, so long as the business or farm remains within the decedent's immediate family. This is helpful, but it is not enough where farmland has been subjected to high valuation for alternate, nonfarm uses.

Retention of land for agricultural use, and preservation of the family farm, are in the vital interest of this Nation.

And yet, the present estate tax law throws the power and weight of the Federal Government into the balance to force the sale of family farms, and to convert farmlands to nonagricultural purposes.

A law which encourages farm families to leave the land—or requires them to suffer through lean years in order to pay an estate tax bill—is intolerable.

Therefore, the bill which I introduce today provides for valuation of farm property at farm value for estate tax purposes.

To avoid creating a tax shelter for those retaining farm property but later converting it to alternate use, the bill defers the remaining tax which would be assessed if the property were valued at its "highest and best use." This deferred tax would be assessed when the land is, first, converted to nonfarm use or, second, transferred out of the immediate family.

Mr. President, I ask unanimous consent that the text of the bill may appear at this point in the RECORD.

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

S. 4000

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 "Farm Property Estate Tax Valuation Act".

SEC. 2. Part III of subchapter A of chapter 2 of the Internal Revenue Code of 1954 as amended by adding at the end thereof the following new section:

"Sec. 405. REAL PROPERTY USED IN FARMING.

"(a) VALUATION OF FARM PROPERTY.—In the case of real property used in farming by the decedent, the value of such property to be included in the gross estate shall be the value of such property for farming purposes, provided that the executor agrees to the provisions of subsection (b).

"(b) SPECIAL RULES.—The election to include farm property in the gross estate at the value provided in subsection (a) shall apply only if—

"(1) The provisions of section 6166 apply to the farming business or businesses of the decedent, and the executor could elect to pay the tax imposed by section 2001 attributable to the inclusion of the value of such property in the gross estate in installments, and information as to value in alternative uses is submitted with the estate tax return; and

"(2) the executive agrees to the payment of tax computed in accordance with the provisions of section 1253 upon the disposition of the property (a) in any manner which would accelerate the payment of tax under section 6166 (a), or (B) if any partnership, trust or corporation to which the farming property may be transferred ceases to use such property for farming.

"(c) EXCEPTION.—Where an interest in farming property (with respect to which estate tax under section 2001 has been determined using the value provided in subsection (a)) is subject to transfer as the result of the death of a person described in section 6166(h)(1)(D), such transfer shall not constitute a disposition under subsection (b), and the amount of tax with respect to such earlier transfer of such property which would have become due upon disposition of such interest shall not become due as a result of such transfer and shall not thereafter become a liability upon subsequent transfer of such interest."

SEC. 3. Part IV of Subchapter P of Chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"Sec. 1254. GAIN FROM DISPOSITION OF FARMING PROPERTY.

"(a) CIRCUMSTANCES UNDER WHICH SECTION APPLIES.—This section shall apply to any transfer of property valued under section 2045(a) which is a disposition under section 2045(b)(2).

"(b) TAX.—In lieu of the tax imposed by section 1, there is hereby imposed upon the disposition of property to which section 2045 applied a tax which shall consist of the sum of (1) the amount by which the estate tax determined under section 2001 would have exceeded the estate tax determined by valuing farming property at farming value had such farming property been valued without regard to section 2045 or at a value at date of disposition if such value is less than the value without regard to section 2045, plus (2) if any amount is due under (1) and if the disposition would be taxable under other provisions of this subtitle, an amount determined in accordance with such other provisions using as basis the value for making the determination under (1).

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2809

Mr. TUNNEY. Mr. President, I have recently learned that by some apparent inadvertence, the Senator from North Carolina (Mr. JORDAN) was not listed as a cosponsor of S. 2809, the Drug Abuse Research and Education Act, which I introduced last November.

Senator JORDAN was the first of my colleagues in the Senate to join me as a cosponsor and, therefore, I think it is particularly important that this matter be corrected.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from North Carolina (Mr. JORDAN) be added as a cosponsor of S. 2809.

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

S. 3573

At the request of Mr. SCHWEIKER, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 3573, the State Lottery Exemption Act of 1972.

S. 3614

At the request of Mr. WILLIAMS, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 3614, the Education for all Handicapped Children Act.

S. 3869

At the request of Mr. COOK, the Senator from Rhode Island (Mr. PASTORE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3869, a bill to provide for civil and criminal actions to prevent or restrain physical or economic intimidation of individuals engaged in voting or activities related to voting.

SENATE JOINT RESOLUTION 264

At the request of Mr. DOLE, the Senator from Georgia (Mr. TALMADGE), the Senator from Montana (Mr. MANSFIELD), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Dakota (Mr. YOUNG), the Senator from Nebraska (Mr. CURTIS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. DOMINICK), the Senator from Florida (Mr. GURNEY), the Senator from Arizona (Mr. FANNIN), the Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Iowa (Mr. HUGHES), the Senator from Utah (Mr. BENNETT), the Senators from Illinois (Mr. STEVENSON and Mr. PERCY), the Senator from Nevada (Mr. CANNON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New York (Mr. JAVITS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Rhode Island (Mr. PELL), the Senator from Texas (Mr. TOWER), the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. ALLEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of the joint resolution (S.J. Res. 264) to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the United States of American prisoners of war in Southeast Asia.

SENATE RESOLUTION 366—ORIGINAL RESOLUTION REPORTING OPPOSING SUSPENSION OF DEPORTATION OF J. M. GUERECA-MORALES AND D. T. TODD

(Ordered to be placed on the calendar.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

Resolved, That the Senate does not favor the suspension of deportation in the cases of the aliens hereinafter named in which cases the Attorney General has suspended deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254; 76 Stat. 1247):

[redacted] Guereca-Morales, Jesus Maria.

[redacted] Todd, Donall Terrance.

FREE ENTRY OF A CARILLON FOR MARQUETTE UNIVERSITY—AMENDMENTS

AMENDMENT NO. 1547

(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.

AMENDMENT NO. 1548

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

Mr. AIKEN submitted an amendment, intended to be proposed by him, to House bill 3786, supra.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

AMENDMENT NO. 1549

Mr. TALMADGE submitted an amendment intended to be proposed by him to the bill (S. 632) to amend the Water Resources Planning Act 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.

ADDITIONAL STATEMENTS

WHERE IS THE OUTRAGE?

Mr. CHURCH. Mr. President, not so long ago in this country, a scandal was a scandal. People in public life caught indulging in improper conduct were held up to public censure, and their public careers came to an abrupt end.

What happened? Where is the outrage today? The Nixon administration is beset with one scandal after another—from ITT to the Watergate affair—but nothing happens.

On August 24, a small weekly newspaper in Idaho—the Messenger-Index of Emmett—published a perceptive editorial on this subject.

Noting scandals of past decades, and the consequences for those involved, the editorial comments:

Those were the days, not long ago, before the moral novocain of the Vietnam "inci-

dent," when people still held the capacity for moral outrage and believed in principles deeply rooted in the fabric of the Nation. Those were the days of innocence. How different it is today. These are the days of moral exhaustion of protective cynicism.

I hope that these attitudes are short-lived, and that the American people will somehow recover their belief in propriety and their capacity for indignation.

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

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

TWO-BIT CAPERS

When President Truman's military aide, General Vaughan, got a deepfreeze from a grateful client, the scandal rocked Washington and an entire nation was incensed.

When President Eisenhower's assistant, Sherman Adams, received a vicuna coat, there wasn't even a question about his resignation. He resigned, of course.

When General Douglas MacArthur disregarded civilian authority in the conduct of the Korean war, he was relieved of command.

Those were the days, not long ago, before the moral novacain of the Vietnam "incident," when people still held the capacity for moral outrage and believed in principles deeply rooted in the fabric of the nation. Those were the days of innocence.

How different it is today.

These are the days of moral exhaustion, of protective cynicism.

Today a general disobeys military orders and explicit civilian authority of the president by bombing hell out of innocent Vietnam peasants. He gets full retirement honors and gratuities, with 70 percent disability thrown in so that some $20,000 a year of his retirement pay is tax free.

Today ITT gets a favorable out-of-court settlement with the justice department and simultaneously agrees to guarantee $400,000 for the Republican national convention.

Today five men wearing rubber gloves and armed with electronic bugging devices and sophisticated camera apparatus are arrested at gunpoint in the dead of the night in Democratic national headquarters, all connected with the Committee to Re-elect the President. The FBI supposedly is investigating, but it is all very funny. It's the Watergate caper, a big laugh, you know.

Head of five, Bernard Barker, turns up with $89,000 apparently from CRP in a private bank account, plus $25,000 from a cashier's check apparently intended for President Nixon's campaign, made out to GOP national finance chairman Maurice Stans, lately the secretary of commerce.

Stans says he gave the check to G. Gordon Liddy, ex-FBI agent, counsel to the CRP finance committee. Liddy refused to answer questions. Hell, that's just politics: Ronald Ziegler, White House press secretary, termed it a "third rate burglary."

John Mitchell, of ITT fame as attorney general, then and but for Martha still the Nixon campaign manager, dismissed the Democratic $1 million suit over the caper as a "political stunt."

Laugh it up. It's all very funny. There are laws, but ITT doesn't even register under the Federal Lobbying Act. Dita Beard, ITT lobbyist whose private memo declared "Mitchell is definitely helping us, but cannot let it be known. Please destroy this, huh," reported expenditures for all of 1971 under the lobbying act of $7,030.

President Eisenhower had 193 press conferences. President Truman had 322. They got asked about deep freezes and vicuna coats. President Nixon has had 26 in three and one-half years. He doesn't get asked. If he were, he wouldn't discuss the amusing little capers of his hatchet men. The President is above such mundane affairs.

There are some people who still get indignant over 2,500 tons of bombs per day, over ITT and Lockheed deals, over Watergate capers, over people too busy to answer questions.

But they should relax and pay attention to their blood pressure. They are out of step with the times. These days a deep freeze or a vicuna coat are about equivalent to a two-bit tip for the waitress who serves your dinner.

NO SECRET PLAN

Mr. DOLE. Mr. President, occasionally a bit of myth or incorrect information becomes injected into the flow of public information on a given secret, and once in place, it takes on all the characteristics of a proven fact—which it is not. Often these false ideas linger and are accepted for a considerable period, undisturbed by the light of truth. But sometimes they are exposed either through the efforts of a disinterested skeptic or by a party affected by the erroneous material.

Perhaps the most famous disclosure of an accepted myth dealt with the revelation by an enterprising reporter that the widely quoted numbers of supposed Black Panther victims of alleged police brutality were nothing more than a combination of unsubstantiated militant propaganda and careless journalism, augmented by a rather understandable bit of human inertia in accepting things at face value. These numbers had received broad circulation until they were debunked, and convincingly, by a bit of solid research into the facts.

Over the past 4 years another example of myth-perpetuation has been underway in America, this time dealing with President Nixon and the record of his policy regarding the war in Southeast Asia. This myth is popularly known as the "secret plan" to end the war which the President supposedly proclaimed in the course of his 1968 campaign. The fact is, of course, that at no time did the President claim to have any sort of plan, secret or otherwise, by which he would bring about an end to the war; but, through the fine art of paraphrasing, stretched inference, and repetition, a "secret plan" was devised and made a part of history.

A clear and instructive rebuttal of the "secret plan" myth appeared in an article written by William Safire and published in the New York Times of September 12. It traces the myth's origins and history and would, I believe, be of interest to the Senate. Therefore, I ask unanimous consent that it 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 Etienne 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.

At 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 editorial 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."

Did Mr. Nixon ever say he had a "plan," secret or 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 furthest 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 necesarily 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 nonquote quoted.

TRIDENT CHANGES FOR THE THIRD TIME

Mr. PROXMIRE. Mr. President, the Pentagon has secretly approved plans for a major expansion and revision of the Navy's accelerated Trident submarine program. As a result of these plans, the Trident program will be significantly revised for the third time in less than a year.

The new plans should be publicly disclosed and explained now—before rather than after final congressional approval of a $1 billion downpayment on accelerated Trident production.

The new plans, approved by Deputy Secretary of Defense Rush in an August 30 program decision memorandum to the Navy, would increase from 10 to 16 the number of new Trident submarines which Congress would be asked to fund during the next 5 years. At the same time, these plans would scrap the proposed retrofit of Poseidon submarines with Trident 1 missiles previously planned for the late 1970's.

The net effect of the new plans is to kill a sound missile retrofit program which has attracted widespread congressional support and to expand further a dubious submarine construction effort which the Senate nearly rejected a month ago.

These plans would save a few dollars over the next several years, but they would cost us billions in the long run, by leading to the premature replacement of our Polaris-Poseidon fleet.

Not only are these plans financially unwise, they are also totally devoid of sound military logic.

If the Soviet threat to our Polaris submarines is of such low magnitude that there is no need for a relatively inexpensive missile retrofit program which would improve their survivability in the late 1970's, how can that same threat be used to justify the crash replacement of almost half our Polaris and Poseidon fleet by the early 1980's?

I have written to Deputy Secretary Rush to demand public release of his August 30 directive to the Navy. That directive is now under fire by some Pentagon insiders, but it has not even been mentioned to the Congress, which has been wrapping up its deliberations on a now outmoded Trident budget request.

The Rush directive is a slap in the face to those Members of Congress who have supported that request to date, on the assumption that it was tied to a well conceived, thoroughly planned program.

Nothing could be further from the truth.

The Rush directive constitutes the third distinct set of official Trident plans adopted by the Pentagon in the past year.

Both the Rush plans and those which immediately preceded them call for a commitment to accelerated production of the Trident in the years immediately ahead.

But the Navy has no blueprints as yet for the final submarine design.

It does not know how many submarines it ultimately wants, or whether they should really carry 24 missiles each in light of the recent SALT accords.

It has requested $14.3 million for a new Trident submarine base, but it does not know, or refuses to tell the Congress, where that base will be built.

The fact is that Trident is going somewhere fast these days, but nobody knows just where. Unless it is slowed down soon, it may be headed for the most devastating shipwreck in procurement history.

These are the four major changes in the Trident program called for in the Rush directive:

First. Previous plans called for a total of 10 Trident submarines, one of which would be funded in fiscal 1974 and three more in each of the next 3 fiscal years. These submarines were to serve as a source of bargaining strength during the next round of SALT negotiations and as a potential replacement for our 10 oldest Polaris submarines.

The new plans clearly refute the notion that Trident is just a bargaining chip or a potential replacement for a small fraction of our Polaris and Poseidon fleet. They call for continuing Trident production at a rate of at least two submarines per year after the first 10 ships have been ordered. They would raise to 16 the number of submarines for which procurement or advance procurement funds would be budgeted through fiscal 1978, the last year covered by the new 5-year defense plan. Under these new plans, we would be committed within 5 years to Trident replacements for almost half our Polaris and Poseidon fleet.

Second. Previous plans called for development of the 4,500-mile range Trident 1 missile on a schedule which would make it available in late 1977 to replace the 2,800-mile range Poseidon missiles in our late-model Polaris submarines.

Under the new plans, the Trident 1 would be developed more slowly, so that it would be available in late 1978 for initial deployment in the first new Trident submarine. The Trident 1 would no longer be earmarked, however, for a Poseidon retrofit program in the late 1970's.

Third. Previous plans called for the development of a 6,000-mile range Trident 2 missile for use in the 10 new Trident submarines sometime in the mid-1980's.

The new plans call for accelerated development of the Trident 2, so that it will be available for use on all Trident submarines deployed in 1982 or thereafter. The Trident 2 could also be retrofitted at that time in the previously deployed Trident submarines, an action which would free their Trident 1 missiles for possible transfer to some of our remaining Poseidon submarines, if such a transfer were then deemed necessary.

Fourth. Previous plans called for the development of a maneuvering reentry vehicle, or Marv, technology to improve the ability of the Trident I to penetrate a possible Soviet ABM defense.

Plans for Marv have now been dropped, a reasonable decision in light of the limitations on ABM defenses in the recent SALT accords.

But the other elements of the new plan are not reasonable.

They move us much closer to the premature replacement of a Polaris-Poseidon fleet which has many more years of useful life ahead.

The Senate still has time to avert this potential blunder. It can follow the lead of the House Appropriations Committee, whose decision to trim $135 million from fiscal 1973 Trident funding is at least a step in the right direction.

The Senate will have to cut deeper, however, and with clearer policy guidance, if it seriously hopes to provide time to readdress our basic options.

A sound blueprint for such action is provided in the amendment offered several weeks ago to the military procurement bill by the distinguished Senator from Texas (Mr. BENTSEN). That amendment was rejected by the Senate Armed Services Committee on an 8–8 tie vote, and on the Senate floor by almost as narrow a margin.

Surely the Rush directive—the latest in a long line of constantly changing Trident policy pronouncements—provides ample evidence of the need for returning Trident to the unaccelerated "plan before you buy"—or "sail before you sink"—schedule proposed by the Bentsen amendment.

Mr. President, after I had prepared the foregoing remarks, I learned in this morning's newspaper that Pentagon public affairs spokesman Jerry W. Friedheim apparently does not realize that the Rush directive is now our official policy statement for the Trident program.

According to the newspaper, it is Mr. Friedheim's belief that there are "many pieces of paper" on Trident "floating around," but that no final decision on a new Trident policy will be made until Secretary of Defense Laird and President Nixon submit the fiscal 1974 budget to the Congress in January.

I am sure that this is rather surprising news to Deputy Secretary Rush, who no doubt assumed that his August 30 program decision memorandum was more than a paper shuffling exercise. I am sure that it is news, too, to the Navy, which no doubt wonders now whether it is free to ignore Mr. Rush's directives on those Navy programs other than Trident covered in the Rush memorandum. And I am sure, moreover, that the Friedheim statement raises some eyebrows in the Trident program office: Are program managers supposed to slow down Trident 1 missile development in fiscal 1973 as directed by the memorandum, or are they to hold tight until submission of the fiscal 1974 budget to the Congress, at which time it would be impossible to realize the $60 million savings in fiscal 1973 Trident 1 R. & D. funds predicted by the memorandum?

I stand by my contention that the Rush memorandum is an authoritative policy statement. But even supposing it were nothing more than one of many "pieces of paper" on Trident "floating around" these days, a serious credibility problem would still exist. If the old plans for Trident are really firm, why are so many Pentagon employees spending their time at public expense authoring variations on those plans?

Now is the time to penetrate this latest Pentagon smokescreen. Only the immediate release of the Rush memorandum can clear the air and permit an informed vote on Trident funds in the Senate in the days ahead.

FREIGHT CAR SHORTAGES

Mr. HATFIELD. Mr. President, as Senators are aware, I have been very much interested in seeing that legislation is approved by this Congress to help resolve the recurring freight car shortages that plague many areas of the country. Under the leadership of the distinguished chairman of the Committeee on Commerce, Mr. MAGNUSON, the Senate recently approved a compromise version of S. 1729, legislation which I cosponsored.

To date, no real movement has occurred on this bill in the House. I believe all Senators from States where car shortages hurt our State economies believe our Senate bill is a good one. I think we all hope the House will act on the bill soon.

Mr. President, three Oregon newspapers commented in editorials about S. 1729, and I think their comments are worthy of our consideration and review. I ask unanimous consent that editorials from the Portland Oregonian of September 3, 1972, the Portland, Oreg., Journal of September 1, 1972, and the Salem, Oreg., Statesman of August 28, 1972, be printed in the RECORD.

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

[From the Sunday Oregonian, Sept. 3, 1972]

FEDERAL FREIGHT CARS?

The federal government, which already has taken over the intercity railroad passenger service, may get into the freight business, as well.

A bill passed by the Senate early last month provides that, if a serious freight car shortage still exists after three years, Congress may create a Rolling Stock Authority which at a cost of $1 billion would form a pool of 50,000 to 75,000 freight cars. These cars would be controlled by the authority for use where needed most. The authority also would attempt to develop better methods for car pooling and utilization of cars controlled by the railroads.

Sen. Mark O. Hatfield, R-Ore., co-sponsor of the bill, points out that the Rolling Stock Authority would differ from Amtrak, the passenger train operation. It would control only about 4 to 5 per cent of the total freight car fleet and would play a part in a profitable railroad operation rather than an unprofitable one such as the passenger service the railroads dropped.

Meanwhile, before such a major step was taken to correct the freight car shortage, the government would encourage a solution through increased car supply and better utilization of existing cars. The bill establishes a fund to insure up to $2 billion of new equipment obligations by the railroads. It also provides for a rolling stock information system, costing $35 million, which would pinpoint the location of cars and determine which empty cars could be sent most quickly to areas in need of more cars.

Sen. Hatfield reports that in sitting through many hearings on the bill he was amazed to learn how poor the utilization now is of freight cars. A car is loaded and moving only 7 per cent of the time. The average freight car moves loaded only 32 miles a day. The current car shortage of 130,000 cars, he says, represents about 9 per cent of the total fleet of 1.4 million cars. A 9 per cent increase in utilization would overcome this shortage and still would raise the "loaded and moving" percentage to only 7.63 per cent and the daily mileage to 34.9 miles.

The West, which ships out twice as much as it imports from other parts of the country, is particularly hard hit by the freight car shortage. Western railroads build cars continually, but frequently they keep rolling on eastern lines while lumbermen, farmers and others yell for cars in the West. Penalties and other incentives for return of the cars to their home lines, including Interstate Commerce Commission orders, have not solved the problem that has plagued this area since the turn of the century. Maybe the more direct government intervention provided in the Senate bill, which still must pass the House, won't do the job either, but it should be worth a try.

[From the Oregon Journal, Sept. 1, 1972]

THE BAFFLING BOXCAR BUSINESS

One of those problems that never seems to go away is the freight car shortage that expands to crisis proportions in the west every winter and every fall.

There have been demands, and studies, and legislation, but nothing really happens. The malady lingers on.

This year the Senate passed another bill, incorporating new ideas and holding forth new hopes. The bill was promoted by all western senators because experience has long since shown that western states suffer the shortages while eastern states accumulate the cars.

Sen. Mark Hatfield, co-sponsor of a bill which passed the Senate 81–0 in compromise form, explained some of the new ideas.

Two provisions involve money. One would bolster credit of the railroads by $2 billion to acquire new cars, because car ownership dropped by a third in the last 10 years, to 1.4 million freight cars. The other would fund an information system ($35 million) to keep track of cars and dispatch empty cars to areas of need.

This is the most important provision, because the most distressing—and unbelievable—element in the box car shortage is the poor utilization of existing cars.

Hatfield calls it a "scandalously low rate" and so it appears to be. A special Senate subcommittee learned that a freight car is loaded and moving only 7 per cent of the time, and when it does move, it only averages 32 miles a day. That rate of progress would be scorned by even the unluckiest of hitchhikers.

What's more, the current shortage, estimated at 130,000 cars, could be eliminated if a freight car's use could be increased just 1 per cent and its distance traveled extended only three miles.

For some reason that hasn't been possible in the past. The "national rolling stock information system" would be the new technique proposed in the bill to solve that problem. If that doesn't work in three years, Congress could be asked to create a "Rolling Stock Authority" which would operate as a public agency and control a relatively small pool of cars (50,000 to 75,000) independent of individual railroad managements. It could, in theory, operate more freely than a railroad, not hampered by proprietary interests and "home road" ownerships.

But that is in the future, and so is the bill itself, for that matter. The House Commerce Committee has held its car shortage hearings but produced no bill. Whether it might act on the Senate bill before Congress adjourns is a very good question indeed.

[From the Statesman, Aug. 28, 1972]

BOXCAR BILL ROLLS

The chronic railroad boxcar shortage is one of those crisis-oriented subjects most people think about only when Oregon's products are backed up on shipping docks.

Sen. Mark Hatfield, who as governor fully understood the implications of the boxcar shortage, has slowly been pushing a Freight Car Shortage Bill through the Senate this year. Earlier this month, a favorable Senate vote sent it over the hump and rolling down to the House where it hopefully will receive attention before the end of the session.

Sen. Hatfield is cosponsor of S. 1729, which is a moderate, compromise measure combining the carrot and the stick to encourage purchase of and more efficient use of boxcars by railroads.

The present sluggish system results from the fact that boxcars get scattered so far afield they are hard to keep track of efficiently; the penalty which railroads must pay for not using cars isn't high enough to compel the rialroads to use them more efficiently; many railroads are short of the capital needed to build sufficient cars.

S. 1729 contains these "carrots." It establishes a fund to insure up to $2 billion in railroad purchases of new equipment, along with bolstering the credit of the railroads.

It provides $35 million to establish a national rolling stock information system, computerized to not only show where cars are but how they can be most effectively used. A report to Congress is required within two years spelling out how better car utilization can be achieved.

As for the "stick", railroads are given three years to modify the rail car crisis under the provisions of this bill. If they do not, Congress threatens to establish a Rolling Stock Authority. This would create a government-controlled boxcar pool of between 50,000 and 75,000 cars (about 4 or 5 per cent of the U.S. total) to reinforce the boxcar supply where needed.

The railroads have been trying to avert such outright government interference.

The legislation represents a victory for Oregon, where the boxcar shortage hits hardest, because we are "at the end of the line." It now becomes important that the House Committee on Interstate and Foreign Commerce, headed by Rep. Harley Staggers (D-W. Va.)

act favorably on this bill within the next few weeks.

Even without an immediate crisis to prod interest, Oregon chambers of commerce and businesses should deluge Rep. Staggers with requests to keep the boxcar bill moving.

CONVICTED FELON DECRIES EASY AVAILABILITY OF HANDGUNS

Mr. BAYH. Mr. President, many of those who oppose restricting the availability of handguns claim that criminals favor gun controls, and that those who seek additional firearms legislation have not succeeded in taking guns out of the hands of criminals. I wish to bring to the attention of Congress a statement favoring handgun controls which was written by a man who served time in jail as a convicted felon. He believes along with many millions of Americans that gun controls do not support the criminal element in our society; rather, the lack of them tends to create new criminals.

Mr. President, I also wish to commend the House Judiciary Subcommittee for their swift action in reporting a handgun bill almost identical to the Senate-passed "Saturday night special" bill. I hope that our colleagues in the House will act quickly on this important matter so that these dangerous weapons will no longer be readily accessible to criminals and potential criminals.

We are all by now familiar with the warning that advises us to lock our cars in order to prevent young people who might not otherwise do so from becoming criminals. In the same manner, we should restrict the availability of weapons which turn amateur thieves into killers.

Mr. President, I wish to commend Roberty Doty, of Rochester, N.Y., for his willingness to share with us his experience with handguns. I ask unanimous consent that an essay by Mr. Doty, entitled "The Real Argument for Gun Legislation," be printed in the RECORD.

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

THE REAL ARGUMENT FOR GUN LEGISLATION

(By Robert Doty)

The victim stood frozen in fear, his hands raised, trembling, while his assailant wallowed in the glorious feeling of power which the snub-nosed revolver gave him. As the victim's fear grew he panicked and tried to grab for the gun. The thief lowered his arm and fired between his legs. This stopped the resistance and the robbery concluded with ease. The robber took the money and the man's car. Twenty minutes later he was apprehended at a road-block.

A few weeks later the gunman stood before a stern Judge and listened intently while the sentence was passed. "Five years to Life." It seemed a poor exchange for the few moments of that feeling of infinite power over the life of a fellow human being.

The impact of that sentence did not become evident until the sound of the cell door clanging shut had become an echo in my ears.

Yes, this is my story.

I finished the ordeal of my sentence eleven years ago but I am still making restitution. Jobs were hard to find. Friends were hard to keep. All because I am a convicted felon. And it all began when I purchased what is now known as a "Saturday Night Special." If there had been a law then, perhaps I wouldn't be sorry now.

Our legislation is vital to the safety of every law abiding citizen. Federal control of hand guns would reduce crime by a large percentage. It stands to reason that if the requirements to own a pistol are strict and enforced the availability of such guns to the criminal element would be greatly reduced. Such laws would not affect organized crime because of their unlimited arsenal supply, but these laws would prevent the amateur thief from launching on a career of crime and/or murder.

For it is these amateurs who are the greatest menace to society. A simple purchase of a pistol turns them into potentially violent men. I mentioned before the feeling of power that the possession of a gun gave me. Somehow I was fortunate that I did not decide to take my victim's life. It would have been equally as easy to have shot him. Thank God I did not.

But what of the others like me? The many factors which exist in the commission of a crime together determine life and death. Is the thief high on drugs? Drunk? Panicky scared? What of the victim? Does he feel heroic? Or frightened, as my victim was? Sometimes it comes down to a word or even a gesture.

The best thing to do is to remove the one item that is predominant in the hands of the would-be thief—his gun. Without it he must either find another method—or hopefully, give up the venture.

HOME HEATING OIL CRISIS

Mr. KENNEDY. Mr. President, once again, the President has devised a piecemeal and shortsighted solution to the continuing home heating oil crisis in New England. After every knowledgeable observer had warned for months of impending shortages, the President finally decided to approve a very slight increase in the oil that can be imported during the next 3 months.

The 5,000-barrel-a-day increase from 45,000 to 50,000 barrels, and the provision permitting a 10-percent borrowing from next year's quota hopefully will relieve the current shortage that this administration's policies have created. For the 10-percent decline in fuel oil stocks that exists today is a direct result of this administration's refusal to permit an adequate supply of fuel oil to be imported.

And it is not a new discovery for this administration that its current policies produce high prices and shortages.

Every year that President Nixon has been in office we have found ourselves threatened by a home heating oil shortage. And since he has been in office the refusal to permit an adequate supply of imported oil has meant high prices to New England homes, New England businesses, and New England hospitals.

Unfortunately, the President's action today still falls far short of a final answer to New England's fuel oil needs.

And the President has demonstrated his lack of understanding of the problem by virtually insuring that we will have the same crisis in the future.

First, he has decided that the increase in the amount of imports only will apply to 1972. Thus, next year, the same inadequate level of imports will be in existence.

Second, he has decided to permit a 10-percent borrowing from the 1973 quota. This "borrow-from-Peter-to-pay-Paul" policy exemplifies the administration's refusal to place the public interest of New England consumers over the private interests of the oil companies. For two-thirds of all fuel oil burned in New England in a heating season is burned after January 1, and it is during those last months of winter, January, February, and March, that the real shortages occur.

In January, a new President may find himself faced with a new fuel oil shortage as a result of the action taken today. It is time for the President to understand that adequate supply and lower prices require an adequate supply of imported fuel oil to New England. This means scrapping oil import quotas entirely or permitting in at least 100,000 barrels per day of home heating oil for New England—whether or not the major oil companies like it.

NO HIJACKING TREATY

Mr. PERCY. Mr. President, the Washington Post of September 16, 1972, reports the failure of a subcommittee of the International Civil Aviation Organization to agree on an antihijacking treaty. The group instead voted to refer the entire matter to the ICAO's Legal Committee for the drafting of a treaty and then the convening of an international conference to consider the proposal. But even the convening of the conference, much less ratification of any treaty that comes out of the conference, is at least a year away.

Mr. President, I find this lack of progress unacceptable. The problem of hijacking is so acute that we must devise an agreement that all nations can agree on that will once and for all end this problem. I strongly urge the U.S. Government to keep pressing other nations for a tough treaty to stop this problem. My preference is for a treaty that would ban all international air service to a nation that harbors hijackings or that refuses to sign such a treaty.

The irony of this latest indecision in this pressing problem is that while the ICAO was refusing to take action this past week, another airplane was being hijacked in Sweden.

We must insist upon action and have it soon.

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:

NATIONS FAIL TO AGREE ON TREATY

(By Robert L. Samuelson)

A special international conference ended two weeks of meetings yesterday without agreeing to a tough anti-hijacking treaty.

The treaty, pushed strongly by the United States and Canada, would establish steps for taking joint action—such as the suspension of air service—against countries which aid hijackers or air saboteurs.

Negotiators for 15 nations, constituting a special legal subcommittee of the International Civil Aviation Organization, did develop a consensus on preliminary procedures for determining whether a country had aided

a hijacker or saboteur. But the main issue of sanctions remained unsettled.

The group voted to refer the entire matter to ICAO's Legal Committee—a step which could lead to the drafting of a final treaty and the summoning of a full-fledged international conference to consider the proposal.

"It's an uphill fight all the way," Charles Brower, chief of the U.S. delegation, said at a press briefing yesterday. "In the two years (the U.S. first proposed the treaty in 1970), we got absolutely nowhere. In two weeks, we've finally got somewhere."

Nevertheless, he estimated that it would be at least a year before the diplomatic conference could be called. And then, even if the conference adopts the treaty, individual countries would have to ratify it before it could go into effect.

That could take another year, he said.

The Airline Pilots Association (ALPA) said that "some progress" had been made at the meetings, but was highly critical of the slow pace.

"Rather than demonstrating a firm commitment that the international community will not tolerate such (air) crimes, most of the delegates chose again to pass the buck," an ALPA statement said.

Both the Soviet Union and France strongly opposed the proposed treaty. The Soviet Union, for example, argued that collective action against any country should be taken Security Council—"where," as one U.S. official noted privately, "they have a veto."

France has also argued against the treaty on legal grounds, but many U.S. observers have attributed the resistance to France's close ties with many Arab nations, which have opposed the anti-hijacking treaty.

The conference forwarded a specific proposal, by a 9-to-4 vote, on sanctions to the full Legal Committee. Backed jointly by the United States, Canada, Great Britain and the Netherlands, the proposal calls for automatic suspension of a country's air "rights"—that is, its rights to fly into or over other countries.

The Soviet Union, Egypt, Chile and Tanzania voted against the proposal; France and Spain abstained.

However, the draft takes no position on a number of key issues. Specifically, it leaves open the question of whether stiffer sanctions—the suspension of all air service into a country—can be taken against countries that don't sign the treaty.

There are already treaties against air crimes that require signatory nations either to extradite or prosecute anyone connected with a hijacking or sabotage incident. However, the treaties don't provide for any penalties against countries which fail to meet the requirements.

In a related action, President Nixon yesterday sent the latest of these treaties—one approved last year in Montreal, which covers air saboteurs—to the Senate for ratification.

The U.S. campaign for approval of the new treaty has apparently caused widespread resentment among many nations. Earlier this week, for example, the United States suspended talks with France on establishing new French air routes to the United States, citing French opposition to the treaty as the reason.

In addition, a number of high State Department officials have been quoted anonymously in press reports as criticizing both Britain and France for not embracing the treaty enthusiastically. British officials have reacted strongly to the criticism—especially after Britain joined the United States and Canada earlier this week in drafting the new proposal on sanctions.

The latest U.S. proposal, the French official said yesterday, was "unrealistic," but, he added "we recognize that the U.S. government has to demonstrate that it is extremely gung-ho about hijacking for domestic political consumption."

TRIAL OF PERSONS CHARGED WITH GENOCIDE

Mr. PROXMIRE. Mr. President, one of the questions often asked concerning the Genocide Convention deals with the trial of persons who are charged with genocide. Article VI of the convention states that:

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

The report from the Committee on Foreign Relations clarified article VI and recommended a specific interpretation to the Senate. A portion of the committee's report follows:

Executive branch and other testimony brought out that the negotiating history of the convention makes it clear that the courts of the country in which the accused has citizenship can likewise have jurisdiction over the crime. This theory of concurrent jurisdiction—jurisdiction based on the site of the alleged offense and jurisdiction based on the nationality of the offender—was thoroughly explored during the hearings. It was pointed out that a number of nations, particularly colonial powers, have consistently asserted the right to try their own nationals for crimes committed outside their territory. Even the United States in certain limited areas—counterfeiting, theft of Government property, treason, antitrust violations—has exercised jurisdiction over its citizens for acts committed abroad. This concept of concurrent jurisdiction no doubt will be closely examined during consideration of the implementing legislation. However, the U.S. Government should make it clear to the other contracting parties that it intends to construe article VI so as to permit it to try its own nationals for punishable genocidal acts whether committed at home or abroad.

Since there is presently no international penal tribunal the above statement should allay the fears that citizens convicted of the crime of genocide under the Genocide Convention could be sent outside the United States for trial.

Mr. President, the Senate should consider this most important treaty at once and ratify the convention without further delay.

McGOVERN REMAINS VIABLE

Mr. CHURCH. Mr. President, the Blackfoot, Idaho, News of August 29, 1972, contains an editorial which I believe puts in proper perspective the current presidential campaign between Richard Nixon and GEORGE MCGOVERN.

Drury R. Brown, the publisher of the News, put the two main issues succinctly in his editorial: Vietnam and the control of American life by corporate business.

Despite the withdrawal of the bulk of American soldiers, Mr. Brown notes:

Our continuing military presence in the skies above and the water surrounding Vietnam prevents a Vietnamese solution to the civil war that has been underway there since 1954.

As for corporate control of American life, Mr. Brown poses the issue with a question:

Shall huge business corporations control the people of the United States, or shall the people control the corporations?

The editorial, in sum, is a plain-spoken treatment of the issues involved in 1972. I commend it to the Senate and ask unanimous consent that it be printed in the RECORD.

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

MCGOVERN REMAINS VIABLE

It is not surprising that many of us whose hopes for the future of the country ride in 1972 with Sen. George McGovern are belatedly emerging from a state of temporary paralysis.

We have been embarrassed by the miscalculations and mistakes made by Sen. McGovern and his staff in putting together the second half of the Democratic national ticket. Correction of these mistakes has required weeks of fence mending that slowed the momentum with which the Democratic convention closed.

Meanwhile, the electronically computerized and superbly packaged Republican National Convention has blitzed the nation. Preference polls at the present time show the Nixon-Agnew ticket to be the overwhelming favorite of those American voters who were polled.

Perspective is becoming more clear as the national conventions recede into history. It is now apparent that McGovern's preoccupation with winning the nomination, which he considered he had won under preconvention's rules but could not be secure in until the convention's late hours, caused the difficulties in conection with selection of a running-mate.

The picture of the Democratic National Convention that returns is a picture of people participating in the selection of a party platform and a candidate. The picture of the Republican National Convention that remains is a picture of corporate management, decision making behind closed doors, and planned manipulation of the American electorate.

With regained perspective, supporters of Sen. McGovern should welcome a comparison of his intelligence, his ability, his personality and his integrity with that of his opposite number, Richard M. Nixon. If the American people can be given equal exposure to the two leaders, McGovern supporters should not fear the results.

The main issues that divided the nation before the convention remain. The first main issue is the war in Vietnam. Although most of the American foot soldiers have been removed, our continuing military presence in the skies above and the water surrounding Vietnam prevents a Vietnamese solution of the civil war that has been underway there since 1954. Indiscriminate killing of enemy units and hapless non-combatants in both North and South Vietnam by stepped up naval and air power is being pressed with every technical advantage at our command.

The second main issue is difficult to state but nevertheless very real to most American people. Perhaps it can best be put in the form of a question: Shall huge business corporations control the people of the United States, or shall the people control the corporations? It lends itself also to a second question: Should an American capitalistic surge through the world continue while the average American wage-earner shoulders the cost of protecting that surge with a military umbrella?

Modern risk capital now wishes to eliminate the factor of risk. One speaker at the

Republican National Convention pointed out that the United States, which occupies six per cent of the earth's surface and includes six per cent of the world's population, owns 52 per cent of the world's wealth. The speaker was pointing with pride. To many others the statement will give credence to the charge frequently heard that the present administration provides socialism for the rich but insists on private enterprise for the poor.

Some new issues are appearing.

Corporate America is providing dollars in unlimited amounts for the re-election of the President. Hundreds of thousands of them recently were secretly routed from Texas through Mexico to Washington for that purpose. President Nixon refuses to discuss the burglary of Democratic national headquarters by five paid henchmen of the Committee to Re-Elect the President. He refuses to comment on the $10 million dollar slush fund put at his disposal by fundraisers just before revelation of contributors to it became mandatory under the election laws of the land. That is one thousand times the amount of the fund put at his disposal in 1954 that prompted his defense, aimed at General Eisenhower, that featured his dog Checkers and Mrs. Nixon's good Republican cloth coat.

The average American voter today is much more intelligent and sophisticated than ever before. The election may prove that American men and women 18 years of age and older resent political manipulation. That can only occur, however, if McGovern supporters inside and outside the Democratic Party go to work again with the same zeal they showed in helping him win the nomination.

They should remember that Sen. McGovern confounded the pollsters and political pundits by achieving the Democratic nomination.

They should be reassured by the knowledge that two-thirds of the registered voters of the nation are Democrats or independent of either party.

Then they should go to work in two ways. A million or more of them should contribute from one to fifty dollars apiece to the McGovern Million-Member Club to provide funds that would permit exposure of him to the people of the nation. (Half of any such contribution can be deducted from the contributor's 1972 federal income tax.) Immediately thereafter they should go to work in support of the Democratic ticket by convincing their friends George McGovern is not the "radic-lib" pictured by the Republican high command, but a decent, intelligent and strong man who is a real alternative to Richard Nixon.

These are things that any of us who believe in George McGovern can do. If all of us who believe in him enlist in such a program he will win.

RETAIL BEEF PRICES

Mr. PERCY. Mr. President, the Cost of Living Council has notified food retailers that retail beef prices remain too high and that they must be reduced.

In a telegram to the largest retailers, Donald Rumsfeld, Director of the Cost of Living Council, said that:

In many instances retail prices have remained unacceptably high, in spite of the fact that farm and carcass beef prices are currently at a 10-month low.

He continued:

Preliminary data for the month of August, indicates that the gross margin between the carcass price of beef and the retail price is approximately 37¢ per pound. A year ago, in August 1971, the spread was 28.4¢ per pound. There is no precedent for the current gap between wholesale beef price levels and the prices being charged by much of the retail food industry.

Rumsfeld advised the retailers that he has directed the Internal Revenue Service to monitor approximately 100 of the largest food chains in the Nation so that the Cost of Living Council will be in a position to make the public aware of those firms which have reduced their prices.

In a related action, Rumsfeld asked the Price Commission to consider possible changes in existing regulations covering controls on retail beef prices.

I ask unanimous consent that the texts of the telegram and the memorandum to the Price Commission be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, COST OF LIVING COUNCIL NEWS,

Washington, D.C.

Donald Rumsfeld, Director of the Cost of Living Council, sent the following telegram to Tier I and Tier II food retailers on September 6:

On August 4, a letter was sent to you as one of the large food retailers in the nation. At that time, I pointed out that the carcass price of beef had begun to decline during the week ending July 15, and that the Cost of Living Council expected to see a corresponding reduction in retail beef prices as soon as possible.

The best information available indicates that a few firms, notably Fisher Foods, Jewel Tea, Lucky Stores, and Safeway have complied with that request. Unfortunately, many firms have not.

Although preliminary evidence indicates that some retail beef prices have begun to decline, in many instances retail prices have remained unacceptably high, in spite of the fact that farm and carcass beef prices are currently at a 10-month low.

Preliminary data for the month of August, indicate that the gross margin between the carcass price of beef and the retail prices is approximately 37¢ per pound. A year ago, in August 1971, the spread was 28.4¢ per pound. There is no precedent for the current gap between wholesale beef price levels and the prices being charged by much of the retail food industry.

Retail beef prices must be reduced. I have directed Stabilization Officials of the Internal Revenue Service to monitor approximately 100 of the larger food chains in the nation so that the Cost of Living Council will be in a position to make the public aware of those firms which have reduced their prices.

Sincerely,

DONALD RUMSFELD,
Director, Cost of Living Council.

The following is the text of a memorandum from Donald Rumsfeld, Director of the Cost of Living Council, to C. Jackson Grayson, Chairman of the Price Commission, sent on September 6:

Memorandum for: C. Jackson Grayson, Chairman, Price Commission

From: Donald Rumsfeld, Director, Cost of Living Council

Subject: Controls on Retail Beef Prices

As you know, the Cost of Living Council has been monitoring retail beef prices closely. In mid-July, farm and carcass prices for beef began to decline and now have reached a ten month low.

During the first week in August, letters were sent to the 100 largest food chains encouraging them to move to reduce their prices correspondingly. They were informed that the Internal Revenue Service had been directed to undertake a nationwide survey, in twenty-five cities, of retail markups on beef.

Preliminary data indicate that some firms have begun to reduce retail beef prices. The decline in both wholesale and retail beef prices is welcome news. However, there are certain aspects of the situation which continue to concern me and which I believe merit attention.

Data currently available indicate that average retail prices across the nation continued at a high level longer than they should have once wholesale prices had begun to decline. The average carcass retail spread for early August was approximately 37¢ per pound. A year ago in August, 1971 the spread was only 28.4¢ per pound. Clearly, there is little justification for the gap between carcass prices and the prices charged by many retail food chains in the early part of August. Many firms have not yet made any substantial reductions.

The Internal Revenue Service survey indicated that some food chains may, in fact, have been in violation of existing Price Commission regulations. In those instances the IRS is collecting evidence and will refer the cases to the Justice Department for prosecution. In many instances, however, it appears that high markups could be justified under the current retail regulations.

The provision of the regulations that permits firms to select a markup from the freeze or from the twelve months of the fiscal year prior to the freeze apparently makes it possible for many firms to find at least one month during which their markup on beef was high. As a result, rather than having to reduce their prices as the wholesale price drops, they are able to maintain artificially high retail beef prices longer than would otherwise be the case.

Under the circumstances I believe you should consider possible changes in existing regulations. In considering the various options the Price Commission may want to keep in mind that a date in the past should be used so that food chains are not able or not motivated to try to take actions now that could place them in a better position if the regulations were changed. All options should also avoid penalizing firms which have cooperated in reducing prices as wholesale prices decline. It would be desirable to tie retail prices more closely to wholesale prices so that when wholesale prices do decline, as they recently have, retail prices would also decline shortly thereafter.

If retail beef prices move down sharply in the next few weeks, it may not be necessary to amend the regulations at this time. I would, however, appreciate it if the Price Commission would give consideration to the alternatives available so we may avoid, if possible, a similar situation in the future.

AUTHORSHIP OF COMMITTEE AMENDMENTS

Mr. HARRIS. Mr. President, recently the Committee on Government Operations reported S. 3970, the Consumer Protection Organization Act of 1972, and filed its report on the bill. In compliance with section 133(d) of the Legislative Reorganization Act, and rule 3(D) of the committee rules, the report disclosed the votes of the members on the seven rollcall votes on amendments taken by the committee. This is a worthwhile improvement in Senate procedures. Though the new rules do not require it, I believe the authorship of these amendments should also be shown.

Amendment No. 1, shown at page 72 of the report, to increase the authorization for the Agency, was sponsored by Senator METCALF. He also sponsored the second amendment, page 73, to increase

the authorization for consumer protection grants.

Amendment No. 3, page 73, to strike the Agency's interrogatory authority was proposed by Senator GURNEY.

Amendment No. 4, page 73, to delete judicial review of the listing of complaints by the Agency was an amendment by Senator JAVITS to an amendment offered by Senator GURNEY. The original Gurney amendment would have provided for judicial review of the listing of complaints.

Amendment No. 5, page 74, to reduce the CPA's authority to obtain access to information in the files of other agencies, was offered by Senator ERVIN.

Amendment No. 6, page 74, to exempt the TVA from the provisions of the bill, was sponsored by Senator ALLEN.

And amendment No. 7, page 74, the amicus amendment, was proposed by Senators ALLEN, ERVIN, and GURNEY.

COVERING McGOVERN

Mr. CHURCH. Mr. President, Saturday's Washington Evening Star-Daily News contains an excellent editorial by Milton Viorst which describes his feeling on the problem with the press coverage of the McGovern campaign.

Coverage of the campaign of Senator MCGOVERN has dwelt not upon the dramatic clash of issues between the Democratic nominee and the current administration but upon the squabbles in the McGovern campaign organization. As a result, Viorst points out, the substance of the McGovern campaign is going unnoticed.

The Viorst editorial certainly is food for thought for members of the press. He asks quite rightfully:

> What happened to the press critics when, for example, President Nixon said we support the Greek junta as part of our defense of Israel (the kind of thing both right-wing and Jewish voters are meant to hear)—and a Greek spokesman replied that its facilities would never be used against its Arab friends?

I commend Mr. Viorst's excellent analysis and ask unanimous consent that it be printed in the RECORD.

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

PRESS HIDING MCGOVERN SUBSTANCE

(By Milton Viorst)

From reading the newspapers, one gets the impression that the McGovern campaign headquarters is an armed camp, in which everyone believes that the enemy sits at the next desk and not in the White House.

Last week's biggest news stories did not concern George McGovern's position on the major questions of the day, but the allegation that two major members of his staff had quit in a huff. As it happened, one did and one didn't.

To be sure, the way that daily journalism is conducted in America makes it inevitable that the pungent complaints of staff members against one another get prominent display. It's called "human interest"—and we all like to read it.

Meanwhile, the substance of the candidate's speech in Seattle or the response of his crowds in Dubuque gets buried in the back pages—as if what he says can be dismissed as rhetoric and what impact he has is only showbiz.

And, certainly, there is no sign that the press is correcting its monumental goof of the primary campaign: Overlooking the story on McGovern's grassroots network. Who is to say that this network will not again be a key factor in the returns?

Of course, McGovern has made important mistakes. He can scarcely be excused for his promise of "1,000 percent" support for Sen. Thomas Eagleton or for stumbling over his own statements in the Pierre Salinger incident.

But what happened to the press critics when, for example, President Nixon said we support the Greek junta as part of our defense of Israel (the kind of thing both right-wing and Jewish voters are meant to hear)—and a Greek government spokesman replied that its facilities would never be used against its Arab friends?

We've seen virtually nothing in the press about the troubles inside the Nixon campaign—although the National Journal, a respected weekly of news research, has reported intensive squabbling among the Republican National Committee, the Committee to Re-elect President Nixon and several state committees.

This report seemed to be sustained last week by the orders of Clark MacGregor, the President's campaign manager, that no staff member is to discuss internal dissension with anyone outside the Republican campaign apparatus.

MacGregor would be a happy man if the election were fought over the issue of McGovern's campaign techniques—and not over such issues as the Vietnam war, tax reform, inflation and government favoritism to business.

The fact is that the press is riding hard on the momentum generated by McGovern's earlier mistakes. These mistakes have created a kind of "on-going" story, like the major-league baseball season. Each game, however unimportant in itself, makes its own headline and helps keep the story alive.

It is true that there is a struggle within the McGovern organization. It can be traced to the bad start after the Miami convention, which became a serious drag to fund raising and depressed the candidate's standing in the polls.

The shortage of money has forced responsible campaign officials to fight for what they think they need—for voter registration or television commercials or field organizations or direct mailings. The contest has often been tough, and the losers not always gracious.

The polling figures, furthermore, have created tension. They have generated an organizational uncertainty, which is a poor way to begin a campaign. They have forced people into mistakes that they otherwise wouldn't make.

It probably is true, too, that McGovern, by temperament, favors a loose organizational structure, where power is scattered and more than one person thinks he's boss. The method is similar to Roosevelt's way of running the New Deal. Critics inside and out think there are better ways to run a campaign, but McGovern is committed to giving his way a try.

What I am saying is that although the troubles of the McGovern organization are real, they will, in a very large measure, be overcome by a hefty infusion of money and a ten-point rise in the polls. Maybe such happiness will come and maybe it won't.

Meanwhile, we ought to get our eyes back on what this campaign is about—conflicting philosophies of government. We'll find it in the record and the statements of the candidates. This conflict, and not the conflict of personalities at McGovern headquarters, is the campaign story for 1972.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS—DISTRICT 727

Mr. TUNNEY. Mr. President, on September 30, 1972, one of California's major units of organized labor will celebrate its 30th anniversary of service to trade union members and to the community. Headquartered in Burbank, District 727 of the International Association of Machinists and Aerospace Workers, AFL–CIO, earned its charter in 1942 when it gained the right to represent employees of fast-growing Lockheed Aircraft Co.

Answering the heavy demand in 1942 for military aircraft, workers came to Lockheed from every State and almost every strata of society. They made up the membership of the union, furnishing a vigor and leadership that made IAMAW District 727 an instant success in its field—that of bargaining for the hours, wages and conditions of employment of aircraft assembly line workers.

The vigor of this union's early years has carried forward uninterrupted to today where it stands as the largest IAMAW aerospace district in the Nation and the largest union of any trade in the million-population San Fernando and Antelope valleys.

IAMAW District 727 today counts 20,000 members who are protected by contracts not only at Lockheed but at a dozen other area plants, including Lockheed-California Co., Lockheed Electronics Co., Pacific Airmotive Corp., Weber Aircraft, Hydraulic Research & Mfg. Co., Menasco Manufacturing Co., Aerol Co., Inc., American Can Co., Bermite Powder Co., Lane & Co., T A Manufacturing Co., and Air Transport Mfg. Co.

Perhaps unique in labor annals is the leadership IAMAW District 727 has seen graduate from its ranks. The district union has not only furnished men and women to high places in the labor movement but former members, many of whose names are household words today, have moved to high places in State and local politics.

It has been 30 years of progress—of bringing a greater and greater measure of human dignity to the working men and women of the aerospace industry.

The 20,000 members of IAMAW District 727 and their president, James L. Quillin, are to be commended and congratulated for carrying forward the work and the ideals born when the union was chartered in September 1942.

THE SAWTOOTH NATIONAL RECREATION AREA

Mr. CHURCH. Mr. President, On September 1, the new Sawtooth National Recreation Area in central Idaho was dedicated to the people of Idaho and the Nation. I was honored to take part in the ceremony.

For me, the dedication represented the end of a 12-year effort to secure the needed legislation. In that effort, I owe a debt of gratitude to my colleague from Idaho (Mr. JORDAN), whose generous support and wise counsel helped immensely in the final success of our joint legislative program for the area.

But of greatest importance, the dedication of the Sawtooth National Recreation Area is a victory for the people. It is a victory of public interest over narrow, commercial interests which sought to despoil the magnificent Sawtooth, White Cloud, and Boulder Mountains, and to exploit the long and lovely valley that lies between.

Mr. President, I ask unanimous consent to have printed in the RECORD an account of the dedication ceremony, published in the Idaho Statesman, of Boise; several editorials representative of the news media of Idaho; a feature article on the NRA from the Post-Register of Idaho Falls, and an account of the legislative history of the efforts to preserve the area published in the Times-News of Twin Falls.

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

[From the Idaho Statesman, Boise, Idaho, Sept. 2, 1972]

SCENIC SAWTOOTH RECREATION AREA DEDICATED BY TOP IDAHO OFFICIALS

(By Richard P. Hronek)

STANLEY.—The Sawtooth National Recreation Area was dedicated to the people of Idaho and the United States Friday, only one week after the enabling legislation was signed by the President.

The dedicatory oratory from Idaho's five top government officials and the chief of the U.S. Forest Service flowed eloquently. But the speeches were only frosting on one of those warm, delightful late summer days in the Sawtooths, an area dedicated Friday to wise conservation and compatible multiple principles.

The bright sun and the beautiful alpine setting of Redfish Lake lent nature's magic to the bunting-draped speaker's platform as 754,000 acres of Southcentral Idaho's choicest scenery was set aside for the enjoyment of this and future generations.

The outdoor setting at the lake's visitor's center attracted about 375 persons for the ceremony. The forest service directed bus tour for visiting dignitaries and guests preceded the dedication.

It also was a day for bipartisan politics and good natured ribbing among Idaho's elected officialdom. But the consensus from the rostrum was that the NRA would not have been enacted had it not been for a real bipartisan effort from Idaho's governor, congressional delegation and the people of the state.

Rep. Orval Hansen told the gathering that "all who have an interest in this area have one thing in common, a deep abiding love for it. But even with the differing views, those people reached compromise and that is how the best legislation often comes about.

"If the NRA is a monument to anything, it is a monument to people willing to compromise," Hansen said.

Perhaps the proudest man on the platform was U.S. Sen. Frank Church, who had introduced legislation as far back as 1960 to create the NRA.

"Having been one of those privileged to be at the take-off, it is nice to be in on the landing (of the NRA)," Church said. "It has been a long flight." Church stated the legislation was enacted in the "nick of time, as witness to the kind of development going on here."

He said the legislation would make comprehensive planning possible including zoning.

Rep. James McClure said he belieeved that "ultimately we will adopt that compromise of park and recreation status, in which the alpine peak regions would become a national park. "But the ultimate answer is up to the people of Idaho," the First District representative said.

McClure added that an even greater challenge than the NRA legislation lies ahead in efforts to secure adequate financing from Congress to implement the legislation.

Retiring Sen. Len Jordan also was a picture of satisfaction as he said that "we in Washington were only the cutting edge. We tried to represent your thinking in this matter of the NRA.

"Today we can see with our own senses the beauty and grandeur of this area."

Jordan noted that the 1972 passage, after 12 years of congressional effort, was "an evolving kind of thing." It was not until the mid 1960s, Jordan said that the idea for an NRA really struck a note of response from Idahoans.

Gov. Cecil Andrus said the Sawtooth valley is a magnificent area, exceeded by none other in the United States. He complimented the U.S. Forest Service for an "aggressive start" in implementing the act. But, grinning, he said, "and to the National Park Service representatives here today, I can only say 'keep their (Forest Service) feet to the fire'."

The concluding speaker, John R. McGuire, chief of the U.S. Forest Service, complimented the Idaho congressional delegation for its bipartisan effort.

Two of the land management programs that will receive immediate attention, he said are (1) minerals management and (2) development and use of private lands.

McGuide said the Forest Service will inventory all existing unpatented mining claims and discoveries, determine the validity of each and challenge those found to be invalid. "The entire area is permanently withdrawn from further mineral entry."

The Forest Service chief said the first step is to prepare guidelines for private land development and use.

One objective will be to maintain as much land as possible in private ownership, particularly so as to maintain the western ranching environment of the valley areas. The bill limits forest service acquisition for private land through purchase to five per cent.

Vern Hamre, Ogden, Utah, intermountain region forester, said the "mood of most of us here today is that of jubilation" during his open remarks as master of ceremonies.

The crowd was welcomed by Ed Fournier, superintendent of the Sawtooth National Forest. Gray Reynolds, a native of Burley, is superintendent of the NRA, which has temporary headquarters three miles south of Ketchum.

Forest Service spokesmen said they were delighted with the strong NRA law that was enacted and expressed pleasure with the final bill.

As the crowd drifted out of the pine-surrounded amphitheater and the last busload of guests disappeared toward Ketchum, the highways began to fill with campers and trailers.

Idahoans were practicing over a long weekend what the speakers had been preaching—that the Sawtooths are a prime area for recreation.

[From the Idaho Statesman, Aug. 28, 1972]

THE SAWTOOTH VICTORY

Signing of the Sawtooth Recreation Area bill is a victory for Idahoans who would protect the state's highest quality areas. The possibility of destruction from mining existing claims remains, but the chances are diminished.

Until recently in Idaho the idea prevailed that nature always had to give way to resource extraction. Many felt, and still feel, that if a mineral is found it should be mined, no matter what the consequences to a scenic area.

The Sawtooth legislation recognizes that at least some areas are worth protecting, that some areas of the earth are better left as they are. Man does not, after all, live by bread alone and at least some of nature's treasures should claim at right to exist undisturbed.

Senators Frank Church and Len Jordan deserve much credit. The Senate was the first to pass Sawtooth legislation. This year, after the House passed a weak and unsatisfactory bill, that left the door open to more mining claims, the stronger Senate version they supported prevailed.

Rep. Orval Hansen recognized the values at stake. Rep. James McClure apparently recognized public sentiment, but held out for language favored by the mining industry. He finally capitulated after primary campaign opponents Glen Wegner and Robert Smylie made an issue of his stand.

The 1970 election removed a governor who considered recreation use of a splendid scenic area a "lock up." The 1972 primary election helped push McClure from his pro-mining position and strengthened the bill.

Numerous Idahoans lent their support. Former Parks Board Chairman Ernest Day was among the most persistent and eloquent spokesman. Hundreds testified at a Sun Valley hearing for Sawtooth protection. The Sawtooth Preservation Council worked hard to close pro-mining loopholes in the legislation.

The threat of mining has been eased over Idaho's splendid White Clouds mountains. The meadow below Castle Peak is in less danger of becoming a tailing pond. The salmon in the East Fork of the Salmon River face a lessened possibility of pollution in their spawning beds.

Those existing mining claims remain. But the Forest Service is armed with authority that goes beyond the antiquated 1872 mining laws. It should be able to impose conditions for mining that would make the cost of extracting low-grade ore too high. Any realistic conditions to provide even minimum protection of the area should do that.

The struggle isn't over. Mining spokesmen only a few months ago were still insisting upon rights to mine anywhere in the Sawtooth area.

Aside from the mining issue, the legislation should protect the Sawtooth valley from unsightly developments. It should assure permanent protection of the values that make this area a delight to Idahoans and to visitors.

Idahoans who value their outdoor heritage have gained an important victory. But the continued threat from the existing mining claims should not be forgotten.

[From the Idaho Falls Post-Register, July 31, 1972]

THE SAWTOOTH BILL

The Sawtooth National Recreation legislation, now on the threshold of formal passage, is a legacy of long dedication on the part of Sen. Frank Church and Sen. Len B. Jordan.

The Sawtooth's genesis actually started with Senator Church who first suggested a national park, which would be Idaho's first, and then, after an extended dialogue with Idahoans and several hearings, accepted a recreation area proposal for this incomparable land.

That first recreation area proposal, however, was flawed with too much suturing. A plan which was predominately a park plan, with environmental and conservation organizations over the state the principal standardbearers for the plan, then emerged.

Gov. Cecil D. Andrus, gave the park plan momentum with his approval—but it was not quite enough for the "park now" campaign.

The park-recreation area combination of that time did not have enough Idaho and Congress committee support, apparently. The Senate, which has approved both park-accented or recreation area-accented plans

before, this time waited for the House, where the legislation died each time, to act first.

The House surfaced with some of the same flaws of former years but with decided improvement. However, it was noticeably weak in what it accepted in mining permissiveness in this fragile high country, in leaving doubtful whether federal or State would manage the game, and in installing a temporary instead of a permanent moratorium on mine development.

Senator Church, wearied by many years of debate but with no agreement on preserving this extraordinary land, quickly targeted the weaknesses of the House bill and declared his intent to remove them. He was joined by Senator Jordan, who with Senator Church, had successfully propelled every piece of Sawtooth legislation successfully through the Senate.

What emerged in the Senate version was, as this newspaper has said before, a clean, complete and final prescription. And this was the legislation which emerged virtually unscathed from the Senate-House conference committee.

Cong. James McClure, who in the past has worried more about the difficulties of removing mining prerogatives and possible court claims than in pushing this type of bill, apparently persuaded Cong. Wayne Aspinall, chairman of the House Interior Committee to abandon his reluctance to accept such things as a permanent mining moratorium. Election year pressure was also undoubtedly involved.

The only basic change coming out of the conference committee was the refinement in language in sustaining the state's control of game and in eliminating the so-called "reverse condemnation" feature whereby property owners of the area could force the government to buy their properties. Under the bill, the forest Service, which will operate this vast recreation area, has power to condemn up to five per cent of the total deeded or private in Sawtooth valley and Stanley Basin, and can insist on purchased scenic easements in zoning the private land to achieve the preservation objective of the legislation.

Once formally passed by Congress and signed, the Forest Service can proceed to hold hearings on zoning standards and management policies. One of its stickiest challenges will be to rescue non-conforming subdivisions and to prevent future ones from marring the area with this kind of transplanted suburbia.

The Sawtooth legislation, the final version as well as both the House and Senate proposals, sustains a Park Service study of the high country in the White Clouds, Boulders and Pioneers as well as the existing Sawtooth peaks area. What is mystifying some is the current Forest Service wilderness study of these same areas. The question may well become whether the lower recreation area should be managed by the Forest Service and the higher country by the Park Service. Or would it be just as compatible to install full wilderness status of this high country as well as the recreation area elsewhere under Forest Service management?

Conservation groups, which have fought hard for a clean Sawtooth formula, prefer the Park Service because of what they feel is a higher order of protection than the wilderness act accords the Forest Service currently. Wilderness areas outside of specific parks, can still be explored for mining, for example, at least until 1982—and this worries environmental groups.

There is something to be said, however, in the name of consistent management, where the authorities are not divided in management.

But the great strike of the current Sawtooth legislation is that it takes care of the immediate problems—mining threats in the recreation area and the rapid growth of non-conforming private developments on the deeded land—while leaving the wilderness decision on the back country for more leisurely and thorough research.

But to Senator Church particularly is this excellent Sawtooth prescription a deserving monument. This mountain-loving, generations-thinking Idaho senator especially deserves Idaho's heartfelt thanks. It has been a long, relentless and wearing battle for him to give Idahoans what they wanted all along.

[From the Post-Register, Aug. 27, 1972]

SAWTOOTH NATIONAL RECREATION AREA
IDAHO'S NEW PLAYGROUND

(By Michael Parfit)

STANLEY.—The signs have been up since the beginning of July on the highways leading to this town: Entering the Sawtooth National Area. Each sign is qualified by a single, tacked-on word: Proposed.

Now that word can be removed. The scenic gem of central Idaho has become an official National Recreation Area (NRA).

The Sawtooth NRA is a big one—754,000 acres, about the size of Rhode Island. Its boundaries encompass a wealth of mountain peaks, lakes, rivers and forests, most in their raw, natural state. As one of the few Forest Service-administered NRAs in the country—the concept is little over a decade old—the Sawtooth region is one of the grandest.

Three mountain ranges dominate the area: The Sawtooths, of course, the White Clouds, and the Boulders. The highest mountain in the NRA, Ryan Peak which tops the mark at 11,900 feet, is a part of the lesser-known Boulder mountains.

CASTLE PEAK

Not that the other two ranges have anything to be ashamed of. Castle Peak in the White Clouds climbs into the thin and frigid air 11,820 feet while Thompson Peak in the Sawtooths lifts jagged rocks to 10,776 feet.

In the shadows of the mountains are the lakes, probably the most popular feature of any alpine country. There are more than 300 of them, speckled in the glacial scoops and smooth meadows below innumerable banks of permanent snow. Four major lakes with road access draw the bulk of summer traffic: Stanley, Alturas, Petit and Redfish, with the last the biggest, five miles long.

From the lakes trickle little creeks, and the creeks in turn form streams leading eventually to the river: The Salmon, a bold and boisterous flow that runs to the Snake River, the Columbia River and the sea. Every year the lure of wide, shallow riffles in the Salmon River's highest reaches draws thousands of Chinook salmon and steelhead 800 miles from the sea to spawn. The river's main fork, which rises within the NRA, and its Middle Fork, which flows nearby, are known for the thrills they give river runners, and for the occasional life lost to their turbulence.

FOLLOW RIVER

The pioneers who followed the river up to the sagebrush and grassland basin in the center of all this grandeur came first for gold, discovered here in 1863. Later, immigrants came to dig out other minerals, to chop and saw timber and to run sheep and cattle in the fields.

Mining is still a big issue—the molybdenum discovery made by American Smelting and Refining Co. in the White Clouds in the late 1960s raised a national fuss and accelerated the development of the recently-passed legislation. Logging and ranching also remain as industries within the NRA. But today the focus for this land is on recreation and recreation there is, gobs of it.

Last year an estimated 600,000 people passed through the area and this year the Forest Service figures that there have been an additional 10 to 12 per cent, all drawn by recreation.

OUTDOOR PURSUITS

Most of the opportunities for frolic are, naturally, outdoor pursuits, although the three bars in Stanley offer occasional indoor entertainment. Depending on your bent in pleasure, and the season, you can water ski fish, hunt, hike, rock climb, ride a tossing raft on foaming waters, leap snow ridges in a snowmobile, ski, (winter here runs from November through April), or sit under a tree and snooze. There are about 900 miles of trails in the back country, and the southwestern hunk of the NRA is a 216,000-acre wilderness area. Near the roads are 30 campgrounds with 1,020 family units.

History buffs can wander through the original Stanley Basin near town and find remnants of settlers' cabins and placer mines. Several miles east of town, adjacent to the NRA, is the Yankee Fork area, a region once heavily mined and now the site of two ghost towns.

The abundant forests of spruce, pine and fir in the NRA shelter a whole zoo of wildlife. In addition to deer, elk, bighorn sheep, mountain goats, cougar, coyotes, weasels, field mice, and all the other common beasts of the wood, the area contains several rare and endangered species. Among these are the osprey, the Greater Sandhill Crane, the Three-Toed Woodpecker, the fisher, the wolverine and the bald eagle. The Salmon river is home for a few river otters.

Also in the river, creeks and lakes are frivolous schools of trout: Cutthroat, brook, Dolly Varden, golden and rainbow. In Redfish lake there are, naturally, red fish—Kokance (landlocked) salmon.

The towns still thriving in the NRA are Sunbeam, Lower Stanley, Stanley and Obsidian. Here a visitor can find a variety of services—motels, hotels, restaurants, gas stations, grocery stores—enough to handle most needs. There is even a new medical clinic, staffed by a calm and competent nurse practitioner, who treats emergencies with the telephonic aid of two doctors 60 miles away.

The towns boom in the three months of summer, their dirt streets thronging with tourists, then slip into somnolence as the leaves change and heavy snows cover the ground. Although increasing snowmobile recreation enlivens some December weekends, most of the winter the Sawtooth National Recreation Area is an isolated place with a tiny population.

"You'd have to count a few dogs to get a hundred between Smiley Creek and Sunbeam," one resident says. Stanley, the largest town, has a winter population of 47.

[From the Times-News, Twin Falls, Idaho, Aug. 27, 1972]

LONG JOURNEY OVER FOR SAWTOOTH NRA BILL

(By Ann Daily)

SAWTOOTH VALLEY.—Turbulence and turmoil mark the 59-year legislative history of the national recreation area in Idaho's serene and aloof Sawtooths.

From the first attempt in 1913 to the final successful effort to pass a bill protecting Idaho's great forest this month, the Sawtooths have been the topic of debate on the floor of both houses of Congress, many committee meetings and several hearings both in Washington, D.C. and in Idaho.

Public interest has ranged from semicomatose in the 1950s to main-topic-of-conversation in the late 1960s.

A myriad of concepts were fused into the final bill which has created the Sawtooth National Recreation Area.

It all started in late May, 67 years ago.

The Sawtooth Forest Reserve was created from public domain by proclamation of President Theodore Roosevelt on May 29, 1905. The original area included 1.9 million acres.

The following year the area was increased to 3.3 million acres. The supervisor's head-

quarters was established at Boise in that year. In March, 1907, the name was changed to the Sawtooth National Forest.

This national forest was split into the Sawtooth National Forest (east) with supervisor's headquarters at Halley and at a much later date moved to Twin Falls, and the Sawtooth National Forest (west) with headquarters remaining at Boise.

On June 26, 1908, an executive order created the Challis National Forest with headquarters at Challis. A second executive order on July 1, 1908, created the Boise National Forest with headquarters at Boise.

First evidence of public interest in providing safeguards for Sawtooth range came in 1911 when a group of Idaho club women endorsed a plan for action to establish a national park.

The legislative history of the area began on April 7, 1913, in the House of Representatives during the 63rd Congress.

Rep. Burton L. French presented bill HR 1786 "reserving from the public lands in Idaho as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber and other natural objects therein, a tract of land herein described . . ."

According to the CONGRESSIONAL RECORD, the bill withdrew the land from settlement and occupancy or sale; placed the land in the custody of the secretary of the interior; closed the land to lumbering, but left it open to mining and "places of entertainment" such as hotels and restaurants.

The bill died a natural death as did the many bills for the same purpose until 1972.

Another bill was presented in 1916 to establish a national park and in the same year certain lands were withdrawn from entry to aid in park establishment.

In 1921 more lands in the Sawtooth area were withdrawn. The necessary action had not been taken to establish a park and in 1926 the lands withdrawn in 1916 and 1921 were restored.

The Civilian Conservation Corps began work in 1933 and continued for seven years in developing and protecting national forest resources. Camps were located at Ketchum, Big Smoky, Redfish Lake, Idaho City and Alexander Flat.

On Jan. 4, 1935, Sen. William E. Borah presented bill S2019 to the 73rd Congress "to establish the Boise National Mountain Park."

It was to be a public park and campground in Boise County, approximately a section and a half in size, 960 acres. It was subject to the provisions of an act entitled, "an Act to establish a National Park Service, and for other purposes," approved Aug. 25, 1916.

Sen. James P. Pope presented bill S3382 to the 74th Congress on July 29, 1935, to establish the Sawtooth National Park." Besides setting the land aside from settlement, occupancy or sale, it stated, "that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a government reclamation project."

It affected no valid existing claim of homesteader or miner.

The secretary of the interior was given executive control, which included the right to execute leases for visitor accommodation.

The regulations were primarily aimed at the free use of the park for recreation purposes by the public and for the preservation of the natural conditions and scenic beauty.

The secretary could arrange for the removal of mature or dead or down timber as necessary for the protection and improvement of the park.

The regulations also included provisions for the use of automobiles within the park. No appropriation for the maintenance, supervision, or improvement of the park in excess of $10,000 annually would be made unless it was first expressly authorized by law.

A joint resolution was presented by Senator Pope on Feb. 8, 1937, to the 75th Congress, "to authorize an investigation of the proposed Sawtooth National Park." In S.J. Res. 9 the secretary of the interior was "authorized and directed to investigate and report on the economic and geographic feasibility of establishing a national park to be known as the Sawtooth National Park."

"If the secretary shall find the creation of a national park feasible and desirable within the above described area, he shall in his report describe the proposed boundaries of said park by metes and bounds."

Again nothing was done. On Oct. 12, 1937, the Sawtooth Primitive Area was established.

With the advent of World War II, public interest in the national park concept for the Sawtooth area dimmed. It was not until 1960 that a legislative proposal was introduced which did catch Congressional attention.

Sen. Frank Church introduced bill S3353 on April 7, 1960, to the 86th Congress. The bill was meant to "provide for a study and report to Congress on the advisability of establishing a national park in the Sawtooth Mountains."

Three years later, on Sept. 30, 1963, Sen. Church introduced S2188 creating a Sawtooth Wilderness National Park. He told the 88th Congress, "The site is convenient for that great number of summer travelers who attempt to get the most for their time and money by visiting several national parks during one vacation trip."

Sen. Church said the Sawtooths and the new park would "boost the economy of the state and region, insure the integrity of the upland wilderness, and give a designation of popular appeal to phenomena already held in awe by the people who have seen them."

It was not until August, 1965, that the recreation area concept was suggested for the Sawtooth area. At that time the Sawtooth Mountain Area Study was presented jointly by the U.S. Forest Service and the Park Service.

A year later, on April 28, 1966, Sen. Church introduced two bills in the Senate. The first, S3294, was a bill to establish the Sawtooth National Park. The second bill, S3295, was presented by Sen. Church and Sen. Len Jordan to establish the Sawtooth Recreation Area.

Hearings were held by a Senate subcommittee on June 13 and 14, 1966, to elicit testimony from area citizens on the two bills. The bills were not acted upon.

On March 14, 1967, Sen. Church and Sen. Jordan introduced bill S1267 to create a Sawtooth National Recreation Area. Hearings were held on Aug. 23, 1967, in Washington, D.C., on the bill.

This legislation passed the Senate during the 90th Congress but did not pass the House of Representatives and thus died at the expiration of that Congress.

Rep. Orval Hansen introduced bill HR5999 to establish the recreation area on Feb. 4, 1969. Also early in 1969, bill S853, which reintroduced the recreation area legislation in the Senate, was presented by Sen. Church and Sen. Jordan.

Open pit molybdenum mining at Castle Peak in the White Clouds area became public knowledge in the summer of 1969 and on July 2, 1969, Sen. Church and Sen. Jordan moved to amend S853 from the Senate floor. The amendment included the White Clouds in the recreation area and curtailed mining at Castle Peak. On that day the Senate passed the bill.

On July 10, 1969, hearings were held in Washington, D.C., on HR5999 and S853, by a Senate subcommittee.

On Aug. 11, 1970, four bills were introduced at the 91st Congress. Bill S4212 and companion bill HR18900 were to establish the Sawtooth Mountains National Park, and S4213 and companion bill HR18899 were to temporarily withdraw certain national forest land in the state of Idaho from the operation of the United States mining laws. The companion bills were introduced in the House of Representatives.

Hearings were held on Aug. 26, 1970, at Sun Valley by a House subcommittee on HR5999, HR18900 and S853. Testimony was again elicited from local citizens.

Early in 1971 bill HR 6957 was introduced to the House of Representatives. Hearings were held on this bill on June 7 and 8, 1971, at Washington, D.C. The bill created the Sawtooth Recreation Area and contained controls on mining.

A favorable report was made by the Committee on Interior and Insular Affairs on Dec. 18, 1971. The report accompanied HR 6957. Companion bills to accomplish the same objectives were co-sponsored by 22 other members of the House of Representatives. These bills were HR8834, HR8931 and HR8932.

In January, 1972, the House of Representatives passed HR6957. The Senate subcommittee held hearings in Washington, D.C., on two bills, S1407, and House-passed version HR6957. The Senate passed S1407 in May. Both houses had then passed two different bills which accomplished the same basic purpose, the Sawtooth National Recreation Area.

There were substantial differences in the two bills.

The matter was referred to a conference committee made up of designated members of each House. The committee agreed on a bill and the matter was referred back to both houses.

In early August the Senate approved the conference committee version which was then called HR6957. The House of Representatives passed this version in mid-August.

The President's signature marks the end of the recreation area's legislative journey.

QUESTIONS ABOUT THE BOMBING OF NORTH VIETNAM

Mr. KENNEDY. Mr. President, the history of this administration's conduct of the war in Indochina is marked by a series of coverups—from the tragic air war over Laos in 1969, which was kept secret from the American people and from Congress, for more than a year, to the rain of terror our bombers and gunships are delivering over North Vietnam today.

Again and again, this administration has whitewashed the grim facts of this war and of America's contribution to the human tragedy and bloodbath occurring throughout Indochina. It has repeatedly denied information to Congress on the truth about American military practices, especially the no-holds-barred air war—first over Laos and now over North Vietnam.

As chairman of the Judiciary Subcommittee on Refugees, over the years I have repeatedly attempted to obtain information from the Department of Defense on the impact of American military policies and practices on the civilian population of Indochina, including North Vietnam. This year I addressed letters of inquiry to Secretary of Defense Melvin Laird on May 3, June 26, and August 9—all of which have gone unanswered.

In the absence of any response to my letters, and in an effort to obtain this information—especially on North Vietnam—the subcommittee held hearings on

August 16 and 17—the 36th such hearings on war-related civilian problems in Indochina since 1965. The subcommittee heard testimony from recent American visitors to North Vietnam—including former Attorney General Ramsey Clark—all of whom related their observations on the impact of the escalated air war on civilian areas of North Vietnam.

On the basis of their testimony, and additional information made available to the subcommittee on August 19, I addressed another letter to Secretary Laird, requesting aerial photographs of civilian areas and dikes in North Vietnam allegedly hit by American air strikes, as well as other information on war-related civilian problems in North Vietnam. With my letter, I submitted for comment a communication to the subcommittee from Ramsey Clark, in which he elaborated on his testimony of August 16. In addition, the subcommittee invited representatives from the Departments of State and Defense to appear before the subcommittee on the troubling questions raised by the growing evidence of extensive damage to civilian populated areas in North Vietnam.

As of today, we have had no response to the latest letter to Secretary Laird—and the administration has been unwilling to agree on a date for its testimony to the subcommittee.

Mr. President, it distresses me that the administration finds it so easy to issue press statements critical of American visitors to North Vietnam, but avoids discussing the troubling issues raised by these visitors. It distresses me even more, that legitimate inquires about American military practices in Indochina—especially the President's no-holds-barred airwar over North Vietnam—can be ignored by the administration, as if the human tragedies of this senseless conflict, and the mounting billions of dollars being wastefully spent for bombs, are not the business of Congress and the American people.

This not only says something about the low priority our national leadership attaches to the human tragedy of this war—but it also says something about our leadership's casual attitude toward the Congress and the legitimate concerns of the American people, and about the closed character of the present administration.

On the issue of the bombing of North Vietnam and its impact on civilian areas, the Department of Defense cannot hide behind selected photos they release from time to time. The American people deserve better than that. And so the subcommittee will continue to press for additional photos, and a full response to our inquiries about American policies and practices in Southeast Asia.

I hope to announce public hearings with representatives from the Departments of Defense and State within the next several days.

I ask unanimous consent that the text of my August 19 letter to Secretary Laird and the communication from Mr. Ramsey Clark be printed in the RECORD.

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

AUGUST 19, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: As you probably know, the Subcommittee on Refugees resumed last week its public inquiry into war-related civilian problems in Indochina, focusing its attention on conditions within North Vietnam.

In connection with the record of these hearings, and as a follow-up to my letters of May 3, June 26, and August 9, I would like to request the current rules of engagement governing air activities and naval gunfire in North Vietnam, and a series of aerial photographs of civilian populated areas allegedly subject to American air strikes. It would be helpful if these photographs could include shots of specific locations in or near these areas, both before and after the date they have been reportedly hit. It would also be helpful for the Department to identify what military targets were in, or near, these civilian populated areas. Hopefully, materials forwarded to the Subcommittee will include photographs of the sites listed in the testimony submitted to the Subcommittee by the Honorable Ramsey Clark, a copy of which I have attached to this letter, and of the following:

1. *Haiphong City*—photos taken prior and subsequent to the April 15–16, 1972, bombing raids on Haiphong, particularly the Ngo Ouygen district, the central market place (hit on July 31st), and the so-called Vietnamese-Czechoslovak Friendship Hospital. Western observers also report that a housing and school complex consisting of three four-story apartment buildings and one two-story senior high school, located 2½ kilometers east of the harbor area, was struck three times on April 16, 1972: at 2:15 a.m., 9:00 a.m., and 4:00 p.m. Is this information, submitted to the Subcommittee, correct, and what military targets were in the area?

2. *Nam Dinh*—photos prior to May 23rd and subsequent to June 23rd showing the central city area, specifically the hospital, and the Chung Dang Ling secondary school.

3. *Han Gai*—photos before and after June 7th–9th, showing the Ha Long quarter.

4. *Hanoi*—reports to the Subcommittee report heavy bomb damage since April 16th to such civilian installations as the Bach Mai hospital (hit on June 27th); the Truong Dinh workers housing apartments (hit on June 27th); and civilian housing on Ming Khai Street (hit on July 4th).

Your assistance in this matter is greatly appreciated.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

RAMSEY CLARK,
Washington, D.C.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: As I testified before your Subcommittee on August 15, I visited North Vietnam between July 29 and August 11, 1972. During this period, I traveled over 1200 kilometers between cities and provinces and many more miles within those places. I visited six provinces, five major cities, and numerous villages, towns and dike sites.

Bomb damage to what appeared to be purely civilian targets was extensive. I personally observed schools, hospitals, churches, residential quarters of cities and whole villages, like sections and water control facilities which had been damaged or destroyed by bombing. I also visited children and old people in hospitals who stated they had been wounded by bombing, and talked with other civilians who described losing members of their families because of bombing raids.

The bombing of civilian targets in North Vietnam must be a subject of great concern to every American. It is intolerable that a rich, powerful, technologically advanced nation should bomb villages, hospitals and dikes, killing women and children in a poor, undeveloped country simply because it has the power. It is incredible that we should do so when we are withdrawing ground troops and say we are "winding down" the war. The implications for the future are ominous.

It is imperative that this controversy over whether we deliberately bomb civilians be resolved in a way which will give the American people the facts and let them judge for themselves.

For this reason, I am attaching a partial list of structures and areas which I personally observed to have been bombed. I include here but a few of the more striking examples of what I saw. Of course, the Department of Defense knows what targets it intends to hit and what targets it does hit. If the Department of Defense will disclose the facts as to these places I list, I can send a full list of what I observed in North Vietnam at a later date. Extensive aerial photo reconnaissance is made of North Vietnam and often planes on bombing missions photograph as they bomb. I hope you will be able to obtain aerial reconnaissance photographs from the Department of Defense of the bombed places listed here. Ideally, every existing photo of each target would be obtained. The most important are those taken on the day of the bombing, then the days before and finally the days after.

The disclosure of such aerial reconnaissance photographs to the American people is clearly an essential step to open, informed consideration of our bombing policy in Vietnam and its effects on the civilian population. Citizens of a free democratic society are entitled to such data. Indeed, our system cannot work without an informed public.

Of this list, the most critical set of targets are the dikes because they sustain the agriculture of the people and retain waters that could drown hundreds of thousands. I am therefore appending a list of dike sections which have reportedly been bombed, some of which I saw and some which I did not see.

In view of the world-wide controversy over the bombing of the dikes, Administration officials should produce aerial reconnaissance photographs of these specific dike sections, taken both before and after they were reportedly struck. Their failure to do so will imply to many a fear of the truth on their part. I include here a United States Army map to aid in identifying these dike sections more precisely.

You will recall I showed two small bombs to your Committee. The bomb I called a penetrating bomb was given to me by the Mayor of Haiphong. He said it was found after an attack on his City on June 26 in Lach Tray Street where much damage was done. The round bomb I described as an anti-personnel bomb was given to me by the Mayor of Hanoi. He said only that it was dropped on the southern part of his city on June 8, 1972. I would be interested in the legal justification by the Department of Defense for dropping such bombs outside of combat zones and military encampments if it concedes these bombs were dropped as described.

I hope you can secure an early response from the Department of Defense. If the American people and the Congress are to have a say in determining this country's policies, they must have the facts.

Thank you for your efforts on behalf of peace and humanity.

Sincerely,

RAMSEY CLARK.

[Letter to Senator Edward M. Kennedy from Ramsey Clark dated Aug. 22, 1972]

ATTACHMENT 1.—LISTED BELOW ARE SPECIFIC PLACES WHICH I SAW AFTER THEY WERE BOMBED AS TO WHICH SOME ADMISSION, DENIAL, OR EXPLANATION IS SOUGHT. I WOULD BE MOST ANXIOUS TO SEE AERIAL PHOTOGRAPHS OF THESE AREAS BECAUSE NO MILITARY TARGETS WERE VISIBLE AT THE TIME OF MY VISIT

Place and location	Date reportedly struck	Observations
I. City areas:		
(1) Ha Ly district, in Haiphong City.	July 31, 1972	Acres of destruction to residences, business area; hundreds allegedly killed.
(2) Truong Chinh, workers' quarters and secondary school, in Hanoi City.	May (?), 1972	Total destruction of large housing development and damage to nearby school.
II. Villages:		
(3) Phuc Loc, approximately 12 km. east-southeast of Haiphong City.	Apr. 16, 1972 (03:00)	Many bomb craters, much destruction in village.
(4) Thieu Hoa, approximately 25 km. from Thanh Hoa City.	Apr. 13, 1972 (02:45)	Total destruction of Xan Ai; damage to remainder of village; allegedly 23 killed, 33 wounded.
(5) Vu Van, approximately 20 km. southwest from Thai Binh.	July 31, 1972	Homes, school, dike, hit. 3 churches nearby badly damaged
III. Hospitals:		
(6) Thanh Hoa hospital, approximately 6 km. from Thanh Hoa City.	Apr. 27, 1972 (08:50)	6 buildings demolished; others extensively damaged. Facility out of operation.
(7) Vinh Phong, leprosarium, near Vu Van village.	July 31, 1972	Administration building and medical treatment facility destroyed; barracks-like housing for patients damaged.
(8) Bach Mai, on highway to Ninh Binh, 6 km. south of center of Hanoi City.	June 27, 1972, (09:00).	Large crater in a courtyard; destruction of 1 wing of hospital; damage to other wings and adjacent building.
IV. Dikes:		
(9) Lan Sluice and gates, approximately 25 km. east-southeast of Thai Binh City within several km. of sea.	May 19, 24, June 15, July 2, 8, 11, 12, August 4.	Extensive damage to adjacent diking concrete base, destruction of lifts housing, gates, superstructure.
(10) Vu Dong dike, approximately 10 km. south of Thai Binh City.	July 20, 1972	Extensive damage to dike, bomb craters on and near dike, adjacent huts destroyed.
(11) Nam Sach dike, 40 km. east of Hanoi.	June (?), 1972	Extensive damage visible though largely repaired by Aug. 6. This is the dike location which the French newspaper reporter Jean Thoraval says he saw attacked.
V. Schools:		
(12) Haiphong (3) in Haiphong City.	July 12, 1972	Destroyed.
(13) Hanoi (1) in Hanoi City	May (?), 1972	2-story building, extensively damaged, unusable.
(14) Vu Van, secondary school (1).	July 31, 1972	6 classrooms destroyed; other classrooms damaged.
VI. Churches:		
(15) 3 churches near Vu Van, within 2 km. of Vu Van village in Thai Binh province.	July 31, 1972	All badly damaged from bombing.

ALEX HALEY AND BLACK FAMILY HISTORY

Mr. DOLE. Mr. President, the Washington Post of September 17 contained an article about a most interesting and dynamic individual who is pursuing a study into the roots of his family's history. This investigation, at first glance, might not seem extraordinary, but, when this family study is recognized as also being the first of its kind for an entire race, one begins to understand the importance and significance it holds.

Alex Haley and this generation of his family could be the subjects of a unique story of personal initiative and self-made success, but the history of the whole family, from today's author, architect, and attorney, back to preslavery tribal Africa, holds the promise of being one of the most intriguing and illuminating pieces of scholarship undertaken in recent times. Its special potential is that it may open the doors to a new type of black history and to a wider understanding of the contributions blacks have made to the lives of all Americans.

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:

A DETERMINED QUEST FOR BLACK HERITAGE

(By Dorothy Gilliam)

Walking tieless into a downtown restaurant, his Liberian shirt topped by a tailored jacket, Alex Haley earned a superior sniff from the black maitre d'.

But the man who wrote the bestselling "Autobiography of Malcolm X," as unpretentious as hominy grits, did not notice the silent chastisement directed at him because he wore no tie. For he was thinking of the lineage he shared with the man, and with a red-jacketed black waiter who now approached, delicately balancing a tray.

"All three of us have the same basic story," Haley said, his any-man's face emotionless, but his hand sweeping expansively.

"We all spoke one of those tongues. We all were captured from some African village. All our ancestors came over on some slave ship."

Haley, who has pursued his own family's history for eight years, is widening his search to uncover some specifics of the genealogy common to the maitre d', the waiter and all black Americans. For centuries, this information has been hidden beneath clouds of historical lies and mythologies of inferiority that are just now beginning to lift.

Haley has traced his own family tree back to his great-great-great-great-grandfather, from Gambia, West Africa, to America. It is probably the most extensive black family history ever documented, and will be published as a book, "Roots," by Doubleday next September. Columbia Pictures plans to base a film on it.

Six years into his search, something happened to him, Haley says.

"I began to feel the responsibility for having to tell through a single family what was a saga of a people, in a way that people would feel our common saga. I became more and more aware that there was so much lacking for us as black people which was possible for us to have. All of the 50 states have at least one library devoted to the genealogy of European heritages. We don't have one."

To remedy that, Haley and his two younger brothers, both Washingtonians—George is chief counsel of the U.S. Urban Mass Transportation Administration and Julius is a Navy Department architect—incorporated the Kinte Foundation.

Haley thinks of the Kinte Foundation as an extension of what his life has shown him: That the peoples on earth have the potentials of a far better life, a far better world; that every individual in his life journey is challenged to do the best, the most that he can.

"The Kinte Foundation hopes to be my form of response to that challenge. From the years of researching 'Roots,' I know better than most how much black people helped to build this country, and make it great. But our contribution has been so obscured that even today, next to none of us—not even we blacks—genuinely realize and respect the dimension of black contributions among those of the other cultures here."

The Foundation, named for the clan of his African forebears, has two goals: to collect, to preserve and to publicly present the African heritage and contributions in the making of America, and to offer innovative and creative solutions for America's racial division.

The foundation's library will gather the oral histories of black Americans who thought nobody cared because history always has been written by the winners. It will seek out centuries-old documents in courthouses and libraries from South to North—plantation slave lists, records of slaves sold, bought, hired out and run away. Also slave travel passes, wills giving away slaves as property, letters and personal diaries will be collected.

Black church records and papers from those whites who, as Haley puts it, have "black skeletons" in their closets will also be sought. The special wealth of records of the Daughters of the American Revolution, National Archives and Library of Congress will be used.

Because Alex Haley's life has been almost an Horatio Alger story from Coast Guard mess boy to successful author, a life that only a few blacks could hope to match, his is a positivist view. This is evidenced by the audience he hopes the foundation and the library will reach.

"Who? People," he answers. "Simply that. People! Whatever obstructions we races impose between each other, it remains inescapable that the biggest common denominator among us is that we are people."

Haley and his brothers are trying—with a lot of help from their friends— to achieve an adequate financial base, the foundation's first priority. Until now, Haley himself has largely financed it, and the several thousand dollars he has contributed has helped set the foundation up at 716 National Press Building in Washington. Following two articles he wrote, he received something under $1,000 in mail contributions.

Haley will divert much of the royalties from "Roots" to the foundation and the library. And he does, in fact, feel queasy even talking about soliciting contributions.

"I am just having to face the fact that what's envisioned for the foundation to accomplish involves costs beyond my present abilities," he says. "But I have faith it will come through."

His faith extends to seeking the help of his home town, Henning, Tenn., where Sister Will Ada Curry was known as the best prayer around. Recently he mailed off $100—just to get Sister Curry working on his side.

"And I have to tell you," he said, "I have a boyhood faith that Sister Curry's prayer is going to rend Heaven asunder in behalf of Kinte Foundation."

DISABLED MILITARY OFFICERS

Mr. PERCY. Mr. President, in recent days the disability retirement practices of the armed services have come into question.

The Senator from Wisconsin (Mr. PROXMIRE) has raised disturbing questions about a number of Air Force generals who have retired on tax-free retirement disability pay but who, prior to retirement, were qualified for flight pay.

Senator PROXMIRE has once again demonstrated his vigilance in trying to expose questionable practices in the Government. I urge the appropriate congressional committees to look into these allegations to see if abuses have occurred.

Mr. President, I ask unanimous consent that an editorial on this subject published in the Chicago Daily News of September 5, 1972, be printed in the RECORD.

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

THOSE DISABLED GENERALS

Sen. William Proxmire, the Wisconsin Democrat who likes to shoot at brass targets, may have scored a bull's-eye with his latest round. He had been looking at the retirement practices of the Air Force, and he discovered that an astounding number of generals were "disabled" when they retired.

Citing figures gathered by the General Accounting Office, Proxmire said that in the last five years 130 of the 327 Air Force generals who retired were found qualified for disability pay of 30 per cent or more. Yet 97 of the 130 rated disabled were able to fly planes and qualify for bonus flight pay in the year before they retired.

Another interesting fact comes into play: Retirement disability pay escapes taxes. With a 30-per cent or greater disability rating, 30 per cent or more of the generous pensions provided to generals are nontaxable.

The Air Force is conceding nothing at this point. It says that a general who has an ulcer or similar ailment could fly a plane and still qualify as partially disabled. But that isn't likely to satisfy civilian questioners. Even if it's all right for disabled generals to be flying those expensive planes around, why should an ulcer be worth 30 per cent off the top of the tax bill? Civilians may retire with an ulcer, or worse, but try telling the tax man that it's a "disability" deductible from the pension check.

There has to be a fair-sized suspicion that the generals are scratching each other's backs and finding disabilities at retirement age where none existed before. Maybe it's time to introduce the Air Force to the Internal Revenue Service, and see how the meeting comes out.

PAUL STRACHAN DIES—HE WAS A GREAT LEADER OF THE HANDICAPPED

Mr. RANDOLPH. Mr. President, the rain outside the Senate Chamber symbolizes the mourning for the passing of a giant and true friend of America's handicapped people. Paul A. Strachan, former president of the American Federation of the Physically Handicapped and pioneer in spearheading the movement for the President's Committee on Employment of the Handicapped, was a familiar figure on Capitol Hill for many years. The hard lines on Mr. Strachan's face illustrated that no one knew the problems involved by the physically handicapped more than did he. Although he was totally deaf and suffered many ailments that kept him hospitalized for more than 7 years, Paul's life's work was dedicated to helping others.

He fought unceasingly to assist the handicapped by means of constructive legislative in their behalf. I shall never forget House Joint Resolution 23 in 1945 calling for an annual observance of National Employ the Physically Handicapped Week. The joint resolution had passed the House, but on the last day of the session, the Senate had not acted. I remember clearly the words of Paul Strachan on that day:

We knew that the Senate intended adjournment at about 5:30 or 6 p.m. and were fearful that our measure would get lost in the shuffle. If so, we would have the same dreary business of having it reintroduced; action by both House and Senate. We had already spent more than 5 years of hard work on it . . . so our anxiety was keen.

The joint resolution passed unanimously. Paul Strachan's uphill fight was won. President Truman signed the bill, and it became Public Law 79–176 on August 11, 1945. When the President's Committee on National Employ the Physically Handicapped was organized in 1947, Strachan was named assistant to the Chairman. He understood well the purpose of National Employ the Physically Handicapped Week, and he effectively conveyed that purpose as an effort to direct the attention of the Nation, and especially employers, to the true worth of the handicapped as valuable members of the U.S. work force. Paul Strachan knew the necessity of educating all of us, especially employers, public and private, to give disabled persons the opportunity to become productive citizens.

As a member of the President's Committee on Employment of the Handicapped, I know of the problems and difficulties in convincing people of the value of handicapped persons as constructive employees. But thanks to persons like Paul Strachan, our Nation is moving forward with programs of opportunity for the handicapped.

To his four sons, we extend our sympathy. They have lost a wonderful father. Our Nation has lost a courageous, persevering, and unselfish worker in the cause of the disadvantaged.

VICTIMS OF CRIME ACT OF 1972

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate S. 750, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 750) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Victims of Crime Act of 1972".

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession

enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages

from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code. "(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkeness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data and reports as the Attorney General may require

to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"PART C—MISCELLANEOUS PROVISIONS

"SEC. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting '(a)' immediately after '569' and by adding at the end thereof the following new subsection:

"'(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"'(1) $5,000,000 for the purposes of part F; and

"'(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.'

"SEC. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement invalid, the provisions of the other parts and their application shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

"SEC. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the others parts and their application to other persons or circumstances shall not be affected thereby.

"SEC. 111. This Act shall become effective upon the date of enactment."

PRIVILEGE OF THE FLOOR

Mr. McCLELLAN. Mr. President, I ask unanimous consent that additional Judiciary Committee staff members G. Robert Blakey, Kenneth Lazarus, and Malcolm Hawk have the privilege of the floor during debate and votes on the following bills: S. 33, S. 750, H.R. 15883, and H.R. 8389, which are scheduled this morning.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Herb Jasper have the privilege of the floor during that period, excluding the voting.

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

Mr. McCLELLAN. Mr. President, as the Senate proceeds with its consideration of S. 750, the "Victims of Crime Act of 1972," I take this opportunity to outline the background and development of this legislative proposal over the course of the 92d Congress.

At the outset, let me reiterate my belief that Congress must do all that is in its power to strengthen the peace forces within our society—the police, courts, and corrections.

But in our efforts to meet the needs of the criminal justice system, we must not forget that institutions of government exist for people. In our efforts to strengthen the means by which we identify, apprehend, and convict the criminal, we must not forget his innocent victim. For it is in his behalf ultimately that the criminal justice system must be operated.

Although the concept that society has an obligation to help meet the needs of crime victims has roots that run deep in legal tradition, modern law has sharply distinguished between criminal and civil proceedings.

The criminal is thought to owe a debt to society, which must be paid in the context of a criminal prosecution, in order to secure the safety of the people through the sentencing of offenders. In these public proceedings, the victim himself is a disinterested witness. The victim's personal remedy is supposed to be found in private action in tort.

Dissatisfaction with the practical effect of this modern dichotomy begins in recent years with the writings of the English penal reformer, Margery Fry. In 1954, she began to speak up for the innocent victims of violent crime, calling for the establishment of a more effective remedy for the victim than the traditional action in tort.

Her call for reform was answered in New Zealand in 1963. In that year, the New Zealand Parliament, under Conservative leadership, established the first Crime Compensation Tribunal, with discretionary power to award public compensation to the victim or his dependents where he had been injured or killed through the commission of certain specified offenses. Compensation was authorized for out-of-pocket expenses, loss of earnings, and other financial losses. The tribunal also empowered to order the offender to reimburse the indemnity fund from which the award was made.

In the following year, the Tory government in England announced a similar but nonstatutory program, proposed by the Home Secretary and put into operation with the consent of Parliament. Under the plan, a Criminal Injuries Compensation Board was estab-

lished, with discretionary power to award compensation for personal injuries caused by violent crimes.

The first American jurisdiction to adopt the compensation principle was California. Its program was enacted in 1965 and was put into operation 2 years later. Since that time, similar or related programs have been authorized in New York in 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1967; New Jersey, 1971; Rhode Island, 1972, and most recently in Alaska in 1972.

Legislation has also been introduced and considered in Illinois, Ohio, Michigan, and other States as well as several of the Canadian Provinces. In Arkansas, Dr. Calvin R. Ledbetter, Jr., chairman of the political science department at the University of Arkansas at Little Rock, introduced house bill 175 in the 1971 regular session of the general assembly. The bill would have established a system of compensation for persons who sustain personal injury or death as a result of crime, or for their survivors.

The development and progress of S. 750 in the Senate during the current Congress may be summarized as follows:

First, on February 11, 1971, S. 750 was introduced by our distinguished majority leader (Mr. MANSFIELD).

Second, on June 17, 1971, and November 30, 1971, hearings were held on S. 750 and a number of related measures.

Third, on December 11, 1971, I introduced, on behalf of myself and a number of my colleagues, S. 2994 which in title I reflected the provisions of S. 750. Forty-three of my colleagues joined as cosponsors of S. 2994, and additional members cosponsored a similar measure, S. 2995: Senators BAKER, BAYH, BEALL, BENNETT, BIBLE, BOGGS, BURDICK, CANNON, CASE, COOK, CRANSTON, EASTLAND, FANNIN, GRAVEL, GRIFFIN, GURNEY, HANSEN, HART, HARRIS, HOLLINGS, HRUSKA, HUGHES, HUMPHREY, KENNEDY, MANSFIELD, MATHIAS, METCALF, MILLER, MONDALE, MOSS, MUSKIE, NELSON, PELL, PERCY, RANDOLPH, RIBICOFF, ROTH, SCHWEIKER, SCOTT, STAFFORD, STEVENS, STEVENSON, THURMOND, WILLIAMS, and YOUNG.

Fourth, on March 27, 1972, final hearings were held on S. 750, 2994, and all related measures.

Fifth, on July 19, 1972, S. 2994 cleared the Subcommittee on Criminal Laws and Procedures with an amendment in the nature of a substitute bill.

Sixth, on August 16, 1972, the Committee on the Judiciary divided S. 2994 into its component bills and ordered reported S. 16, "Civil Remedies for Victims of Racketeering Activity and Theft;" S. 2087, the "Public Safety Officers' Benefits Act of 1972;" and S. 33, "Group Life Insurance for Public Safety Officers." Thereafter, on September 5, 1972, S. 16 and S. 2087 passed the Senate. S. 33 yet awaits floor action.

Seventh, on September 8, 1972, S. 750, the final title of S. 2994, cleared the Senate Judiciary Committee with an amendment in the nature of a substitute bill, adopting the language of title I of S. 2994 as it cleared the Subcommittee on Criminal Laws and Procedures.

Although S. 750 was the subject of an amendment in the nature of a substitute bill, its underlying rationale was not disturbed.

This proposed legislation would on one level establish a direct Federal program to meet the financial needs of innocent victims of violent crime. Through the mechanism of an independent Federal Violent Crimes Compensation Board, it would provide compensation to two classes of people—"victims" and "intervenors"—or the surviving dependent or dependents of either of them, when the act giving rise to a claim occurs within the District of Columbia, Federal territorial or maritime jurisdiction or on an Indian reservation. A victim is a person who is killed or who suffers personal injury—but not property damage—where the proximate cause of such death or injury is a violent crime, while an intervenor is a person who goes to the aid of a policeman or victim to prevent a violent crime or to apprehend a suspect.

A victim is eligible for compensation covering his "pecuniary losses" and an intervenor may be compensated for his "net losses." Pecuniary losses generally include hospital and medical expenses and loss of earnings at a rate of $150 per week up to $50,000. Net losses are gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable by public or private means.

Victims, as opposed to intervenors, must show some "financial stress" in order to qualify. "Financial stress" means undue financial strain as a result of the crime, but disregards ownership of a residence, normal household items and personal effects, an automobile, tools of trade, and liquid assets up to $10,000. This concept is introduced not to serve as a "means test," but to concentrate the Board's resources in the area of greatest need.

Other limitations include a requirement of reporting the offense within 72 hours, a duty to cooperate with law enforcement, and an exclusion of those who would be unjustly enriched by a payment, for example, an accomplice of the offender.

Payment of attorney's fees would also be authorized on terms and conditions paralleling those specified under the Criminal Justice Act of 1965 for the defense of the indigent accused.

A criminal conviction would not be a prerequisite for recovery, but if an award were made, the Board would become subrogated to the rights of the victim against the offender. In addition, if the offender was prosecuted, convicted and fined, the court would be authorized to direct that part of any fine paid be transferred to an indemnity fund to be administered by the Board.

On a second level, S. 750 would amend title I of the Omnibus Crime Control Act of 1968 and provide for a new grant program to be administered by the Law Enforcement Assistance Administration. States having victim-compensation programs could, upon filing appropriate plans, receive matching grants amounting to 75 percent of the costs of the State program for compensation of victims of crime.

Costs for this title, including the direct Federal program and the LEAA grant program, assuming eventual 100 percent participation, would scale from approximately $6 million in the first year of operation to a stabilized cost of approximately $30 million by fiscal year 1980.

For the benefit of my colleagues, I offer outlines of the various State crime compensation schemes and the proposed Federal statute, and I ask unanimous consent to have them printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, compensation for the innocent victims of violent crime is an idea whose time has come.

I urge favorable action on this measure.

FEDERAL CRIME—COMPENSATION STATUTE, MAJOR FEATURES

1. GENERAL

Authority	Administration	Jurisdiction
Victims of Crime Act of 1972	Violent Crimes Compensation Board (Department of Justice)	Crimes or other acts giving rise to the claim must occur (1) within the maritime or territorial jurisdiction of the United States; (2) within the District of Columbia; or (3) within Indian Country.

2. SCOPE OF COMPENSATION

Claimants recognized	Losses recognized	Need requirement	Maximum compensation	3-party claimants
(1) Victim	(1) Net losses of intervenors	Victim must show "financial stress"	$50,000 as to victims. Not applicable to intervenors.	Payments, but not claims, are authorized.
(2) Intervenor or their surviving dependents.	(2) Pecuniary losses of victims	Not applicable to intervenors		

3 LIMITATIONS

Crimes covered	Period of limitations	Members of household	Deductible feature	Collateral recovery
List of crimes and "any other crime which poses a substantial threat of personal injury."	1 year. Extended upon showing of "good cause".	No claim if person is member of the family or household or maintaining continuing unlawful sexual relations with offender or accomplice.	Loss must be over $100 or 2-weeks earnings or support.	"Net losses" reduced by amounts recovered or recoverable from "public or private means." "Pecuniary losses" are derived from net losses. If suit gives rise to collateral recovery, amount is first deducted from "gross losses."

4. REQUIREMENTS

Duty to report	Duty to cooperate	Responsible claimant
Must be reported within 72 hours, but not necessarily by victim or claimant. Waived upon showing of "good cause."	May reduce, deny or withdraw compensation if claimant does not substantially cooperate with law enforcement incident to act giving rise to claim.	Compensation may be reduced in proportion to responsibility of claimant for act giving rise to claim, or deny compensation if claimant's behavior is substantial contributing factor.

5. PROCEDURES

Hearings	Burden of proof	Attorneys fees	Standards of review
Initially determined by 1 member. Hearing en banc (of record) is matter of right.	"Preponderance of the evidence" is burden to be met by claimants.	Authorized in accord with Criminal Justice Act. Do not diminish recovery and are not subject to ceiling.	"Substantial evidence" is standard for sustaining Board.

6. MISCELLANEOUS FEATURES

Emergency payments	Subrogation	Indemnity fund
Maximum of $1,500 which is subsequently deducted from final claim or repaid if claim is denied. Repayment may be waived.	Claim of victim against offender to extent of compensation may be pursued by the Attorney General for the United States.	Fund established which is the repository of (1) fines; (2) appropriated funds; (3) subrogation recovery; and (4) contributions.

STATE CRIME—COMPENSATION STATUTES, MAJOR FEATURES

GENERAL

States	Authority	Administration	Jurisdiction
Alaska	Violent Crimes Compensation Act of 1972	Violent Crimes Compensation Board within State Department of Health and Welfare.	Crime covered must be a crime against the State.
California	Victims of Crime Act of 1967	Board of Control (part of state welfare system)	Crimes which are committed in the State against a resident-claimant or an out-of-State crime against a domicilliary-claimant.
Hawaii	Criminal Injuries Compensation Act of 1967	Criminal Injuries Compensation Commission (independent).	Coextensive with jurisdication to prosecute crime giving rise to the claim.
Maryland	Criminal Injuries Compensation Act of 1968	Criminal Injuries Compensation Board (independent)	Situs of crime giving rise to the claim must be within the State.
Massachusetts	Compensation of Victims of Violent Crimes Act of 1967	District Courts of the Commonwealth	Situs of crime giving rise to the claim must be within the Commonwealth.
Nevada	Compensation for Victims of Crime Act of 1969	State Board of Examiners (workmens compensation)	Crime covered must be a crime against the State.
New Jersey	Criminal Injuries Compensation Act of 1971	Violent Crimes Compensation Board (independent)	Crime covered must be a crime against the State.
New York	Crime Victims Compensation Act of 1966	Crime Victims Compensation Board (independent)	Situs of crime giving rise to the claim must be within the State.
Rhode Island	Criminal Injuries Compensation Act of 1972 (effective 120 days following passage of Federal legislation entitled "The Victims of Crime Act of 1972").	State Superior Court sitting in special session at least once a year.	Situs of crime giving rise to claim must be within (1) physical confines of State; or (2) maritime jurisdiction of State.

SCOPE OF COMPENSATION

State	Claimants recognized	Losses recognized	Need requirement	Maximum compensation	3d party claimants
Alaska	Victims (including intervenors) —persons responsible for maintenance. —dependents.	(1) Expenses; (2) Loss of earning power; (3) Pecuniary losses of dependents; (4) Other reasonable losses.	A consideration but not a requirement.	$10,000	Claims and payments are authorized.
California	(1) Victim —family —dependent persons (2) "Private citizens" (intervenors) —widows —children	Pecuniary losses	Victim must show "need". Not applicable to "private citizen".	$5,000	Claims or payments not authorized.
Hawaii	(1) Victim —dependents —individual bearing loss (2) "Private citizens" (intervenors) —individual bearing loss.	(1) Pecuniary losses; (2) earning power; and (3) pain and suffering.	None	$10,000 plus any recovery from criminal.	Authorizes payments "to or on behalf of" the claimant.
Maryland	(1) Victim (2) "Good Samaritans" (intervenors) their spouses, children or dependents.	(1) Out of pocket expenses; (2) earnings; (3) support.	"Serious financial hardship" requirement.	In accordance with state workmen's compensation standards.	Claims or payments not authorized.
Massachusetts	(1) Victim —dependents	(1) Out of pocket expenses; (2) earnings; (3) support.	None	$10,000	Claims or payments not authorized.
Nevada	(1) Victim (means only intervenors) —dependents —person responsible for maintenance	All reasonable loses	"Need" is a consideration, but not a requirement.	$5,000	Authorizes payments "to or for the benefit of" the claimant.
New Jersey	(1) Victim —dependents —person responsible for maintenance	(1) Expenses; (2) loss of earning power; (3) reasonable pecuniary losses.	None	$10,000	Authorizes payments "to or for the benefit of" the claimant.
New York	(1) Victim —spouse —child —dependents	(1) Out of pocket expenses; (2) loss of earnings or; (3) support.	"Serious financial hardship" is a requirement.	$15,000 as to support or income. No ceiling on out of pocket expenses, including medical expenses.	Authorizes payments "to or on behalf of" the claimant.

SCOPE OF COMPENSATION—Continued

States	Authority	Administration	Jurisdiction		
Rhode Island	Victim —guardian —persons responsible for his maintenance —dependents —closest relative —legal representative	(1) Expenses; (2) pecuniary loses of dependents; (3) pain and suffering of victim; (4) any other reasonable pecuniary loss of victim.	None	$25,000	Authorizes payments "to or on behalf of" claimant.

LIMITATIONS

States	Crimes covered	Period of limitations	Members of household	Deductible feature	Collateral recovery
Alaska	Lists State crimes of violence	2 years	No claim allowed if person is member of the family or household or maintaining sexual relations with the offender.	None	Recovery from any private or public source reduces compensation.
California	State crime against resident or out of State crime against a domiciliary.	1 year for victims. No limitation on claim by "private citizens".	No restriction	None	Compensation reduced by "indemnification from any other source".
Hawaii	Lists State crimes of evidence	18 months	No claim allowed if person is relative or member of household of offender.	None	Compensation reduced by money received from offender or agency of State or Federal Government.
Maryland	State crimes. Motor vehicle crimes are covered only if intentional.	90 days	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation reduced by "recovery from public or private sources."
Massachusetts	Crimes of force committed in the Commonwealth. Motor vehicle crimes are covered only if intentional.	1 year or 90 days after death, whichever is earlier.	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation reduced by "insurance, amounts received from offender and other public funds".
Nevada	"A crime"	2 years	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	None	Compensation reduced by recovered expenses but not capital losses recovered elsewhere.
New Jersey	List of crimes plus catchall "other crimes of violence".	1 year	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation "takes into account amounts received or receivable" from other sources.
New York	Crimes under State law. Motor vehicle crimes are covered if intentional.	90 days. Extended to 1 year upon showing of "good cause".	No claim allowed if person is a member of the family or household o. maintaining sexual relations with the offender.	Loss must be over $100 or 2 weeks earnings or support.	Compensation reduced by collateral recovery.
Rhode Island	List of crimes plus catch-all "any other crime, excluding motor vehicle offenses, resulting in personal injury or death."	2 years	No compensation to spouse of offender or to other relative if benefit would indirectly inure to offender.	None	Recovery from public sources reduces compensation is such recovery and payments under act exceed total compensable losses.

REQUIREMENTS

States	Duty to report	Duty to cooperate	Responsible claimant
Alaska	Must be report of crime to police within 5 days of time when report could first have been reasonably made. No personal duty for claimant.	None	No compensation may be awarded if victim violated a penal law of State which violation caused or contributed to his injuries or death.
California	None	May deny compensation if claimant does not cooperate with police.	Not applicable to victims, but implicitly applicable to "private citizens".
Hawaii	Must be arrest or report of crime to trigger statute. No personal duty for claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Maryland	Crime must be reported within 48 hours, but not necessarily by victim or claimant.	May reduce, deny or withdraw compensation if claimant does not cooperate with police.	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Massachusetts	Crime must be reported within 48 hours, but not necessarily by victim or claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Nevada	Report of crime is a "consideration" in deciding whether to award compensation.	Cooperation with police is a "consideration" in determination of compensation.	Merely a "consideration" in determining amount of compensation unless claimant is criminally responsible for act giving rise to claim in which event claim is denied.
New Jersey	Crime must be reported within 3 months, but not necessarily by victim or claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
New York	Crime must be reported within 48 hours, but not necessarily by victim or claimant. Waived upon showing of "good cause."	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Rhode Island	None	None	Claimant's behavior is always a consideration in determining amount of award. No compensation allowable which would inure to benefit of offender.

PROCEDURES

States	Hearings	Burden of proof	Attorneys fees	Standards of review
Alaska	Hearing (not of record) is matter or right	None set forth in statute	Up to 15 percent of compensation and considered part of award.	None.
California	Automatic hearing (not of record) in which State Attorney General is a party.	"Preponderance of the evidence" is burden to be met by claimants.	Up to 10 percent of compensation which is not subject to maximum.	None.
Hawaii	Hearing (not of record) is matter of right	None set forth in statute	Up to 15 percent of award but subject to maximum.	None.
Maryland	Initially heard by one member Hearing en banc is matter of right.	None set forth in statute	Not authorized	None.
Massachusetts	Proceeds as civil action in which State Attorney General defends suit.	None set forth in statute	Up to 15 percent of award but subject to maximum.	None.
Nevada	Hearing of record by hearing officer with right to subsequent hearing en banc.	None set forth in statute	Up to 10 percent and considered part of award	None.

PROCEDURES—Continued

States	Hearings	Burden of proof	Attorneys fees	Standards of review
New Jersey	Hearing conducted if member of board so desires	None set forth in statute	Up to 15 percent over and above award	None.
New York	Hearing optional with disposition by individual member. Matter of right if claimant requests subsequent hearing en banc.	None set forth in statute	Not authorized	None.
Rhode Island	Proceeds as civil suit	Substantial evidence	Authorized in accordance with State minimum fee schedule over and above award.	Court decision is final. No review but may petition for reconsideration.

MISCELLANEOUS FEATURES

States	Emergency payments	Subrogation	Indemnity fund
Alaska	Maximum of $500 if "undue hardship" would otherwise result. Subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and any surplus recovered goes to claimant.	None authorized.
California	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	Fund established which is the repository of special authorized fines and appropriated funds.
Hawaii	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and this is all paid to claimant.	None authorized.
Maryland	Maximum of $500 which is subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Massachusetts	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Nevada	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
New Jersey	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and any surplus recovered goes to claimant.	None authorized.
New York	Maximum of $500 which is subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Rhode Island	None	Claim of victim may be pursued against the offender by the State if compensation is based on criminal conviction.	Violent Crimes Indemnity Fund is repository of criminal fines.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments in the nature of a substitute bill be agreed to en bloc and that the bill as amended be considered as original text for the purposes of amendment.

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

Mr. McCLELLAN. Now, Mr. President, how much time have I consumed?

The PRESIDENT pro tempore. Eight minutes.

Mr. MANSFIELD. Mr. President, will the Senator from Arkansas yield me 7 minutes?

Mr. McCLELLAN. I yield to the distinguished majority leader such time as he may desire.

Mr. MANSFIELD. Mr. President, S. 750 is designed to restore the rights of the criminal victim to their proper place in this Nation's system of criminal justice. It is charged that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for stiffer action against lawbreakers. But to me the major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for urging today that the concept of victim compensation be revived. S. 750 at long last recognizes that the victim is entitled to just as much protection as is accorded the criminal under the Constitution. Until now, it was the criminal who got the guarantee while the victim most often went ignored.

May I say also that S. 750 is not the Mansfield bill. Rather, it represents the combined efforts of a number of Senators who have exhibited a strong and lasting interest in providing relief for the innocent victim of violent crime. Senator McCLELLAN embraced such a concept out of his deep compassion for those who are made to suffer at the hands of the criminal. It was the distinguished Senator from Minnesota (Mr. MONDALE) who provided his own strong leadership on this issue with S. 2817. I must say that many of the features of the Mondale bill, S. 2817, have been incorporated directly into S. 750 as it has been reported by the committee. In short, the record shows that providing recognition for the criminal victim has been the product of a joint effort, undertaken on a broad bipartisan basis, cutting across the entire philosophical front.

That is as it should be. The U.S. Government has paid out millions to foreign nationals injured by the criminal acts of Americans committed abroad.

Let me repeat that the U.S. Government has paid out millions to foreign nationals injured by the criminal acts of Americans committed abroad.

What S. 750 would achieve, therefore, would only give to our own citizens who suffer criminal injury the same consideration already provided by the United States to citizens of other nations.

And what about the concern this Congress exhibited for the victims of flood disaster? Within the last few weeks this Congress provided nearly $2 billion as I recall for those who suffered from recent flood damage. Should we be any less concerned for the victim of violent crime? It should be noted that the program here proposed for victims of crime would cost about 1 percent of that established to aid victims of flood disaster.

Indeed, as a matter of public policy, compensation programs are not revolutionary concepts by far. In fact there is much similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker was historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitudes when facing matters of collective community need. Social security and medicare; aid to dependent children; assistance for the handicapped, the aged, and the blind; notions of no-fault insurance and national health insurance—all reflect a recognition of collective responsibility.

Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. Adopting it at the Federal level by no means represents the first such step taken in modern times. Within the last 10 years, New Zealand, England, particular Provinces in Canada and Australia have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the States of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently, New Jersey, Rhode Island, and Alaska—all have enacted some type of compensation program.

S. 750 provides the impetus at the national level and, in my opinion, Mr. President, it is about time.

The PRESIDING OFFICER (Mr. GAMBRELL). Who yields time?

Mr. HRUSKA. Mr. President, I yield the Senator from Kentucky 1 minute.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 1 minute.

Mr. COOPER. Mr. President, like the distinguished majority leader and others, we who support the bill do so because it is just. It will be just to those who work to control crime, our law enforcement officers, those who may die as a result of their efforts to control it. Their families cannot be compensated for their loss, but should be compensated as far as we do so, for the loss of support.

At the same time, I ask unanimous consent to have printed in the RECORD an article published in the September 17, 1972, Sunday Star-News entitled "McLean Gardens, Brentwood—Link Sought in Four Slayings."

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

LINK SOUGHT IN FOUR SLAYINGS

(By Mary Ann Kuhn)

District police are trying to determine whether there is a connection between the recent murder of a McLean Gardens woman and three unsolved slayings earlier this year in the Brentwood Village apartments in Northeast Washington.

Thomas Willis Whalen, 29, a janitor at McLean Gardens since March, has been charged with first-degree murder in the strangling of a woman tenant there, Rebecca Ann Rieser, 26, a marine biologist for the Fish and Wildlife Service of the Interior Department. Her body was found last Sunday on the floor of her room in a woman's residential dormitory at 40 Plattsburg Court NW.

Before working at McLean Gardens, Whalen worked at Brentwood Village apartments for 1½ months as a porter, doing such tasks as cleaning hallways, officials said. They said he worked at Brentwood Village from Nov. 15 to Dec. 30 and "left of his own accord."

On Jan. 20, the bodies of a 20-year-old District woman, her throat slashed, and her 2-year-old daughter were discovered in a partially filled bathtub in their apartment at Brentwood Village, according to police.

Police said at the time that Vera Pickett, and her daughter, Theresa, had been dead two days when they were found by police in their apartment in the 2500 block of 14th street.

About two months later, on March 10, the partially decomposed body of 18-year-old Joyce Pollen, who had been stabbed, was found at a vacant apartment in Brentwood Village, police said.

Although police refused to provide any details, it was learned that detectives are investigating a possible link between the Reiser slaying and the three Brentwood Village deaths.

Police listed Whalen's address as in the 200 block of Rhode Island Avenue NE, which is 10 or 12 blocks from Brentwood Village. He and his wife had lived there one week before he was arrested, according to court records. He was recently married, sources said.

Three months earlier, Whalen, a lifelong Washington resident, lived alone in the 200 block of S Street NE, according to court records. That residence is in the same general area as the Rhode Island Avenue address.

There have been conflicting reports or, the death of Elizabeth Michaels, whose body was found hanging in her room at McLean Gardens on July 3. She lived at 3831 Porter St. NW in a dormitory adjacent to Miss Rieser's.

One source said a suicide note was found in Mrs. Michaels' death. However, Lt. Joseph O'Brien, head of the homicide squad, denied that. He said the case is listed as a suicide and has not been reopened. He declined to comment further.

Other sources said that even though the case is listed as a suicide, police still are seeking to find whether there is a connection between Mrs. Michaels' death and the Rieser slaying.

Miss Rieser's death was originally thought to be a suicide. Dr. James Luke, D.C. medical examiner, said an autopsy revealed that she had been manually strangled, although her body had been hanged in an apparent "masquerade" to make her death look like a suicide.

Authorities said a girl who was a friend of Miss Rieser and lives at McLean Gardens found the body shortly before noon last Sunday and called police. They said the friend and Miss Rieser were to go swimming. When Miss Rieser didn't show up, the friend went to her apartment.

Whalen has also been charged with rape and asault with a dangerous weapon, a knife, in an attack on a woman last Sunday night in the 2000 block of 3rd Street NE. Prosecutors are not pressing these charges at this time.

Whalen is being held without bond pending a court hearing Tuesday to determine whether his parole should be revoked. He has been on parole in a 1962 rape and robbery, according to court records.

In 1965 he was sentenced for rape and robbery to six to 18 years and was paroled on Sept. 10, 1971, through a community halfway house. The parole term was to expire in 1981. The parole board has issued a warrant for violation of parole.

Court records show that Whalen was a psychiatric patient at St. Elizabeths Hospital between 1956 and 1963 as a result of the hammer slaying of a 75-year-old woman when he was 13.

A preliminary hearing has been scheduled Thursday for Whalen on the first-degree murder charge relating to Miss Rieser's slaying.

Mr. COOPER. Mr. President, the article deals with the question of parole of individuals who have been convicted of a crime and then, in a short time after parole, they commit the same offense for which they were originally sent to prison.

The article speaks specifically of a man who had been convicted before of rape and robbery and then, after he was paroled, went out and committed the same crime plus murder.

I believe that there should be a tightening up of parole proceedings, particularly in the courts of the District of Columbia. The courts should be more intent upon justice not only for those who are charged with crime—and they deserve justice—but also justice for their victims in a more careful consideration of parole

Mr. ERVIN. Mr. President, I rise to perform the most futile task which a Member of Congress can perform at this particular moment, and that is to express misgivings concerning a legislative proposal under which money will be extracted by the legerdemain of deficit financing from an empty Federal Treasury in order to finance new programs.

To be sure, the pending bill proposes, for the time being at least, that compensation to victims of violent Federal crimes shall come out of fines collected in Federal criminal courts. But the pending bill also contains a provision under which direct appropriations will be made from an empty Federal Treasury to encourage the States to embark upon new programs which will require an outlay of vast sums of money on the part of the States.

A few days ago the Senate overwhelmingly approved a so-called revenue-sharing measure under which the Congress would give to the States, the cities, and the counties $33.5 billion which Congress does not have because Congress believes that the States do not have sufficient resources to perform obligations they have already assumed. This bill undertakes to encourage the States to embark upon new programs compensating the victims of violent State crimes, notwithstanding Congress is aware of the financial inability to do so.

Mr. President, I accept the doctrine that one should be just before he is generous. It is under this doctrine that men are forbidden to give away their property or assets before they pay their debts. If the United States were created to be an eleemosynary institution and if its Treasury was full of moneys instead of containing nothing except a hole $450 billion deep, a better case could be made for the proposition that the American taxpayers, who are innocent parties, ought to be compelled to assume the obligation of criminals and compensate the victims of their crimes.

Every journey to an unwise end starts with a single step. This bill is merely a first step. There is no more justification in principle for compensating victims of violent crimes than there is for compensating the victims of fraudulent crimes. A man who is defrauded of his property suffers a loss just as much as the man who is robbed of his property. There is no valid distinction between those losses.

I would like to exhibit a big heart, and I would like to be able to support conscientiously an effort to alleviate the misfortunes of all men. However, I owe a responsibility to my country, and that responsibility requires me to say that this is not the time to be taking money out of the Federal Treasury that is put there either by fines paid by criminals or by the legerdemain of deficit financing and using that money even for a laudable purpose. This is true because we are nearing the day when the United States will be confronted with the necessity of either confessing its total bankruptcy or imposing upon the people of this Nation confiscatory taxes.

It seems to me that in a day in which the United States is in the financial plight which confronts it at this time, the Congress of the United States ought to show some hesitation in adopting new programs which require expenditures from an impoverished Treasury to finance them. Oh, we are told, that this is just one little step. I know an old lawyer who once went to a physician because he suffered extreme nervousness. The doctor said that he should take one bromide tablet at a certain time each day. The old lawyer took the bromide tablet and it made him feel better. He said to himself, "If one bromide tablet makes me feel so much better, then two or three bromide tablets will make me feel even much better." And he began taking more and more bromide tablets

until his last state became worse than his first.

I hope that my good friends do not consider the word conservative to be an epithet. I am constrained to say, however, that when my good friends who ordinarily support conservative financial measures, such as the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Montana (Mr. MANSFIELD), embark upon a campaign such as this, I fear for the future of my country. This is true because, although they do not intend to do so, they aid and abet other Congressmen who do not have any compunction about taking money out of the empty Federal Treasury and giving it away for any purpose that can be devised by the ingenuity and imagination of man.

I have expressed my conviction that this is an inopportune time to embark upon a new program, and that the United States ought to be just before it is generous. And I cannot take any satisfaction out of the fact that in a few days Congress will amend the hypocritical restraint upon Federal spending by increasing the national debt limit to the point when this new program and innumerable other programs can be financed legally by the legerdemain of deficit financing.

So, notwithstanding the fact that I know the warning is useless, I do wish to suggest to the Members of the Senate that the Government of the United States ought to be just before it is generous and that this proposal will open another Pandora's box which will serve to accelerate the day when the Federal Government will have to choose between imposing confiscatory taxes upon the American people or confess national bankruptcy.

I wish I were more optimistic about the future of my country as far as financial affairs are concerned. I cannot be very optimistic because we now have a President who got elected by promising the American people that he was going to restore fiscal sanity to the Federal Government and was going to stop deficit financing and was going to balance the budget. Yet, his performances are far inferior to his promises, because during the first 4 years of his occupancy of the White House, the national debt will be increased by a further deficit spending in the total amount of $110.1 billion.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

I rise to share in the misgivings about the wisdom of proceeding to the approval of this bill at the present stage of proceedings and at the present time.

Many years ago, when I served in the other body, it became incumbent upon me to vote against a farm bill. My mail and my many telephone calls from constituents brought forth such great anguish, unhappiness, and indignation that it became my duty to try to explain my vote to those who were protesting that, coming from a farm State, coming from a State in which agriculture is the basic industry, and coming from a State which is basically oriented in that field, I should have done otherwise. I had to explain that I was in sympathy with the farmers; I wanted to do the best I could for them and provide such legislative measures as would be of the greatest benefit to them and their customers. However, the conclusion that I had with reference to the legislation was that not every farm bill is a good farm bill. And the same is true as to a bill to compensate victims of crime.

Not every bill for the benefit of victims of crime of violence is necessarily a good bill, nor is it necessarily timely. There are at least two major reasons why we ought to tread carefully in this regard. In the first place, this concept, as pointed out by the Senator from North Carolina, is a new one. There are several States that have it, but none of them have had it more than 6 years, according to my recollection. There has not been a sufficient seasoning of this concept, nor sufficient experience with it to indicate what the frailties or the limitations are. It is said the cost will be relatively small in amount and yet there is nothing to document that by way of experience because it is a new phenomenon on our legislative scene.

There is another proposition which ties hand in hand with this. I know of no program of this nature or any similar nature that started modestly that has not grown. There is much logic to the argument that this concept should not be limited to crimes of violence resulting in personal injury.

Suppose a person is ill of a malignant disease, for example, and he is robbed or defrauded of all funds he possesses in this world whereby he could purchase the type of treatment he is supposed to have. That is indirectly a type of personal violence that that victim of crime suffered which will not be included under the terms of S. 750.

How soon will it be before we have a measure that we will be debating proposing that the scope of the present bill be extended. That very idea is the first major reason that I would suggest that we refrain from action at this time. The second is this:

We had a big battle on the floor of the Senate on the matter of the appropriations process in the revenue sharing bill. In my opinion, that decision was a far-reaching one. It drove a breach into the text, the spirit, and letter of the Budgeting and Accounting Act of 1921, of which we may hear reverberation for a long time. It is a fundamental proposition in our system of government. We are committing that same transgression here—particularly with regard to the earmarking of funds—in a smaller degree, to be sure, but nevertheless we are committing it here.

There was testimony before the National Commission for Revision of the Criminal Code on this concept and on this idea. It is a subject which the Subcommittee on Criminal Laws and Procedures should discuss, not with reference to the relatively narrow areas embraced in this bill, in reviewing title 18, the Criminal Code, but rather on the concept of restitution whenever there is a victim of crime, and that is a broad subject.

It seems to me a measure which is not well seasoned and not well processed. We have no testimony here on the fashion in which this advisory board will function and how completely the provisions of the law are treated in the area of making claims and the payment thereof.

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

Mr. HRUSKA. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. My misgivings would be based on the proposition that there should be, notwithstanding the grievous plights of many victims of crime, seasoned consideration, and consideration on a broader scale than has been embodied in the hearings on this bill. Ultimately perhaps such a delay will be of great benefit. Certainly if this measure would prove to be so inadequate that its practice would be unfortunate and unhappy, the entire process would be soured in the legislative mind and in the public mind and that would be counterproductive to the aims of those who are so well motivated and who feel something should be done in this field; and it may prove to be an irreversible loss. That would be unfortunate, if in truth and in fact the concept is good and should be implemented.

Mr. President, it is for these reasons and not for lack of sympathy for the victims of these crimes that I would suggest we act a little more deliberately than by approving this bill at this time.

I reserve the remainder of my time.

Mr. MONDALE. Mr. President, will someone yield to me for 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I am pleased to support the pending proposal S. 750, the Victims of Crime Act which was introduced by the distinguished majority leader (Mr. MANSFIELD). This measure is long overdue.

During my years as attorney general of Minnesota, time and time again some of the most desperately needful cases that came before me were instances in which decent citizens and fine and courageous law enforcement officers, were victimized by violent crimes. Sometimes their lives were taken and other times they were seriously and permanently disabled. Then they and their families were left to spend a lifetime trying to deal with the permanent ravages of the acts of criminal violence. It never seemed to me that was just; it never seemed to me that society could in any sense of humanity permit a few decent people to bear the full burden of those who commit violent crimes. The instances were and are many.

I am sure we could spend days recounting examples of what this bill is trying to deal with. I recall an instance in which law enforcement officers were pursuing a fleeing criminal by car. The criminal's car went out of control and careened into a gas station, struck the gas station attendant, totally and permanently disabling him. There was no law in Minnesota, and to my knowledge there still is none, which provides any

compensation for this man or his family. The injury took place, I think about 12 or 14 years ago, and this family has had to live with that devastation all these years.

In another instance, some very fine police officers in Minnesota were tracking down some crazed killers, and one of the officers was struck in the back with a bullet. This law enforcement officer was totally and permanently disabled, and we had a situation that is repeated in community after community where a law enforcement officer is struck down by a criminal and has to appeal to the general public to raise funds, almost like a welfare recipient, pleading for help to keep his family together.

Of course, a few months after the much-publicized crime had been committed, the public forgot about the crime and slowly forgot about the disastrous plight of that law enforcement officer. That incident likewise took place years ago and this valiant officer, condemned to life in a wheelchair, together with his family, has had to live all these years and face the years to come, paying the full cost of his victimization.

It is, I think, an intolerable situation, and this legislation, for the first time, tries to come to grips with that problem by providing compensation to victims of crime and by encouraging States, through a grant program, to adopt a similar and, I hope, fully adequate program of compensation.

I consider S. 750 to be one of the most important measures to come before the Senate in this Congress and I am pleased to have had an opportunity to contribute to the molding of this vitally needed legislation. Last November, I introduced my own proposal, S. 2817. As the majority leader stated, a number of the provisions in that bill have been included in the amendments of the Judiciary Committee to S. 750.

Compensation for victims of violence is not a new concept. It has been practiced since ancient times. Both the Mosaic Law and the Code of Hammurabi provided for public reparations to victims of criminal assaults under certain circumstances. Such compensation was generally awarded only when the criminal was not caught. It was a way of inducing the government to do everything possible to apprehend the criminal.

In modern times, however, the victim is the forgotten man in the criminal triangle. Criminal cases pit the State against the accused suspect with scarcely a mention of the victim. Yet the victim often lacks the means to gain justice.

We know that individuals without resources and without insurance are often the most exposed to criminal activity. Studies show that typical victims of violent crimes include the physically weak, the young, the aged, women and the handicapped. In addition, persons who are poor, nonwhite or immigrants are more vulnerable than others because the majority of crimes occur in the deprived areas in which they are forced to live.

But it is also clear that violent crime is a threat to all of us. The threat of being assaulted, mugged, robbed or raped has for many Americans ruled out the pleasure of a walk or other evening activity outside their homes. Others have added bars and extra locks to windows and doors in their homes. Bus drivers in major cities do not carry cash because incidents of robbery have been so frequent.

Figures available from the FBI Uniform Crime Reports indicate that between 1960 and 1970, violent crime rose a frightening 156 percent. In 1970 alone, 731,402 acts of violence were reported to the police. One crime of violence occurred every 43 seconds.

What happened to the victims of these crimes? If they lived in New York or California, or in any of the other seven States which have enacted limited compensation laws, they may have received some assistance from the State government.

If they did not live in these States, victims could try to collect compensation from their insurance companies. But most policies do not include adequate compensation and often medical costs alone are beyond the ability of a victim to pay. We also know that 42 percent of families with incomes under $5,000 per year do not even have insurance.

So, as former Gov. Edmund Brown of California once pointed out, we spend millions of dollars to rehabilitate criminals in correctional institutions but we leave the victims of crime to fend for themselves.

It is a mockery of justice that an innocent victim should be forced to bear the experience of a crime and also the burden of paying for it. The maintenance of law and order and protection of the society is a primary function of the Government. Techniques such as civil suits and insurance have little meaning when the criminal is without assets or the victim too poor to pay premiums or hire a lawyer.

It is time to correct the situation. The Federal and State governments must attempt to find other means of providing compensation to the victims they have failed to protect.

The legislation before us today represents a major step toward recognition of the obligation of our society toward victims of crime. The idea has been supported by the National Association of Chiefs of Police and the President's Commission on Law Enforcement and Administration of Justice. Public opinion polls have also shown that the vast majority of the public favors a plan for compensating victims.

Other countries have preceded us in adopting this type of legislation. Among them are New Zealand, which has been paying victims of crimes since 1963 and Great Britain, which has been doing so since 1964.

This legislation authorizes awards of money for victims of assaults, robberies, arson, murder, attempted rape, kidnaping, and other violent crimes.

The bill also contains provisions designed to prevent abuses of the system. For example, it includes a provision included in my legislative proposal, which requires reporting of a crime within 72 hours of its occurrence. This requirement would discourage the reporting of injuries suffered in an accident as if they were the result of a crime. There would be ample opportunity for law enforcement officials to ascertain whether a crime had actually been committed.

Another provision authorizes criminal prosecution for fraudulent applications for compensation. The likelihood of false claims is also sharply reduced by excluding property damage from the act's coverage.

When a victim reports a crime, his claims would be thoroughly investigated. He, or the persons responsible for his care, would receive the compensation. In a case where the victim is deceased, compensation would be awarded to the dependents or closest relative.

Payments would cover expenses resulting from injury or death, loss of earning power and pecuniary loss to dependents of the victim. The Federal payment would be reduced to reflect compensation received by the victim from other sources.

Policemen, firemen, other public safety officers and their survivors would be eligible for all of the benefits authorized in the bill. But in addition, I think it is appropriate that we have already made special provision for such public servants who are killed by violence in the course of their duties. The Senate approved recently a bill to provide a special $50,000 compensation payment for dependents of personnel who die in such circumstances—a provision which was also included in my bill, S. 2817.

The bill before us today contains some significant improvements over previous legislative proposals. Thus, the $50,000 limit on total compensation to a victim and his dependents will cover the vast majority of cases. However, it will not always provide adequate assistance—for example, where a young head of a family suffers a permanent disability. That is why I had proposed a weekly limitation, instead of an overall ceiling, on compensation.

I am pleased that the bill seeks to make State programs substantially comparable to the new Federal program. This was the purpose of one of the amendments which I had proposed to S. 2994.

I also proposed in my bill that compensation be authorized for those injured as a result of the flight or pursuit of a criminal or suspect. I am pleased that the bill contains this provision.

Mr. President, the United States and foreign governments which have adopted a compensation plan find that it is achieving its purpose. Awards have been used to keep families together, to avert foreclosures and evictions and to pay bills and keep victims out of debt.

Their experience shows that this proposal is not only desirable, but workable. I hope that the "Victims of Crime Act" will be approved by the Senate and that it will also be speedily adopted by the House.

I strongly commend the distinguished majority leader and the distinguished Senator from Arkansas for their leadership in bringing this measure about.

Mr. President, I have two concerns about this measure. One is the adequacy of the overall limit of compensation un-

der this title, a limit of $50,000. This is significantly higher than provided in some measures and I think will be sufficient in most cases. However, it will surely be inadequate to provide minimum compensation to the victims of violent crimes in a small number of cases. Principally, these would involve young heads of families who suffer long-term or permanent disability. Their assistance would be terminated, under the bill, after about 6 years.

Second, I am concerned about whether State programs assisted under this proposal will, in all instances, be established, or be established at levels which provide adequate assistance to the victims.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MONDALE. Mr. President, I ask for 2 minutes.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator.

Mr. MONDALE. The pending legislation says that the State programs must be substantially comparable in coverage and limitations to part F of this title. But out of deference to the States, the committee report interprets this in such a way that the measure does not require, in my opinion, that such a result be a necessary condition to Federal grant support. In any event, I think that the measure is an important step forward.

Having expressed that concern, I would like to propose an amendment which would require the board created under this measure to report in its third annual report—that is, 3 years from now—its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title, and with respect to the adequacy of State programs assisted under section 105.

I have talked to the floor manager of this measure, the distinguished Senator from Arkansas. I would hope he would accept this amendment, requiring that report by the board.

Mr. McCLELLAN. Mr. President, may I suggest that the Senator send the amendment to the desk and let it be read.

Mr. MONDALE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 46, line 19, delete the quotation marks after the period.

On page 46, line 19, insert the following:

In its third annual report, the Board shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of Part F of this title and with respect to the adequacy of State programs assisted under section 105.

Mr. McCLELLAN. Mr. President, it seems to me that this amendment could be improved. It ought to require the Board to make a study. It could not very well make a report without some study of the situation. I think this is what the Senator had in mind.

Mr. MONDALE. The Senator is correct. I assumed when we required a report that it would make a study.

Mr. McCLELLAN. That may be implied, but I think it ought to be specified.

Mr. MONDALE. Mr. President, I would move to modify my amendment.

Mr. McCLELLAN. I would suggest that the Senator withdraw it and submit a corrected amendment.

Mr. MONDALE. Mr. President, I will withdraw the amendment and make that modification.

Mr. McCLELLAN. Let this time be taken from this side.

The PRESIDING OFFICER. The time will be taken from the time of the proponents.

The amendment is withdrawn.

Mr. ERVIN. Mr. President, the remarks of the eloquent and distinguished Senator from Minnesota make me fear that I do really possess prophetic powers to predict the future action of the Congress if this particular legislative proposal is enacted. Even before the legislative proposal becomes law and even before a single second of experience is obtained under it, the distinguished Senator from Minnesota voices the opinion that the limit of $50,000 set on the amount which can be used to compensate the victim of a single crime for which innocent taxpayers are not responsible legally or morally or financially is too low. He also convinces the Senator from North Carolina that there is a real danger that this legislation will be amended in the future so as to perpetrate what I call legislative coercion on the States. The legislation will be changed so as to require the States which desire to have legislation of this nature within their own borders to submit to dictation and domination by the Congress as to what kind of legislation they shall have in this area.

This is another entering wedge by which the Federal-State system of government, which the constitution was ordained to establish, will be ultimately destroyed.

For some strange reason, which the Senator from North Carolina is unable to comprehend, many Congressmen shortly after they arrive on the Potomac River succumb to Potomac fever. Those who suffer from Potomac fever are convinced that the people who sent them to the Congress do not have sufficient intelligence to manage their own affairs and that the Federal Government must tell them exactly what they must do. So I not only have misgivings about this legislation from the standpoint of the cost that it is ultimately going to inflict upon the taxpayers, who are just as innocent as the victims of crime, but also about its inevitable destructive effect upon the right of the American people in the communities in which they reside to have any voice in respect to the Government under which they live.

I thank the Senator for yielding.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

I, too, have some misgivings about the expenditures of this Government, the national debt and deficit spending, and have been concerned about these problems for a long time. However, I believe that the merits of this program justify the relatively minor expenditures which it authorizes. Similar programs have not proven expensive in those States where it has been tried.

I very frequently hear the word "justice" used here. Mr. President, I do not know that there is any moral or legal obligation on the part of innocent taxpayers to spend billions of dollars for relief each year due to economic reversals that may put people out of a job. The taxpayers are innocent. However, this Government is now spending a total of nearly $70 billion annually for income security, welfare, and related programs.

We are spending $10.335 billion for welfare alone. I do not know whether, by the strictest interpretation, there is any justice in taxing the innocent taxpayers to pay that money. However, it does seem to me that if an economic failure somewhere warrants the taxing of American taxpayers over $10 billion a year to take care of people who may be in some temporary economic distress by reason of being out of employment, there is also justice in compensating the victims of crime—crime that is committed against the peace and safety of our society—crime that it is the duty of our Government and law enforcement organizations to try to prevent.

I know this will marginally increase the burdens of our taxpayers, and this gives me some apprehension. However, the estimated cost of this program at its full operating level, in the 50 States and within areas of distinct Federal concern, is only $30 million for 1980, the anticipated year of stabilization. Surely, the needs of our citizens warrant this action.

The PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. McCLELLAN. I yield myself 1 minute. If this program does a fair measure of justice—and I think justice is the appropriate word in this instance—to people who are the victims of crime—who suffer death or injury from criminal attack—this bill is a step in the right direction.

I have no doubt that we can control escalating costs in the future. We are going to be just as practical in this matter as we have been in any other. I cannot see the proposal as something that is inconsistent with the obligations of government.

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

Mr. McCLELLAN. I yield myself 1 more minute, and yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I think what the Senator has said indicates it will take a modest amount to take care of our own citizens, and it is far better to do that for $30 million than it is to spend $1.7 billion on foreign aid for the interests of citizens of other nations outside of this country.

Mr. McCLELLAN. The distinguished majority leader echoes my philosophy with regard to foreign aid. I have opposed such outlays for many years.

Mr. MANSFIELD. And furthermore, this Government does pay compensation to victims of crime in foreign countries where an American serviceman is involved. What is good enough for crime

victims in foreign lands is certainly at least good enough for us. I think we ought to start looking after our own people, and, instead of talking about the constitutional rights of the criminal, alleged or otherwise—and in some cases we spend almost a million dollars protecting their rights—I think we ought to concern ourselves about the ones who have been assaulted.

Even in this vicinity, let alone throughout the Nation, eight or nine girls last week in the Capitol Hill area were robbed, and one of them raped. Persons in the employ of Senators are robbed in the Senators' offices.

The PRESIDENT pro tempore. The Senator's 1 minute is expired.

Mr. MANSFIELD. Crimes of aggravated assault and rape occur on, in, and around the Capitol grounds.

I am making no special plea for those people who work up here, but I am making a special plea for the people we never hear of who live in the 50 States of the Union, and who, I think, are entitled to this kind of consideration.

Do not forget, it was just about a week or so ago that the Senate passed a bill to provide for a $50,000 payment to the survivors of a policeman killed in the line of duty. It is about time we start thinking of the great mass of the American people, because I think we have been too coddling, too easy, too lenient with the criminals, alleged or otherwise, and what I say goes for the courts of this Nation as well.

Mr. ERVIN. Mr. President, will the Senator from Nebraska yield me time?

Mr. HRUSKA. On the amendment?

Mr. McCLELLAN. The amendment has been withdrawn.

Mr. HRUSKA. I yield the Senator 2 minutes.

Mr. ERVIN. Mr. President, I agree with the statement of the Senator from Montana in some respects. I take to heart the scriptual admonition that he who does not provide for those of his own house hath denied the faith and is worse than an infidel.

For that reason, I have been voting against foreign aid bills ever since I have been in the Senate.

I also agree with the Senator from Montana that something ought to be done with people who murder, rape, and rob. Yet we are asked to emulate the State of California and initiate a program of this nature. I have been doubtful of the wisdom of following California ever since its supreme court held some time ago that the constitution of California, which is phrased in virtually the same words as the Constitution of the United States on the point, denies its government the power to execute such miserable wretches as Charles Manson who rob many human beings of their lives.

I do not want to follow the example of California in respect to the initiation of a program of this nature at this particular time, or in the program initiated by its supreme court in adjudging capital punishment of those who murder and rape unconstitutional.

I am intrigued by the predictions as to the cost of this program. A wise man once said there are three kinds of liars, in this ascending order of mendacity: Plain and ordinary liars, damned liars, and statisticians. Every statistician who has ever made any prediction about the cost of any Federal program initiated during the 18 years I have been in the Senate has proved that if he was not a liar, he was totally incompetent to predict anything of a financial nature. Every new program we start begins like a little snowball on top of a hill, and grows and grows as it runs down into the Federal Treasury, in the form of deeper and deeper deficits.

I predict that that is exactly what is going to happen with respect to this program, because, as I remarked before there is no difference in principle between requiring taxpayers to compensate the victims of violent crimes and requiring taxpayers to compensate the victims of fraudulent crimes; there are as many fraudulent crimes in this land as there are violent crimes. What we need to do to stop some of the people from becoming victims of crime is to put on our courts judges who have hard heads as well as soft hearts.

The PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. HRUSKA. Mr. President, I have no further requests for time on this side.

Mr. MONDALE. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. The Senator has a right to offer an amendment on his own time.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. McCLELLAN. I yield.

ORDER FOR TIME FOR THE VOTE ON EXECUTIVE J, 92D CONGRESS, SECOND SESSION—PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

Mr. MANSFIELD. Mr. President, after discussing the matter with the distinguished Senator from Arkansas and the distinguished Senator from Nebraska, and with their full approval, I ask unanimous consent that after the vote on the pending proposal now before the Senate, there immediately follow a vote on Executive J, 92d Congress, second session, a protocol amending the Single Convention on Narcotic Drugs, 1961.

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

VICTIMS OF CRIME ACT OF 1972

The Senate continued with the consideration of the bill (S. 750) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. The Senator has a right to offer an amendment on his own time.

Mr. MONDALE. Mr. President, I yield myself such time as I may require, and I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 46, line 19, after the period, delete the quotation marks.

On page 46, line 19, insert the following:

"In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of Part F of this title and with respect to the adequacy of state programs assisted under section 105."

Mr. MONDALE. Mr. President, I have modified the amendment that I previously sent to the desk, to add the phrase "upon investigation and study." That modification was made at the suggestion of the distinguished floor manager of the pending measure, the Senator from Arkansas.

I ask that the amendment be adopted.

Mr. McCLELLAN. Mr. President, I am willing to accept this amendment.

This amendment will not necessarily require a large expenditure of funds. A study will be made of related State laws to evaluate their operation.

The Senator from Minnesota apparently speaks for himself and not for all who may be supporting this measure when he expresses concern over whether or not the compensation authorized here is adequate. On this point, I can only comment that I do not think you could ever pay adequate compensation to someone who is seriously injured or emotionally scarred for life. Adequacy in this sense must be viewed in conjunction with the capacity, ability, and obligation that is involved. It ought not be approached in the sense of traditional tort theory. That is an unrealistic and unnecessary application of the notion of crime compensation.

In 3 years the Board may provide some helpful information to Congress that will be of assistance in evaluating the program.

For that reason, Mr. President, I am willing to accept the amendment, unless there is objection to it.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. McCLELLAN. If no other Senator desires time, I yield back the remainder of my time.

Mr. MONDALE. 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 Minnesota.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I do not know of any further requests for time.

Mr. HRUSKA. I have no requests.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time on this measure.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. McCLELLAN. Mr. President, some Members are on their way here for the vote. In the meantime, to conserved time we might proceed to a third reading of the bill at this time.

The PRESIDING OFFICER. All time having been yielded back, 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. BOGGS. Mr. President, it is my privilege to have joined with the distinguished majority leader as a cosponsor of S. 750 which would establish a new program to compensate victims of violent crimes under Federal law.

Two weeks ago, the Senate acted to provide compensation to public safety officers killed or seriously injured in the line of duty. I believe that by enacting this legislation today we will be fulfilling our obligation to another group that has been too long neglected in our war on crime—the innocent victims.

Under this legislation innocent victims of crime under Federal law, as well as good Samaritans who suffer injury or loss while trying to help them, would be eligible to receive up to $50,000 in compensation. Claims would be handled by an independent Violent Crimes Compensation Board in charge of administering the program. Compensation would be paid from a Criminal Victim Indemnity Fund financed by criminal fines paid in Federal courts and appropriated funds.

I am pleased that this bill would provide for a grant program to the States to encourage them to adopt similar compensation programs for victims of violent crimes against State laws. The Federal Government would pay 75 percent of the costs of State programs where they are substantially similar to the Federal counterpart.

Seven States currently have victims of crime compensation programs. I can readily understand the reluctance of States in the past to adopt this proposal on a wider scale. A proposal of this nature was debated in the Delaware Legislature several years ago and I know that while there was much sympathy for it, the lack of experience of other States in this area and the unknown cost factors involved were obstacles to enactment.

It is my hope that with the experience of a number of States with this type of program behind us and with the Federal grant assistance program which this legislation proposes. States will be encouraged to go ahead with programs of their own. I believe there is a need for them to do so.

Mr. PERCY. Mr. President, I am pleased to be able to cosponsor this very far-reaching and important legislation which has been offered by the distinguished majority leader (Mr. MANSFIELD). For the first time, the Congress is going on record as doing something positive for the victims of crime.

No longer will someone who has been robbed on the street have no way to recoup his losses. Under the plan envisioned by S. 750, the victim of crime would be able to apply to the Violent Crime Compensation Board, and be reimbursed for whatever losses he has incurred.

Money, of course, will not always be sufficient to heal the wounds of an attack, but it will pay the medical bills; it will help a family when a crime victim is unable to work for a few weeks.

An important aspect of this bill is that not only are provisions made for the victim of crime, but any "good samaritan" who is injured while trying to help stop a crime from being committed or who is injured while trying to apprehend a criminal from escaping will also be eligible for compensation.

Mr. President, it is way past the time when this type of legislation should have become law. In many countries and in several States, a similar type of plan has already been adopted. Citizens in these States are better off for it, and I know that as the Congress makes this bill law, all of our citizens will be the better for it also.

It is important to look at where the money for the criminal indemnity fund will come from. I am glad to note that the first source for the fund will be criminal fines paid in the Federal courts. This means that money used to benefit those persons who have suffered as a result of a crime will have come from those who have violated the law. This is only appropriate.

I have offered legislation which provides for employment training for prison inmates, S. 3922. This "Work Your Way Out of Prison Plan" would provide union-scale wages, paid by an employer from the private sector. Out of the inmate's wages would be deducted the cost of his room and board, taxes, and support payments for his family. But a very important aspect of my legislation would provide that up to 10 percent of the inmate's wages would be designated for a fund to benefit the victims of crime. I am very hopeful that this legislation will be dealt with soon by the Congress. At that time, the money set aside from the earnings of the inmates will be added to the criminal indemnity fund established in S. 750 to help pay for the losses suffered by crime victims.

Mr. President, the bill we are considering today dovetails with my bill, S. 3922. Both of them recognize the necessity of helping the crime victim recoup his losses, and both of them realize the propriety of having the funding for such a program come from those who have violated our laws.

I congratulate Senator MANSFIELD on a very fine piece of legislation and Senator MCCLELLAN for very fine committee work. I am confident that this bill will soon be signed into law.

Mr. THURMOND. Mr. President, the pending legislation to provide compensation for victims of crimes involves a novel concept that runs counter to our legal traditions. I have concluded that this is an unwise bill for the following reasons:

First, our legal system traditionally has been divided into criminal and civil law with the criminal courts having the responsibility for bringing perpetrators of crime to justice and the civil courts handling claims for injury between private parties. This system has worked well and I believe this bill unnecessarily blurs this distinction.

Second, although the proponents of this measure seem to believe this would not be costly, and can be paid for in large measure out of criminal fines, I am confident that the financial burden of this legislation will very quickly come to rest on the already overburdened taxpayers.

Third, I believe this bill will create a large amount of new litigation. We should bear in mind the remarks of Chief Justice Burger in his speech before the annual American Bar Association Convention in San Francisco that any new legislation that will create a substantial amount of new litigation and work for the judicial system should include a study of the increased judicial workload.

Fourth, it should be pointed out that the administration believes this legislation could be premature and has asked the Congress to delay passage pending the final report of the National Commission on Reform of Federal Criminal Laws.

Mr. President, I recognize the concern of the Senate and indeed of all Americans for the great losses incurred by both society at large and by individuals because of criminal acts; however, for the foregoing reasons I believe this bill should be defeated.

Mr. ROTH. Mr. President, sometimes Washington, D.C. is referred to as Fun City South. Although the crime rate is on a downward swing in the Nation's Capital, Washington is like every other city in this country in the respect that crime has simply gotten out of hand, and further means are still necessary to insure that it is controlled. One should be able to walk down the street without having to run a gauntlet of murderers, rapists, muggers, and other miscreants.

Yet in Washington, D.C., this summer, I can recall the rape of a housewife, the fatal shooting of a Vietnam-bound naval officer and his son, the shooting and resulting injuries to a "Good Samaritan" cab driver trying to assist a young lady being robbed. I read about a gang sexual attack by 20 youths on a 15-year-old runaway and the beating, robbery, and attempted rape of a 78-year-old woman confined by arthritis to a wheelchair and a walker.

We cannot accept the premise that violent crime is rather like the weather; that everyone talks about it but nobody does anything about it.

Violence permeates the fabric of our society today. Murder, forcible rape, robbery, and aggravated assault are crimes of violence. For every crime of violence there is a victim. And for every victim there is personal loss. We must do something about this now.

I am supporting title I of S. 750 today because I believe that we as a society have an obligation to reduce the impact of crime on those victimized by its cruelty.

As Senator MANSFIELD has observed, if a citizen of any foreign land is the victim of assault, robbery, rape, or any other criminal injury by a military or civilian

employee of the United States, he is promptly compensated at the American taxpayer's expense under the Foreign Claims Act.

Do we not care as much for the American taxpayer who is mugged, raped or otherwise victimized by a criminal in his own land? By what values do we operate? This compensation is consistently extended to foreign citizens under the law. Surely we owe the American citizen the same consideration.

Granted, the value of lives and limbs lost, earnings foregone, the cost of hospitalization, rehabilitation, and mental and physical anguish are difficult to assess.

Title I would establish a Federal program to meet the financial needs of the innocent victims of violent crime to the extent of personal losses. Property losses are not included in the realm of this proposal.

For some time now this unfair plight of the victim of crime has been of concern to me. I believe in the principle that violent crime is a three-party affair which includes the victim, the criminal, and the State. For a citizen is entitled to protection, and if such protection is not adequate or for some other reason, fails to afford him security, I believe that it would only strengthen the social fiber of our Nation to be ready in offering compassionate compensation. It was for this reason that I cosponsored S. 2994, the bill which has become title I under the Omnibus Victims of Crime Act now being considered.

It is a practical matter that the Government should assume the principal burden of assisting victims of violent crime because techniques such as civil suits or insurance have little usefulness where the criminal is without assets and the victim is too poor to pay insurance premiums or hire a lawyer to prosecute the suit. In real terms, this situation is most frequently the case. Individuals without resources and insurance are often the most exposed to criminal activity and suffer the most. Further, the existing methods of restitution and compensation are inadequate and ineffective.

Finally, I believe that this legislation could help in controlling crime by virtue of encouraging the citizen to report crime. When we have knowledge of all crime, and only then, will more dangerous criminals be apprehended.

The victim has been the forgotten man in the criminal triangle for too long. Let us vote today to afford him the means to gain a partial degree of justice.

The fear of violent crime is real. Worse yet must be the actual shock, the personal outrage at being mugged, or raped, or demeaned as a person. Today as we vote on this legislation, I hope that it will serve as a vehicle to ease some of the fear that accompanies a stroll down the block on which one lives.

Mr. TUNNEY. Mr. President, I strongly support the two very worthwhile and significant pieces of legislation, the Public Safety Officers' Group Insurance Act of 1972 and the Victims of Crime Act of 1972, which are before us today.

Control of crime is one of the most severe challenges confronting a free society such as ours. No society can be said to be truly free when its citizens are afraid to walk the streets at night or are unable to sleep for fear of criminal attacks. While we are engaged in a variety of programs at all levels to identify and combat the roots and causes of crime, we must also recognize that we face an immediate and pressing problem—that of protecting the physical safety of our citizens in their daily lives as we proceed with these long-term programs.

It is tempting to reach for the easy solution, a simple equation opposing force with greater force; but such a program ultimately constitutes a severe threat in itself to the rights and liberties of all citizens in a free society. The challenge which we face is to achieve maximum effectiveness in the struggle against crime while safeguarding the rights and freedoms of law-abiding citizens.

In this context, it is gratifying to see these two pieces of legislation presenting constructive and positive solutions to specific problems which have existed in the law enforcement area.

The first of these bills, the Public Safety Officers' Group Insurance Act, which I joined in sponsoring, would authorize the Law Enforcement Assistance Administration to administer a program of group life, accidental death, and dismemberment insurance for public safety officers. The subcommittee hearings on this bill indicated that such officers, and particularly those engaged in more hazardous lines of duty, have encountered serious difficulties in obtaining adequate life insurance.

Our public safety officers are constantly engaged in the performance of hazardous and exacting duties. It is important that their minds be free from any cloud created by the fear that their death would result in severe financial hardship to their surviving dependents. These men, who daily risk their lives in the protection of their fellow citizens, surely deserve benefits commensurate with those available to other segments of our society.

The second of these bills, the Victims of Crime Act, would establish a Violent Crime Compensation Board to meet the financial needs both of victims of violent crimes and of intervenors who are injured or killed in the course of attempting to aid such victims. This program will fill what has long been felt as a serious shortcoming of our system of criminal justice—its failure to respond to the needs of those who have been victimized by society's inability to fully control criminal activity. The innocent victims of crime have long been forced to bear almost all the costs of their involuntary victimization; it is past time for society as a whole to begin contributing to the recovery of those of its members who have suffered injuries at the hands of criminals.

I am proud to note that California pioneered similar legislation an a State level in 1965; State programs such as this will be continued under the present bill, with a portion of their expenses being met with Federal grants through the LEAA. However, it has become clear that the problem of compensation of victims is a national and pervasive one, to be met by remedies on a national level.

For these reasons, I join in voting for both of these bills today and I hope they will swiftly become law.

I join also in supporting Senator MANSFIELD's effort to speed enactment by including both bills as amendments to H.R. 8389.

Mr. BUCKLEY. Mr. President, it is with the greatest reluctance that I must vote against this bill. I fully endorse its objectives, and approve of the idea of providing compensation for the innocent victims of violent crime who are victimized within the territorial areas for which the Federal Government has direct responsibility. The bill authorizes authorizes $5 million for this purpose.

On the other hand, the bill would inaugurate still one more categorical grant program which would provide 75 percent of the cost incurred by any State which has enacted a comparable program. For this purpose, $10 million is to be authorized.

I feel that every State ought to provide its citizens with this kind of protection against the failure of government to protect them against crime. My own State has such a law as do a number of others. But what we in the Congress have got to learn is that we cannot perpetually intrude our jurisdiction into the concerns that are first and last those of State and local governments without further eroding the Federal system.

I voted in favor of the general revenue-sharing legislation precisely because I hoped it would add impetus to a critical review of existing grant-in-aid programs and would encourage a moratorium on new ones.

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

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

Mr. MANSFIELD. Mr. President, as in executive session, I ask for the yeas and nays on Executive J (92d Congress, second session), the protocol amending the single convention on narcotic drugs, 1961, the vote on which will occur immediately following the vote on the pending legislation.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I rise to pay tribute to the distinguished Senator from Minnesota for his efforts in behalf of the Victims of Crime Act of 1972. As a Senator and as the attorney general of his State before, WALTER MONDALE has provided strong leadership in the fight against crime and violence. Out of his deep concern for the victim of violent crime has arisen that same strong leadership. Indeed, the measure on which the Senate is about to vote represents to a great extent the results of that concern and the product of that leadership.

This measure proposes to compensate the victim of violent crime, the inno-

cent victim of rape and robbery, citizens injured by riot or shot down as they walk the streets to their doorstep. May I say that the poor, innocent victim of crime has no greater friend and advocate than Senator MONDALE. For his exemplary work on this proposal, for his many contributions not only with regard to the victim, but with regard to the underlying causes of crime and to crime prevention generally, the Senate is deeply grateful.

The PRESIDING OFFICER. The question is on agreeing to S. 750, as amended.

Mr. MANSFIELD. Mr. President, would the Chair kindly state what the legislation is by title.

The PRESIDING OFFICER. The title is a bill, S. 750, to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

Mr. MANSFIELD. I thank the Chair.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a live pair with the Senator from Utah (Mr. Moss), who, had he been present, would have voted "yea." I would have voted "nay" after having voted in the affirmative. Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Nevada (Mr. CANNON) and the Senator from South Carolina (Mr. HOLLINGS) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent, because of religious observance.

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

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 60, nays 8, as follows:

[No. 439 Leg.]

YEAS—60

Aiken	Edwards	Pastore
Allen	Fong	Pearson
Anderson	Fulbright	Percy
Bayh	Gambrell	Proxmire
Beall	Gurney	Randolph
Bennett	Hansen	Roth
Bentsen	Harris	Saxbe
Bible	Hatfield	Schweiker
Boggs	Hughes	Scott
Brooke	Inouye	Smith
Burdick	Jackson	Spong
Byrd,	Jordan, N.C.	Stafford
Harry F., Jr.	Jordan, Idaho	Stennis
Byrd, Robert C.	Kennedy	Stevenson
Case	Magnuson	Symington
Church	Mathias	Tunney
Cook	McClellan	Weicker
Cooper	Mondale	Williams
Cranston	Montoya	Young
Dole	Nelson	
Eastland	Packwood	

NAYS—8

Brock	Fannin	Talmadge
Buckley	Goldwater	Thurmond
Ervin	Hruska	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—31

Allott	Hart	Moss
Baker	Hartke	Mundt
Bellmon	Hollings	Muskie
Cannon	Humphrey	Pell
Chiles	Javits	Ribicoff
Cotton	Long	Sparkman
Curtis	McGee	Stevens
Dominick	McGovern	Taft
Eagleton	McIntyre	Tower
Gravel	Metcalf	
Griffin	Miller	

So the bill (S. 750) was passed, as follows:

S. 750

An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, 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 "Victims of Crime Act of 1972".

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, as a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under

this part and subsequently recovers damages from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may, reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compention, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various

courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part I of this title and with respect to the adequacy of State programs assisted under section 105."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund.".

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

PART C—MISCELLANEOUS PROVISIONS

SEC. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $5,000,000 for the purposes of part F; and

"(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C."

SEC. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement invalid, the provisions of the other parts and their application shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 111. This Act shall become effective upon the date of enactment.

ELIMINATION OF DRUG ABUSE

Mr. COOK. Mr. President, this administration has made the elimination of drug abuse a top priority item. The President's attack in this problem has been twofold, with first and primary emphasis on eliminating the major sources of supply for these narcotic drugs. As early as September of 1968, Richard Nixon realized that this sort of frontal attack would require the cooperation and support of countries throughout the world, and since that time he has worked constantly and persistently to formalize working relationships with these nations in order to end international drug traffic.

The Bureau of Narcotics and Dangerous Drugs within the U.S. Department of Justice and the Bureau of Customs within the Department of State have been the principal agents in the implementation of these efforts. In the last 2 years, the United States has signed treaty agreements with nations around the world outlining an international drug offensive: Mexico in March of 1970, France in February of 1971, Turkey in June of 1971, and Thailand in August of 1971. By the end of fiscal year 1972 the Bureau of Narcotics and Dangerous Drugs will have 123 agents stationed around the world, working with these countries to reduce the illegal traffic in narcotic drugs.

Our success has been limited, however. In 1971, the Bureau of Narcotics and Dangerous Drugs boasted the seizure of some 4,936 pounds of heroin, opium, and morphine which did not make it onto the streets of this country. But that was only a drop in the bucket compared to the vast supplies of narcotic drugs consumed by the 500,000 addicts in the United States last year. Even the most optimistic narcotics agents concede that 80 to 85 percent of the total volume of drugs targeted at this Nation succeed in evading our various law enforcement agencies. New sources of supply open daily, requiring new and lengthy efforts to enlist the assistance of other governments in our fight, governments poorly equipped to provide the authority and expertise needed to effectively control this situation. Only last week, testimony before the Senate Subcommittee of the Judiciary on Internal Security provided numerous examples of the extent and evasiveness of the international drug problem. As a member of that subcommittee and as ranking minority member of the Judiciary Subcommittee to Investigate Juvenile Delinquency, which handles much of the drug legislation in the Senate, I am deeply concerned with the current international drug situation.

Our efforts to date have been, in many respects, haphazard. We have focused on those sources of most immediate supply, making gradual progress in these areas while new sources of supply multiply in others. Our current offensive has made substantial headway in those countries which have traditionally been the major suppliers of drugs for the illegal international traffic. For example, in today's Washington Post, John E. Ingersoll, Director of BNDD, reported that the recent arrest of just one person, Wan Pen Pen, in Saigon, has driven the street price of just one vial of heroin up from $1 to $9, an indication of the organization and concentration of both power and supply

in these well established areas. The newer sources for narcotic drugs are far less organized or concentrated, however, decreasing the effectiveness of arrests and shipment seizures by our international agents. The scope of the international drug problem has increased tremendously over the past few years and the United States can no longer afford to work independently with a few key countries in reducing world narcotic trade. The sources are too varied and the situation too complex for anything but a strong international offensive on this problem.

The amendments to the single convention on narcotic drugs were first presented to the United Nations and its Commission on Narcotic Drugs by John E. Ingersoll, the Director of BNDD, and our delegate to that Commission, in October of last year. The combined purpose of these various amendments is to strengthen that world body's ability to act effectively in regard to the international narcotic drug supply and traffic. These amendments would give specific quota setting and enforcement powers to the International Narcotics Control Board, transforming that body from a simple recommendation board to a strong regulatory agency. Since the signing of the single convention in 1961 the board's authority has been generally limited to monitoring the licit production of narcotic drugs and trying to deter leakage from such production into illegal channels. These amendments would specifically direct the board to take strong action in eliminating the growing international traffic in illegal narcotic drugs, reorganizing and enlarging the board and giving it access to a wider range of information and Government assistance in exercising its extended authority. These amendments also extend the legal basis for extradition of drug offenders to all parties of the single convention, an important step in effectively stopping those traffickers and suppliers who most directly affect the United States.

These amendments should greatly facilitate the U.S. efforts in regard to international drug traffic and open the way for further cooperation and assistance for all countries throughout the world. For this reasor. I strongly support the proposed amendments.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will now go into executive session to vote on Executive J, 92d Congress, second session.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Chair.

The PRESIDING OFFICER. The Senate will now go into executive session to vote on Executive J, 92d Congress, second session.

PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

The PRESIDING OFFICER. Under the previous order the Senate will proceed to vote on Executive J, second session, 92d Congress, the Protocol Amending the Single Convention on Narcotic Drugs, 1961.

The question is, Will the Senate advise and consent to the resolution of ratification? 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 Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent because of official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 69, nays 0, as follows:

[No. 440 Ex.]

YEAS—69

Aiken	Ervin	Packwood
Allen	Fannin	Pastore
Anderson	Fong	Pearson
Bayh	Fulbright	Percy
Beall	Gambrell	Proxmire
Bennett	Goldwater	Randolph
Bentsen	Gurney	Roth
Bible	Hansen	Saxbe
Boggs	Harris	Schweiker
Brock	Hatfield	Scott
Brooke	Hruska	Smith
Buckley	Hughes	Spong
Burdick	Inouye	Stafford
Byrd, Harry F., Jr.	Jackson	Stennis
	Jordan, N.C.	Stevenson
Byrd, Robert C.	Jordan, Idaho	Symington
Case	Kennedy	Talmadge
Church	Magnuson	Thurmond
Cook	Mansfield	Tunney
Cooper	Mathias	Weicker
Cranston	McClellan	Williams
Dole	Mondale	Young
Eastland	Montoya	
Edwards	Nelson	

NAYS—0

NOT VOTING—31

Allott	Hart	Moss
Baker	Hartke	Mundt
Bellmon	Hollings	Muskie
Cannon	Humphrey	Pell
Chiles	Javits	Ribicoff
Cotton	Long	Sparkman
Curtis	McGee	Stevens
Dominick	McGovern	Taft
Eagleton	McIntyre	Tower
Gravel	Metcalf	
Griffin	Miller	

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

LIMITATION OF TIME ON ROLLCALL VOTES

Mr. ROBERT C. BYRD. I ask unanimous consent that time on each rollcall vote for the remainder of this day be limited to 10 minutes, with the warning bell to be sounded after the first 2½ minutes.

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

PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE ACT OF 1972

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair lays before the Senate S. 33, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 33) to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers.

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 the Judiciary with an amendment

to strike out all after the enacting clause and insert:

That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of 1972".

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part F of title I, as amended by this Act, the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess. However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of

other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares.

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or polices purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertainamounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group of life premiums, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent wtih the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for

an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of such policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or applying for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 17. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

Subpart 4—Miscellaneous

SEC. 103. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G."

SEC. 104. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 105. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 106. This Act shall become effective on date of enactment.

The PRESIDING OFFICER. Debate on the bill and amendments thereto is limited in accordance with the previous unanimous-consent agreement. Who yields time?

Mr. McCLELLAN. I yield myself 1 minute.

Mr. President, S. 33 was originally introduced by Senator KENNEDY on January 25, 1971. It was subsequently revised and incorporated as title II of S. 2994 as reported by the Subcommittee on Criminal Laws and Procedures to the full Committee on the Judiciary on July 19, 1972. It was also proposed by Senator KENNEDY as amendment No. 1402 in the nature of a substitute to S. 33 on August 7, 1972.

S. 2994 was called up in an executive meeting of the Committee on the Judiciary on August 16, 1972, and it was agreed to break the bill into individual bills by title. Thus, title II again became S. 33, which was ordered reported with an amendment in the nature of a substitute bill.

S. 33 proposes to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish under the Law Enforcement Assistance Administration a program of group life, accidental death, and dismemberment insurance for public safety officers. Our concern with the crime problems of our society should certainly embrace our obligation to help meet the special needs of our policemen, firemen, correctional officers, and others who daily feel the brunt of the violence that has become all too common in our lives today.

During our hearings on this subject it became clear that there is wide disparity in the fringe benefits available to our public safety officers from one jurisdiction to another. The present measure would establish an optional Federal group life insurance program underwritten by private carriers for public safety officers who are not presently covered by similar State or local programs and would provide a one-third Federal contribution to the premiums due. A like contribution would be available to State and local programs already in operation or established within the year following enactment.

The group life insurance program would be patterned after the present servicemen's group life insurance pro-

gram and the Federal employees group life insurance program.

Each officer would be entitled to coverage in the amount of his annual salary plus $2,000, with a minimum coverage of $10,000 and a maximum of $32,000. Coverage would not be limited to in-the-line-of-duty death, and the policy would include a double indemnity clause for accidental death. Loss of limb or eyesight would also be covered.

Total annual costs under S. 33 are estimated to be $20,000.

I urge its adoption.

I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

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

Mr. McCLELLAN. Mr.' President, I yield such time as he may require to the distinguished Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I thank the distinguished chairman very much.

First of all, I wish to express my appreciation to the chairman of the Subcommittee on Criminal Laws and Procedures (Mr. McCLELLAN) for his help and assistance in the hearings that were held on this legislation, and for the support that he has given, not only in behalf of this legislation, but in the whole area of policemen's, firefighters', and correction officers' security. Whether it is the gratuity approach or the insurance approach, it has been through his efforts and energies that progress has been made, and hopefully today we will meet one area of deficiency, the area of insurance for those who are on the frontline of public safety, the police officers and firefighters in this country.

So, at the outset, I thank the distinguished Senator from Arkansas for his help and assistance in assuring that we in the Senate have an opportunity to consider this matter this year.

Five years ago the President's Crime Commission submitted its comprehensive report, which spoke of the need to provide our police with more adequate benefits such as group life insurance. In that year I first proposed a national program to make such coverage available to all State and local police officers. Since then the public has become more and more aware of the need for life insurance for policemen, as the rate of assaults on law enforcement officers has risen tragically. And as we have continued to work on legislation in this area, we have become familiar with the difficulties many officers encounter in getting enough insurance at regular rates and conditions, and with the low coverage for which many are forced to settle.

The Senate took action on this problem in 1970 when it passed, as part of the Omnibus Crime Control Act, a law enforcement officers' group life insurance program. Since the House was unfamiliar with the proposal, the House members of the conference committee asked that consideration of the proposal be delayed until this Congress. Early in 1971 I reintroduced the program as S. 33, and the corresponding House bill is being sponsored by Chairman EMANUEL CELLER of the House Judiciary Committee. There has now been ample consideration on both sides; there have been 3 days of Senate hearings and two in the House during this Congress. The Senate Criminal Laws Subcommittee, under the leadership of Senator McCLELLAN, has now reported a much improved and broadened bill along with other proposals to aid civilian and governmental victims of crime.

S. 33 in its reported form would establish a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers, defined to include firefighters, correctional guards, and court officers in addition to police. The plan is patterned closely after the highly successful Federal employees' and servicemen's group life insurance programs, which are available to all Federal civilian employees and to members of our Armed Forces. The law enforcement assistance administration would buy a national group policy from a nationwide life insurance carrier, so that the underlying coverage would be provided—and much of the administrative work would be handled—by the private sector. The standard reinsurance formula, favoring small companies, would be used to spread the risk and the income beyond the principal carrier.

Any unit of State or general local government could apply to participate in the program. Officers in participating units could elect not to be covered; those remaining in the program would have their share of the premiums deducted from their wages. Coverage would be at a level of the officer's annual salary plus $2,000, starting from a floor of $10,000 coverage and rising to a maximum of $32,000. Accidental death and dismemberment insurance would be included with the usual double indemnity feature. LEAA would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the employing agency.

Where existing State or local group life insurance plans provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local program, it would be eligible for the same subsidy which would go to the Federal plan. In this way the bill respects existing insurance programs and allows governments and insurance companies a reasonable time to set up programs of their own if they want to, but it still protects the officers' interests by leaving the final decision in their hands. Yet, by also having available a single Federal program in which many officers would presumably participate, the bill insures the availabilty of coverage to all officers without regard to their particular employer's wealth or generosity and at minimum cost because of efficient large scale operation.

Totaling the four categories of public safety officers—police, firefighters, correctional guards, and court officers—the bill would make its benefits available to approximately 700,000 to 900,000 persons, depending on the administrative application of its definitions. LEAA's estimate of the total annual cost to the Federal Government, which must be regarded as the highest possible figure since it assumes the full one-third Federal subsidy and 100 percent officer participation, is under $22 million including all Federal administrative costs, which LEAA estimates at just over $1 million.

For this sum it is estimated that insurance could be provided to officers at a total rate of less than 70 cents per month per thousand dollars of coverage. After the Federal subsidy, the cost to the officer—even assuming no State or local government help—would be under 50 cents a month per thousand dollars, or under $60 per year for the basic $10,000 coverage. At a relatively low cost to the Government, in other words, we could make a decent amount of life insurance available at very reasonable rates to every full-time public safety officer in the country.

There are many reasons why this program is vitally needed. Most tragically and most prominently of all, the rate of crippling and killing assaults on officers is high and rising alarmingly fast. The number of police killed by criminal acts rose from 86 in 1969 to 100 in 1970 and 126 in 1971. Firefighters, too, are still subject to criminal assaults while on their job; from 1967 through 1969 injuries during civil disorders averaged over 200 per year, and in 1970 the rate remained almost the same at 195.

But this problem is only part of a much larger picture, and measures to deal with it alone will ignore much that should be done. For in their service to protect us all, public safety officers must run several other unusual risks of accident, injury, and death. Among police, those who are in situations of such extraordinary hazard include traffic patrolmen, motorcycle policemen, and police helicopter pilots. Firefighters are of course in constant danger of death or serious injury from flame, smoke, and collapsing buildings; in 1970, 115 died in the line of duty. Prison guards and court officers are endangered by riot, jailbreak, and violent suspects and defendants.

Because of these hazards, some public safety officers find regular life insurance coverage hard to come by, unusually expensive, or restrictive in the benefits offered. For example, in my own State of Massachusetts the State police helicopter pilots encountered reluctance to issue insurance at all and higher rates as well. The chief actuary of the Life Insurance Association of America told our Criminal Laws Subcommittee that rates for accidental death and dismemberment coverage for policemen could run up to 100 percent above ordinary rates. A major national life insurance company wrote the Criminal Laws Subcommittee that it normally charges a police or firefighters' group about 20 percent extra for group life insurance and up to 2½ times its regular rate for accidental death and dismemberment coverage.

Yet, if a public safety officer tries, even

though he may run into such obstacles, to buy as much insurance as he needs for himself and his family, he is held back by the disgracefully low salaries we so often pay. As Quinn Tamm, executive director of the International Association of Chiefs of Police, told our subcommittee:

> Salary medians for police officers fall below the pay scales for those positions which we may refer to as nonprofessional semiskilled labor.

In a survey this year of 300 New York City police, 95 percent said they felt their salaries were too low for them to afford adequate life insurance. And for public safety officers other than policemen, the salary situation is even worse.

Further, employer-aided group plans to remedy the insurance problems of public safety officers differ widely in their coverage and are frequently not offered at all. Our data are most complete on police officers; for about 30 percent of them, employer-supported group coverage is simply not provided. For almost 40 percent more, coverage is in the very low zero-to-$5,000 range, meaning that almost 70 percent of our police have State or local group life insurance no higher than $5,000. S. 33 would make available a minimum of $10,000 coverage to 100 percent of our police; now, fewer than 4 percent are in State or local government programs which offer as much. To offer a concrete example, in Massachusetts the basic coverage is only $2,000 and we have had to establish an organization called the Hundred Club to help tide over widows of slain officers. When I testified in support of Chairman CELLER's counterpart bill on the House side, two subcommittee members over there mentioned similar organizations in their home communities. But there are not a great many such programs, and a public safety officer should not have to rely on uncertain private charity to assure his family of financial security in the event of his death.

So because of job hazards, low salaries, and employer inaction—all factors which are related to their public service jobs—many officers and their families are inadequately protected against death or disability on or off the job. This is one important problem that is too often overlooked—that public safety officers' work situations make it difficult or impossible for many of them to obtain adequate life insurance to cover them on or off duty. In other words, if we wish to respond adequately to the problems created by the risks of an officers' work, we have to enact legislation which will help them whether they are killed or injured on the job or not, whether by a criminal act or by accident or by natural causes.

That is precisely what S. 33 would accomplish, and I am confident that is a major reason why the bill has the enthusiastic support of the leading police and firefighters' organizations in the country, including the International Conference of Police Associations, the Fraternal Order of Police, the International Association of Chief's of Police, the National Sheriffs' Association, and the International Association of Fire Fighters.

To summarize the situation as we have seen it in our studies, a few public safety officers are offered quite good benefits at reasonable rates, but many more have little or no coverage, high cost, or unfavorable conditions. Many areas are unable or unwilling to provide group life insurance, which is important both to officers personally and to recruiting and keeping highly qualified personnel. The Federal Government has committed itself in legislation since 1968 to providing major financial aid to State and local law enforcement, in an effort to help all law enforcement agencies attain a 20th century level of performance. The basic rationale behind the Federal Government's assumption of this limited additional role, then, is like that underlying the law enforcement assistance program, which we created 4 years ago and have generously supported since. In fact, the small Federal administrative role under the S. 33 insurance program would be handled by the law enforcement assistance administration.

Given the problem as I have described it and the LEAA precedent, and in full recognition that public safety functions are and must remain a local responsibility, I suggest that the best role for the Federal Government is making available a reasonable minimum nationwide level of life insurance protection.

If it is felt that particularly outrageous situations demand additional compensation, as the Senate recognized with respect to killings of public safety officers when it passed the S. 2087 gratuity bill earlier this month, these proposals surely deserve serious consideration. If a locality or individuals want more coverage, obviously they should and would remain completely free to arrange for it. But the national floor concept of S. 33 would assure that no matter how much legislators might be diverted by officers' most headline-getting problems, and no matter how poor or miserly an officer's area in contrast to its neighbors which provide good coverage, no public safety officer in the country would have to face the risks of his job without being able to get a reasonable amount of full life insurance coverage at a reasonable rate. All of this could be accomplished at low cost to the Federal Government because the Federal share would not be 100 percent or anything like it, merely the one-third or less needed to keep rates within officers' reach. And there would be no Federal intrusion into the running of State or local public safety affairs. The dealings of the officers and their employers would be almost entirely with each other, and with the primary insurance carrier, which would be a private company. The Federal Government's role would consist mainly of a small administrative operation within LEAA and the forwarding of the Federal subsidy to the primary carrier. Finally, as part of the law enforcement assistance statute, the program would be governed by the law prohibiting all Federal departments and personnel from exercising "any direction, supervision or control" over any State or local law enforcement agency.

I mentioned earlier that there are some changes in this bill from the version that passed the Senate in 1970. The most important, of course, is the addition of firefighters, correctional guards, and court officers. In the course of our work we realized that the reasons why we were concerned about policemen's life insurance applied to some other public servants as well. The rationale on which we made our carefully limited expansion of eligible groups is that all perform a public protection function at unusual risk with inadequate provision available for death or disabling injury, and national pooling of risks can help here to reduce administrative costs. I call our extension a carefully limited one, because it does not even double the number of persons eligible, though it adds three important groups. The basis on which these groups' inclusion rests should dispel any fears of uncontrollable addition of other hazardous occupation categories.

There are many other changes which we think improve the bill substantially, though most of these individually are too minor and technical to discuss here. I do want to mention three of the most significant, however. First, the bill now includes the same reinsurance requirements as are written into the Federal employees' group life insurance statute. Reinsurance is a standard industry technique by which the business and the risks of a large policy are shared among insurers, and this statutory formula is drafted to favor small companies. Since we expect the program will raise both the number of insured persons and the average coverage level substantially, and since the bill also contains a standard conversion provision, many companies will enjoy business that no one would have gotten at all without the bill.

Second, the permission for State and local governments to set up net group life insurance programs of their own for public safety officers for a year after the bill takes effect, and still be eligible for Federal aid, is a new feature. Before, only preexisting State and local plans were eligible for a Federal subsidy; some such cutoff is essential for the viability of the nationwide program. But the cutoff was moved back a year, which is another example of the lengths of which the bill goes to respect the desires of local governments and officers to set up programs of their own if their particular needs will thereby be better served than under the Federal plan. The same balloting protection, to give each group of eligible officers a choice between the State or local plan and the Federal one, would apply to new State or local programs as to existing ones. Of course, any group which wanted to join the Federal program but keep or add a State or local plan without Federal subsidy would be free to do so.

Third, the subsidy available to State and local plans has been raised from 75 to 100 percent of the portion being given to the Federal program. Again, this was done to respect State and local programs by not tipping the balance against them. Of course, there would have to be some limitations on the Federal subsidy available to these plans. Consistently with the uniform national floor concept I men-

tioned, there would be a Federal subsidy only for amounts of coverage up to the level in the Federal plan. Similarly, the Federal subsidy would be limited to the amounts per unit of coverage available for the Federal program; it would make little sense for the Federal Government to subsidize the inefficiently expensive portion of a State or local plan if it were providing a less expensive program itself.

Finally, I should like to mention how this program relates to the S. 2087 gratuity bill which the Senate passed 2 weeks ago. That bill provides $50,000 to survivors of a public safety officer killed by a criminal act in the line of duty, and a lesser amount for dismemberment. Some of the two bills' relation has been covered in my remarks already. I do wish to emphasize again that officers' duty hazards make them bad general risks, which can create problems for them in getting insurance to cover them on or off duty. This fact means that to respond adequately to the problems which public safety officers' hazardous duties create for them, we cannot be satisfied with measures which only touch on-duty happenings.

I would hope, therefore, that S. 33 could be viewed as the basic vehicle for Federal benefits in this area; alone among the bills on this subject now before the Senate, it does not leave off where the problem continues. S. 2087 can be a valuable complement to the broader S. 33 insurance approach, but the gratuity plan does not even cover all the extra on-duty hazards of the public safety professions; for S. 2087 allows benefits only when death or dismemberment resulted from a criminal act, and we do not need statistics to know that public safety officers—police helicopter pilots and motorcycle patrolmen, for example, but above all firefighters—are unusually exposed to accidents which have nothing to do with criminal acts. Indeed, S. 2087 would do little for firefighters despite their inclusion in its eligible categories; although they are in danger from arson and attacks, the large majority of their deaths and injuries result from accidents and fires not started by criminal acts.

In conclusion, let me say that I regard this bill as one over which there should be no partisan division. I have supported—despite some reservations—all the other bills in the victims of crime package, some primarily democratic in origin and others primarily republican. S. 33 itself has attracted support from Republicans and Democrats, liberals and conservatives alike. It is also supported by the major public safety officers' organizations and by many insurance companies. It will help with morale and in recruiting and keeping good public safety officers, and hopefully it will thereby improve the protection we all receive. And it will go a long way toward alleviating a serious human problem on which the Federal Government is uniquely qualified to act. We owe these men and women no less, and the time for action is now.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 10 minutes.

Mr. President, I rise in opposition to the measure. As I pointed out in the additional views which were printed in the report, this opposition is not because of my lack of appreciation for the fine service rendered by law-enforcement officers or by firefighters or others embraced in the bill. It is not for a lack of understanding of the fine contribution they are making in the field of law enforcement and the critical situation we are witnessing now in the matter of law enforcement on the National, State, and local scene.

We have already approved in this body the $50,000 gratuity to police officers killed in the line of duty; and that, of course, is a recognition of the idea that they are making a contribution that is in the national interest and that such benefit should be paid.

To show my appreciation and understanding for the work and the position of law-enforcement officers, I mention the fact that that bill was introduced by this Senator. Hopefully, the other body will act on it soon.

Moreover, there are several reasons why this bill is not sound legislation. First of all, such life insurance protection as it seeks to set up under a very complicated and specific arrangement, is readily and acceptably available at the present time. Proof of this is to be found in the fact that 68 percent, approximately 316,000 police officers, now have life insurance coverage. Some of it is fully paid by the employer; the remainder is on a contributory basis, just as we have in the case of the bill before the Senate.

Second, the protection that would be afforded would be not only for line-of-duty deaths or line-of-duty dismemberment but also would cover off-duty hazards and natural events. If we are going into the business of the Federal Government affording blanket coverage, on a group insurance policy basis, for a particular class of public servants, what about the rest of the public servants who are on the payrolls, helping to administer the affairs of government at all levels? Should not these people be covered as to these off-duty and natural hazards as well? Not to do so would be discriminatory in that sense.

Another reason is this: Such insurance is for the State and local agencies to provide. Law enforcement is primarily a non-Federal responsibility. That is the way the Government has been set up. We know that and we recognize it. The chief responsibility for law enforcement rests with the State and local jurisdictions. It is not a Federal responsibility. That applies to recruitment, employment, supervision, assignment of duties, payment of salaries, retirement plans and other features of that kind.

The current and the modern approach of the goal of this particular type of bill is to be found in the rationale of the Law Enforcement Assistance Administration. There we have a system of block grants, where the money granted by the Federal Government to States and municipalities is paid to them and then they take charge.

We found approved in this body only last week a revenue-sharing bill going into multibillion-dollar appropriations each year for the next 5 years. That money will be paid into the broad category of public safety and other priorities which are spelled out in the legislation. The modern and the current trend and philosophy may be politically sound to create additional narrow categories but this bill would create an additional and a new category very specific and very narrow in its mission. So to that extent it is objectionable.

The idea of each State and agency undertaking its own plan has great merit from two standpoints: First, it avoids the tremendous expense of a national insurance administrative body and; second, there is a flexibility to be found in each State and agency to take care of its own needs. That is desirable. Certainly the needs in the various States are different in character and different in degree. What would be called sufficient in a Western State, or a Southwestern State, a small State, or a sparsely settled State, would not suffice in metropolitan areas or high-cost areas. That difference should be accommodated by each community and each unit speaking and providing for itself. Dollars will go further under this type of approach. They will do a better job of accommodating to the needs and requirements of the members of their law enforcement units.

It is for these reasons it is suggested notwithstanding the necessity of recognizing the important part that the law enforcement officer plays, that this is not a bill that should be approved because it is a non-Federal responsibility.

I refer again to the general proposition of the policy of the Congress which is to get away from specific categories of aid and assistance.

It is in the category now, it is in the policy now, to get into broad revenue sharing, into block grants, and then let the municipalities and the States and other agencies with law enforcement personnel make their own provisions.

It is for these reasons that I oppose approval of this measure. This statement constitutes a summary of my objections to S.33. I submitted a complete explanation of my opposition in the committee report on this bill. I ask unanimous consent that its complete text be printed at this point in the RECORD.

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

ADDITIONAL VIEWS OF SENATOR HRUSKA

I am opposed to the enactment of S. 33.

This opposition does not stem from any lack of appreciation or understanding for the contributions made by public safety officers to all citizens of the nation. Indeed, this Senator was an original sponsor of S. 2087, the Public Safety Officers Benefits Act of 1972 which was approved by the Senate on September 5, 1972. This bill provided a $50,000 gratuity for public safety officers killed in the line of duty as a result of a crime and a commensurate gratuity for an officer suffering dismemberment under similar circumstances. To this Senator S. 2087 is an appropriate recognition by Congress of its responsibility to provide support for those of our citizens who are in the front line of our efforts to deter crime in this nation.

My opposition to S. 33 is, rather, based on my feeling that the provision of life in-

surance for public safety officers is not the responsibility of the federal government. Let me cite several factors which back up this statement.

First, contrary to the statements made by some of the sponsors of S. 33, life insurance is readily available to public safety officers from the same sources that provide insurance to the remainder of our citizens. The evidence contained in the Subcommittee's hearings on this bill document in instance after instance that private insurance companies in this country are ready, willing and able to supply insurance to law enforcement personnel. Most are already covered. Anyone interested in coverage has but to look around him to find numerous insurers looking for an opportunity to serve him.

Second, many of these insurers are prepared to offer coverage to public safety personnel under the same terms and at the same prices as it is offered to citizens in other types of endeavor. This, too, is documented in the hearings. Other companies which feel that there is a certain added hazard in insuring this type of occupation charge an additional fee amounting in most instances to a few pennies.

Third, with Senate approval of S. 2087 to provide protection against the extraordinary risks taken by these officers, all that the adoption of S. 33 would mean is that Congress is approving the purchase out of federal funds of ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of these occupations. Having provided for protection against the risks that are a function of the public safety professions, why should these citizens be singled out for federal insurance against an automobile accident which occurs on the way to the grocery store or the movie, a fall sustained on a family picnic or even simply in bed? There are numerous other citizens, particularly other public service employees, who legitimately may feel that they are entitled to the same consideration.

Fourth, recent studies indicate that more than 310,000 police officers are already benefiting from life insurance programs in which at least a portion of the premiums are paid by the employer. This amounts to approximately 68 percent of the state and local police officers in the nation. Similar figures pertain in the other professions covered by S. 33. I do not maintain that in all cases these benefits are adequate or that we should be satisfied with a 68 percent figure. However, these statistics do bear out my contention that insurance is available and is already widely in effect. In addition, it is apparent that units of state and local government are recognizing their responsibilities to protect their personnel and are undertaking programs to meet this duty.

Fifth, as with so many other aspects of life in this country, federal assumption of responsibility is not the answer. Law enforcement has always been primarily a non-federal responsibility of function in the United States. It was so conceived at the time of the founding of the nation and it has remained so. This local responsibility for law enforcement has been an instrumental factor throughout our history in preserving justice and equality during periods of war and peace. Any effort to establish a national police force has always been strongly resisted by Congress and the great bulk of the citizenry. As recently as the establishment of the Law Enforcement Assistance Administration in 1968 and the numerous crime bills approved in 1970, Congress went on record as approving and adhering to the traditional allocation of law enforcement responsibility to state and local governments. This Senator does not contend that federal life insurance policies will *ipso facto* result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should be mindful of the maxim that "he who pays the piper calls the tune." A federal insurance program as envisioned by S. 33 is an additional step away from traditional policy of having local officials supported primarily by local funds and under local control.

Sixth, appropriate benefits for public safety officers will differ from one jurisdiction to another. Costs and expenses vary from region to region across the country and are appreciably different in rural and urban areas. Rather than a single national program of life insurance, separate ones molded to meet the specific and individual needs of the state or community would be far more equitable, workable and realistic. Other aspects of public safety employment—pay, working conditions, pension plans, types of hospitalization coverage—are allowed differing regulation from jurisdiction to jurisdiction. Why should life insurance be singled out for special national treatment?

Seventh, in addition to the obvious and substantial cost of providing the insurance specified in the bill, there are indications that large administrative and additional expenses would be involved. As public safety officers are now defined the one-third federal share of the premium for all public safety officers would be more than $20 million annually. However, this figure does not include the extra expense of collecting the premiums from state and local units of government or administrative costs. One estimate of this cost of collection and administration is one dollar ($1) per month for every public safety officer insured. This expense would have to be borne by the employing agency or the federal government and could amount to approximately $8 million annually for the more than 700,000 public safety officers who would be eligible for insurance under this bill. The appropriation necessary to carry out the purposes of S. 33 should be borne in mind as the Senate considers this bill. This is especially true in view of the fact that a revenue sharing proposal to assist state and local governments in areas including law enforcement support is under review by Congress at the present moment.

I believe that these seven factors are compelling arguments which require opposition to S. 33.

Mr. HRUSKA. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). Who yields time?

Mr. SCHWEIKER. 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:

At the end of the bill add the following:

"(a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position;

and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce, any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than 10 years, or both; or if death results, shall be punished as provided under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State' means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States."

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, firemen or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offenses, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

Mr. SCHWEIKER. Mr. President, this amendment makes it a Federal crime to assault, injure, or kill any State or local law enforcement officer, fireman, or judicial officer because of his official position. Let me emphasize that this legislation is designed to apply to situations where an official is singled out and attacked as a symbol of the establishment because of his official position—for example, killing a policeman simply because he is a policeman.

Increasingly in recent years, we have witnessed brutal and often fatal attacks on State and local policemen by radical revolutionaries. These attacks have often been essentially politically oriented, conceived by the twisted minds of individuals bent on destroying law and order in our society. We must declare in no uncertain terms that such attacks are intolerable and that we intend to stand by and protect the loyal men and women who serve in these capacities in our government. Existing legislation covers Federal employees in these capacities, but no similiar provisions cover State and local officials.

Under my amendment, in any case where an individual has traveled in interstate commerce or used any instrumentality of, or facility for interstate commerce with the intent of assaulting or killing such officials, or where a dangerous or deadly weapon which has been transported in interstate commerce is used to commit the crime, Federal officials would be able to assist local authorities in investigating the crime and tracking down the criminals. The crime would be punishable under Federal statutes.

This amendment is similar to a bill I first introduced in the 91st Congress, S. 4348, and reintroduced in the 92d Congress as S. 120.

In addition, my amendment includes provisions covering conspiracies to kill or injure police officers, firemen, and judicial officers.

Furthermore, my amendment includes provisions similiar to the "Lindberg kidnapping law" which creates a presumption that the assailant has traveled in interstate commerce if he has not been captured within 24 hours after the crime was committed. This helps to assure that very little delay occurs between the commission of the crime and the involvement of the Federal law enforcement authorities.

Although the FBI can now enter such cases and assist State and local law enforcement personnel, my amendment makes such entry automatic and eliminates any possible confusion. This amendment has the strong support of the Fraternal Order of Police, the International Conference of Police Associations, the International Association of Firefighters, and the National Association of Attorneys General.

The number of police officers killed has been increasing at a startling rate in the past few years. In 1961, 37 were killed. In 1971, 125 were killed—about 3½ times the rate only 10 years ago. In 1970, 100 were killed; in 1969, 86. Twenty of the 1971 killings resulted from ambush-type attacks. So far, in 1972, 66 have been killed.

As you can see, Mr. President, the trend is clear. It is time for Congress to act.

During the 91st Congress, the Senate Internal Security Committee held hearings on a bill I introduced, as well as similar bills submitted by Senators EASTLAND, WILLIAMS, and DODD. Witnesses then presented convincing evidence of the need for legislation. Regrettably, those hearings were held late in the 91st Congress, and there was not enough time to get a bill out of committee and passed.

We have that opportunity now. Just a few weeks ago, in fact, the Senate passed a similar amendment to S. 2507, which was offered by Senator HUMPHREY. However, the House Judiciary Committee has deleted that amendment from its version of that legislation. The problem remains. I urge my colleagues to support this amendment.

Mr. President, I should like to read two telegrams, one from Royce L. Givens, executive director, International Conference of Police Associations, which reads:

OCTOBER 2, 1970.

Senator RICHARD S. SCHWEIKER,
New Senate Office Building,
Washington, D.C.

The International Conference of Police Associations appreciates your introduction of S. 4348 a bill to prohibit assaults on State law enforcement officers and others. There are other bills pending that are similar to your bill. We are 100 percent behind such legislation. At our July conference we passed a resolution on this subject which you included in your remarks the day you introduced your bill. This resolution expresses our sentiments. This type of legislation must, we feel, be approved if there is any hope to bring back respect for the policeman that lays his life on the line each day. Just the other day officer John Burke, Atlantic City, N.J., was murdered when he stopped vehicle to question them about a traffic violation. He was murdered by the passenger with a shot gun. This must stop.

Mr. HRUSKA. Mr. President, a telegram from John J. Harrington, national president of the Fraternal Order of Police, reads:

PHILADELPHIA, PA., *October 2, 1970.*

Hon. RICHARD SCHWEIKER,
New Senate Office Building,
Washington, D.C.

Police wholeheartedly support your Senate bill 4348.

JOHN J. HARRINGTON,
National President, Fraternal Order of Police.

Mr. KENNEDY. Mr. President, will the Senator from Arkansas yield me 3 minutes?

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one of the points that has been made with respect to the Senator's amendment, as I understand it, is that most of the crimes committed against local policemen have been resolved within the local jurisdiction. As I understand the figures that were used at the time Mr. Hoover testified, he said the figure was 96 percent.

Is that the information of the Senator from Pennsylvania or does he have other information that shows that the kind of resources that would be available—the Federal Bureau of Investigation and other national resources—would be enormously helpful in helping to resolve crimes committed against police and firefighters? Would the Senator talk to that point on his own time? I have one or two other points that I would be interested in having comments on.

Mr. SCHWEIKER. Mr. President, the statistics that we have available indicate that for 1971, 125 policemen were killed. Of these 125 who were killed, exactly 20 were of the ambush-type of attack which was more or less premeditated and certainly did not relate to a crime being committed. So, we are talking probably about 15 or 17 percent of the police killings at which my amendment would be directed.

My thought behind this is that I am not covering all of the killings where the local police have responded in an important way to a crime. However, where we have a plot, where we have the singling out of a police officer, where a person says that he will shoot someone simply because he is a police officer, I feel that this is a problem for all of us. They are representing all of us. The killers regard them as enemies.

My measure would deal with the case where a person kills a policeman merely because he is a policeman and not because he is committing a crime. If we tell the people that we consider this to be that important, I think that the number of such killings will drop rather dramatically.

Mr. KENNEDY. Mr. President, am I correct in understanding that the Senator's amendment would apply to all crimes against policemen?

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

Mr. KENNEDY. Mr. President, will the Senator yield on his own time for a question?

Mr. SCHWEIKER. My amendment does not apply to all killings, only those where the officer was killed because he is a policeman.

Mr. KENNEDY. I merely have a summary of the amendment here. It appears from that that the amendment would apply to all of those who have been killed, firefighters and policemen. If I am wrong, I would like to be corrected just so that my understanding of the amendment is correct.

It is my impression from reading a summary of the amendment that it would apply to all officers. There may well be good reason to have it apply to all, given the kind of examples the Senator from Pennsylvania has mentioned and given the fact that perhaps in recent times it has become more and more complex and difficult to resolve murders against policemen and firefighters.

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

Mr. KENNEDY. I yield.

Mr. SCHWEIKER. This language was prepared by legislative counsel with that very specific legislative point in mind. That was their interpretation. I am cer-

tainly open to any thoughts the Senator or members of the committee might have, so that it means what we believe it does mean. We think it means what I have said. However, if the Senator from Massachusetts can clarify the point he brings up, I am certainly open to suggestions.

Mr. KENNEDY. The Senator understands that anyone who is involved in a felony against a public safety officer and flees the State to avoid prosecution is covered under present Federal law. However, as I understand it, the Senator is trying to get at instances which may take place locally but are so involved in some kind of conspiracy—the Senator used the word "ambush" or "conspiracy"—that is committed solely because the public safety officer is wearing the uniform of a policeman or a firefighter or some other kind of public safety officer.

Mr. SCHWEIKER. The Senator is correct.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

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

Mr. McCLELLAN. Mr. President, the Senator from Pennsylvania has brought up a point which the Subcommittee on Criminal Laws and Procedures has had no opportunity to study.

I am not prepared to discuss its merits at length but would raise an inquiry. How are we going to prove that a homicide suspect killed a man "because he was a policeman"? This would appear to be a jurisdictional element that would have to be met by the prosecution beyond a reasonable doubt.

This seems to be a high burden to place on the prosecution.

Mr. President, I yield 3 minutes on the amendment to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. ERVIN. Mr. President, I attribute the noblest of motives to the offerer of the amendment. Good motives do not suffice, however, for one adoption of any proposal. The motives behind proposals are good. Even those who burned heretics at the stake were activated by good motives. They wanted to save the souls of others from eternal damnation.

Under the Constitution the power of punishment for crimes of violence are reserved by the 10th amendment to the States except in cases where the Federal Constitution requires that the Federal Government prosecute crimes to protect some functions committed to it. The amendment invades an area reserved to the States.

This amendment undertakes to create a crime, which can never be proved, as the Senator from Arkansas has said, to convict a man of transporting a deadly weapon in interstate commerce with the knowledge that it will be used to kill another person, the prosecution will have to prove beyond a reasonable doubt that at the time he transported it in interstate commerce he was gifted with the prophetic power to know that the weapon would be used at some indefinite time in the future to kill a person because he was a law enforcement officer, a firearm, or a judicial officer of the State. Manifestly the facts available to establish this will never be available to the prosecution. Hence, the adoption of the amendment would not only invade an area reserved by the Constitution to the States, but would create a crime which can never be factually proved.

We have enough trouble with complicated laws already on our books without adding laws that are so complicated that the crimes they create can never be proved. In closing, I wish to emphasize the objection to an amendment which invades an area reserved to the States. There are two ways in which the Federal Government can hinder the States in the enforcement of their criminal laws: One is by interfering with State enforcement. The other is by relieving the States of their responsibility for enforcing their laws. I think this amendment, notwithstanding the good intentions of the Senator who offered it, is an unwise amendment that should be rejected by the Senate.

Mr. McCLELLAN. Mr. President, how much time remains for the opposition to the amendment?

The PRESIDING OFFICER. The opposition has 4 minutes remaining.

Mr. McCLELLAN. Mr. President, I yield all that time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, this type amendment, this type statutory provision has been considered by the Committee on the Judiciary and Congress on several occasions in recent years. Many of the specific provisions contained in this amendment have been considered. They have been rejected. Some of the grounds have already been indicated. One is the difficulty of proof; it is a highly technical matter.

But there is another reason, Mr. President, why Congress has seen fit not to accept a proposal of this kind, and that is there is a lack of need for the taking on of Federal jurisdiction in these instances.

On November 1, 1970, the President issued a "directive" authorizing the Attorney General to use all departments and resources at his disposal to investigate police assaults and killings. The investigation was to be on the request of local authorities in each instance.

On June 3, 1971, during a White House meeting with the FBI Director and certain police chiefs, the President announced that he was instructing the FBI to conduct investigations of police killings upon the request of local authorities. This was the meeting that was the immediate origin of S. 2087, providing the $50,000 gratuity for police officers killed in the line of duty.

The fact is that with a combination of the efficiency and vigilance, local authorities, with the help of the Federal Bureau of Investigation, have brought about the result that approximately 96 percent of all those involved in police killings are arrested within 30 days of the crime—those arrests being by State and local authorities already charged with enforcement responsibilities for these offenses.

Law enforcement is a local and State responsibility in our system of government, absent any overriding national reasons and requirements otherwise. No such reasons and requirements are demonstrated here, nor are they demonstrable because 96 percent of all involved in police killings are arrested within 30 days.

In addition, the talent, capability, and manpower of the Federal Bureau of Investigation are available to local authorities upon request.

Similar amendments have been proposed from time to time and have been rejected. There is a further argument that this would put the FBI on a mandatory basis to intervene with resulting heavy burdens of time, funds, and manpower. This would be at the expense of its capabilities to pursue the more traditional and more truly Federal activities which are assigned to the FBI. It would be at the expense of possible conflict with officials of other law enforcement agencies where the FBI entry in the case is on a mandatory basis rather than optional or on an invitational basis.

For these reasons I hope the amendment is not agreed to. I reserve the remainder of my time, if any remains.

Mr. SCHWEIKER. Mr. President, I would like to reiterate the language of my amendment on this point. It seems to me there is a misunderstanding about the terms of who has the authority to go in in a crime against a police officer.

The wording of my amendment very specifically states, as drafted by legislative counsel:

"A conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position;"

Mr. President, that is the key word, the important word, and it is the word legislative counsel used in preparing this legislation, which indicates that these crimes are to be differentiated.

In response to the distinguished Senator, who is a member of the committee, who raised the question, "Why involve the Federal Government?" I think the reason is obvious.

The hearings brought out the fact there are national groups who conspire to either assault or kill enforcement officials. It could not be made much plainer than that. There are people planning to conspire as a matter of national planning to shoot policemen simply because they are policemen; not because the policeman is involved in the apprehension of burglars or bank robbers, but just because he is a policeman.

There is a national conspiracy, and, therefore, we need a national law involving a national priority, and a matter of national concern. That is the difference here.

As far as interfering with other jurisdictions, I would like to respond to one of the other questions raised. We have inserted a paragraph in the amendment that would make it very clear that we are not abridging the authority of local governments and State governments.

This section shall not be construed to evidence an intention on the part of the Con-

gress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by Congress.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I feel this is something we have neglected for 2 years. I have had this bill before the committee for 2 years and I have the greatest respect for my good friend on the committee and I realize this particular subcommittee is not the subcommittee that it was before, but it was before the entire Committee on the Judiciary. This bill has been there for 2 years and during the course of time police killings have gone from 37 to 125. The national emergency could not be more clear. Any week that one picks up a newspaper he can see something that happened, a tragedy that occurred where an officer is not even performing his duty, but just because he is there representing us. This is a very serious problem and the handwriting could not be more clear. We have pussyfooted, we have delayed, we have explained, and we have excused, and still the police killings go up. This is a matter of national concern and a national emergency. My wording very specifically says, because he is a police official. That was the legislative counsel's draft and interpretation of what my intent was. I think it is abundantly clear. I think the time has come to act. Two years is long enough to take some action, and I am very hopeful the committee will consider this amendment, and I am hopeful the Senate will accept it.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, my time on the amendment has expired.

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

The PRESIDING OFFICER. It would not be in order except by unanimous consent.

Time is running equally against both sides.

Mr. McCLELLAN. Mr. President, the yeas and nays have been ordered.

Mr. PASTORE. Mr. President, in fairness to all parties, I ask unanimous consent that a quorum call for a short time be in order—not to exceed 3 minutes.

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

Mr. McCLELLAN. Mr. President, let it be taken out of the time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

The Senator from Pennsylvania has 2 minutes remaining. The Senator from Arkansas has no time left.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back or has expired.

The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana, (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG), are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGEE), is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Virginia (Mr. SPONG), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Utah (Mr. Moss), and the Senator from Nevada (Mr. CANNON), would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 46, nays 23, as follows:

[No. 441 Leg.]

YEAS—46

Aiken	Case	Jordan, Idaho
Bayh	Chiles	Magnuson
Beall	Church	Mansfield
Bible	Cook	Mathias
Boggs	Edwards	Miller
Brooke	Fong	Mondale
Burdick	Gambrell	Montoya
Byrd, Harry F., Jr.	Hatfield	Nelson
Byrd, Robert C.	Jackson	Packwood
	Jordan, N.C.	Pastore
Pearson	Schweiker	Talmadge
Percy	Scott	Tunney
Proxmire	Smith	Weicker
Randolph	Stafford	Williams
Roth	Stevenson	Young
Saxbe	Symington	

NAYS—23

Allen	Eastland	Hruska
Bennett	Ervin	Hughes
Bentsen	Fannin	Inouye
Brock	Fulbright	Kennedy
Buckley	Goldwater	McClellan
Cooper	Gurney	Stennis
Cranston	Hansen	Thurmond
Dole	Hart	

NOT VOTING—31

Allott	Harris	Mundt
Anderson	Hartke	Muskie
Baker	Hollings	Pell
Bellmon	Humphrey	Ribicoff
Cannon	Javits	Sparkman
Cotton	Long	Spong
Curtis	McGee	Stevens
Dominick	McGovern	Taft
Eagleton	McIntyre	Tower
Gravel	Metcalf	
Griffin	Moss	

So Mr. SCHWEIKER's amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I have no further requests for time at the moment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments 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.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time. I know of no requests for time.

Mr. HRUSKA. Mr. President, I have no further requests for time. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). All remaining time having been yielded back, the question is, Shall the bill as amended pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President, the Senator was on his feet before the clerk's response, requesting recognition.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from South Carolina (Mr. THURMOND), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. TUNNEY), and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of this measure.

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

The question is, Shall the bill pass? 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. FONG (when his name was called). Present.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a live pair with the Senator from Utah (Mr. Moss), who, had he been present, would have voted "yea." I would have voted "nay" after having voted in the affirmative. Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), and the Senator from South Carolina (Mr. HOLLINGS) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 61, nays 6, as follows:

[No. 442 Leg.]

YEAS—61

Aiken	Bayh	Bentsen
Allen	Beall	Bible
Anderson	Bennett	Boggs
Brooke	Hatfield	Proxmire
Burdick	Hughes	Randolph
Byrd, Harry F., Jr.	Inouye	Roth
Byrd, Robert C.	Jackson	Saxbe
Case	Jordan, N.C.	Schweiker
Chiles	Jordan, Idaho	Scott
Church	Kennedy	Smith
Cook	Magnuson	Stafford
Cranston	Mathias	Stennis
Eastland	McClellan	Stevenson
Edwards	Miller	Symington
Ervin	Mondale	Talmadge
Fulbright	Montoya	Thurmond
Gambrell	Nelson	Tunney
Gurney	Packwood	Weicker
Hansen	Pastore	Williams
Hart	Pearson	Young
	Percy	

NAYS—6

Brock	Dole	Goldwater
Buckley	Fannin	Hruska

ANSWERED "PRESENT"—1

Fong

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—31

Allott	Harris	Mundt
Baker	Hartke	Muskie
Bellmon	Hollings	Pell
Cannon	Humphrey	Ribicoff
Cooper	Javits	Sparkman
Cotton	Long	Spong
Curtis	McGee	Stevens
Dominick	McGovern	Taft
Eagleton	McIntyre	Tower
Gravel	Metcalf	
Griffin	Moss	

So the bill (S. 33), as amended, was passed, as follows:

S. 33

An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance

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 "Public Safety Officers' Group Life Insurance Act of 1972".

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part F of title I, as amended by this Act, the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 percentum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart under written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"LOSS	AMOUNT PAYABLE
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a

part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby, the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased

under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance programs receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 17. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

Subpart 4—Miscellaneous

SEC. 103. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G."

SEC. 104. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 105. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 106. This Act shall become effective on date of enactment.

SEC. 107. (a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position; and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than ten years, or both; or if death results, shall be punished under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State' means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States.

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, fireman or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offense, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

The title was amended so as to read: "A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance."

MESSAGES FROM THE PRESIDENT

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

REPORT OF FEDERAL ACTIVITIES IN JUVENILE DELINQUENCY, YOUTH DEVELOPMENT, AND RELATED FIELDS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY) 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 Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit herewith the annual report of Federal activities in juvenile delinquency, youth development, and related fields, as required by section 408 of the Juvenile Delinquency Prevention and Control Act of 1968 (Public Law 90–445).

The report covers the period from July 1, 1970, to June 30, 1971, and evaluates activities of the Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare. It also includes a description of the activities of other Federal Agencies and Departments in the field of juvenile delinquency.

I commend this report to your careful attention.

RICHARD NIXON.

THE WHITE HOUSE, *September 18, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

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. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases

of Indian lands located outside the boundaries of Indian reservations in New Mexico;

H.R. 10702. An act to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community;

H.R. 13025. An act to amend the Act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes; and

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS OF THE UNITED STATES

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Chair lays before the Senate H.R. 15883, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments:

On page 1, line 4, after the word "Officials", insert "Official Guests of the United States";

On page 2, line 14, after the word "officials", insert "or official guests";

In line 16, after the word "official", insert "or official guest";

On page 3, after line 24, insert:

"(4) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the government of the United States pursuant to designation as such by the Secretary of State.

On page 4, after line 12, strike out:

"116. Murder or manslaughter of foreign officials.";

And insert:

"116. Murder or manslaughter of foreign officials or official guests.";

After line 12, strike out:

"(b) Whoever willfully intimidates, coerces, threatens, or harasses a foreign official, or willfully obstructs him in the performance of his duties, shall be fined not more than $500, or imprisoned not more than six months, or both.

And, in lieu thereof, insert:

"(b) Whoever willfully intimidates, coerces, threatens, harasses, or willfully obstructs a foreign official or an official guest shall be fined not more than $500, or imprisoned not more than six months, or both.

On page 7, line 15, after the word "government',", strike out "and";

In the same line, after the word "organization",' insert "and 'official guest' ";

After line 17, insert:

"(e) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States."

After line 24, strike out

"112. Protection of foreign officials." and insert

"112. Protection of foreign officials and official guests.";

On page 8, line 13, after the word "organization", strike out the word "or";

In the same line, after the word "official", insert "or official guest,";

In line 17, after the word "government'," strike out the word "and";

In the same line, after the word "organization'," insert "and 'official guest';"

And at the top of page 9, insert a new title, as follows:

TITLE V—FOREIGN SERVICE GRIEVANCE PROCEDURE

SEC. 501. (a) Title VI of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service and their survivors, a grievance procedure to insure the fullest measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or amend the provisions for due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within sixty days, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

"(A) 'grievant' shall mean any officer or employee of the Service, or any such officer or employee separated from the Service, who is a citizen of the United States, or in the case of the death of the officer or employee, a surviving spouse or dependent family member of the officer or employee; and

"(B) 'grievance' shall mean a complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or records, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, actions related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personnel actions, including separation for cause, denial of a salary increase within a class, written reprimand placed in a personnel file, or denial of allowances.

"(2)(A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States well known for their integrity, who are not officers or employees of the Department, the Service, the Agency for International Development, or the United States Information Agency. The board shall consist of a panel of three members, one of whom shall be appointed by the Secretary, one of whom shall be appointed by the organization accorded recognition as the exclusive representative of the officers and employees of the Service, and one who shall be appointed by the other two members from a roster of twelve independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service. If members of the board (including members of additional panels, if any) find that additional panels of three members are necessary to consider and resolve expeditiously grievances filed with the board, the board shall determine the number of such additional panels necessary, and appointments to each such panel shall be made in the same manner as the original panel. Members shall (i) serve for two-year terms, and (ii) receive compensation, for each day they are performing their duties as members of the board (including traveltime), at the daily rate paid an individual at GS–18 of the General Schedule under section 5332 of title 5, United States Code. Whenever there are two or more panels, grievances shall be referred to the panels on a rotating basis. Except in the case of duties, powers, and responsibilities under this paragraph (2), each panel is authorized to exercise all duties, powers, and responsibilities of the board. The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years.

"(B) In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain such facilities and supplies through the general administrative services of the Department, and appoint and fix the compensation of such officers and employees as the board considers necessary to carry out its functions. The officers and employees so appointed shall be responsible solely to the board. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. The records of the board shall be maintained by the board and shall be separate from all other records of the Department.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is filed within a period of eight months after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is filed within a period of one year after the date of enactment of this part. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if he had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing in any case filed with it. A hearing shall be open unless the board for good cause determines otherwise. The grievant and, as the grievant may determine, his representative or representatives are entitled to be present at the hearing. Testimony at a hearing shall be given by oath or affirmation, which any board member shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled

to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board or grievant, the Department shall promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Department, except that if the board determines that the presence of such witness at the hearing would be of material importance, then the witness shall be made available at the hearing. If the witness is not made available in person or by deposition within a reasonable time as determined by the board, the facts at issue shall be construed in favor of the grievant. Depositions of witnesses (which are hereby authorized, and may be taken before any official of the United States authorized to administer an oath or affirmation, or, in the case of witnesses overseas, by deposition on notice before an American consular officer) and hearings shall be recorded and transcribed verbatim.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding before the board, shall be free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

"(6) In considering the validity of a grievance, the board shall have access to any document or information considered by the board to be relevant, including, but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer (if the subject matter of the grievance relates to that rating or reviewing officer). Any such document or information requested shall be provided promptly by the Department. A rating officer or reviewing officer shall be informed by the board if any report for which he is responsible is being examined.

"(7) The Department shall promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the Government) which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding.

"(8) The Department shall expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.

"(9) The board may consider any relevant evidence or information coming to its attention and which shall be made a part of the record of the proceeding.

"(10) If the board determines that (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

"(11) Upon completion of the proceedings, if the board resolves that the grievance is meritorious—

"(A) and determines that relief should be provided that does not directly relate to the promotion, assignment, or selection out of such officer or employee, it shall direct the Secretary to grant such relief as the board deems proper under the circumstances, and the resolution and relief granted by the board shall be final and binding upon all parties; or

"(B) and determines that relief should be granted that directly relates to any such promotion, assignment, or selection out, it shall certify such resolution to the Secretary, together with such recommendations for relief as it deems appropriate and the entire record of the board's proceedings, including the transcript of the hearing, if any. The board's recommendations are final and binding on all parties, except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the United States will be adversely affected. Any such determination shall be fully documented with the reasons therefor and shall be signed personally by the Secretary, with a copy thereof furnished the grievant. After completing his review of the resolution, recommendation, and record of proceedings of the board, the Secretary shall return the entire record of the case to the board for its retention. No officer or employee of the Department participating in a proceeding on behalf of the Department shall, in any manner, prepare, assist in preparing, advise, inform, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding.

"(12) The Board shall have authority to insure that no copy of the Secretary's determination to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding is pending or has been held, shall be entered in the personnel records of such officer or employee to whom the grievance relates or anywhere else in the records of the Department, other than in the records of the board.

"(13) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered relevant evidence not previously considered by the board and then only upon approval of the board.

"(14) The board shall promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies, or procedures contained in this part or in regulations promulgated under this part.

"RELATIONSHIP TO OTHER REMEDIES

"SEC. 693. If a grievant files a grievance under this part, and if, prior to filing such grievance, he has not formally requested that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, then such matter or matters may only be considered and resolved, and relief provided, under this part. A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part.

"JUDICIAL REVIEW

"SEC. 694. Notwithstanding any other provision of law, regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and actions of the Secretary or the board pursuant to such section, may be judicially reviewed in accordance with the provisions of chapter 7 of title 5, United States Code."

(b) The Secretary of State shall promulgate and place into effect the regulations provided by section 692 of the Foreign Service Act of 1946 (as added by subsection (a) of this section), and establish the board and appoint the member of the board which he is authorized to appoint under, as provided by such section 692, not later than 90 days after the date of enactment of this Act.

Mr. McCLELLAN. Mr. President, we all remain deeply shocked and saddened by the brutal slayings at the Olympic games in Munich. Many of my colleagues have already eloquently spoken of the significance of this tragedy. Keeping in mind our grief and indignation over these crimes, I today urge the adoption of a measure designed to prevent the commission of such an act of violence in the United States against foreign officials in our country.

Mr. President, more is involved here than a basic regard for human life or personal security. We act today under a special obligation of international law. As the Court in *Frend* v. *United States*, 100 F. 2d 691, 693 (D.C. Cir.), *cert. denied*, 306 U.S. 640 (1938) put it:

> As in war the bearers of flags of truce are sacred, or else wars would be interminable, so in peace, ambassadors, public ministers and consuls, charged with friendly national intercourse, are objects of especial respect and protection. . . . The law of nations, therefore, requires every government to take all reasonable precautions to prevent [unlawful acts directed against ambassadors or embassies]. . . . This responsibility includes the duty of protecting the residence of our ambassador or minister against invasion as well as against any other act tending to disturb the peace or dignity of the mission or of the member of the mission.

Mr. President, between January of 1971 and September 10 of this year, there have been 238 documented threats or incidents against foreign government personnel or exchange groups in the United States. Such acts create untold personal loss and fear. Such acts severely impair the process of conducting foreign relations. The incidents have included mugging, automobile theft, vandalism, bombings, assault, and rape. Such acts must not be allowed to continue.

Yet recent events have made it altogether too clear that we face continuing and often successful attempts on the part of violent extremist groups to deliver their special "message" to the world by mercilessly slaying innocent people, people who are chosen as victims only because of their nationality, race, religion, occupation, or simply their location at a particular moment.

Predictably, these targets will often be official representatives and employees of a foreign government. But under current law, the Federal Government has no jurisdiction, except in special circumstances, over crimes against these people. The primary responsibility to deal with such crimes must and should remain in the several States. This is a fundamental tenet of our federal system. But we cannot blind our eyes to what is happening all around us.

West Germany, too, operates within the framework of a police system characterized by federalism and strong local control. Its role in the recent police operation against Arab guerrillas in Munich can teach us a lesson. The actual operation was led by Munich's police commissioner. What happened is history. Local

forces are not trained and experienced enough and lack the full range of resources to cope alone with crimes involving an international terrorist group and embracing aspects of international politics and diplomacy. This was plain for all to see when it was the German Chancellor, not the Bavarian Premier, let alone the Munich Commissioner, who telephoned Arab leaders in a frantic effort to secure the freedom of the Israeli hostages.

The winter Olympic games will be held next time in Colorado. Should another attack occur, it may well be planned outside our country. Overt acts implementing this conspiracy could occur throughout the world or in several of the States, culminating in violence in one of our States. Can we truly expect local law enforcement adequately to respond?

Mr. President, H.R. 15883 was introduced at the joint request of the Departments of State and Justice. It has been drafted to meet the challenge of international violence and to outline our Nation's responsibility to foreign representatives within our country. The bill, as amended, passed the House of Representatives on August 7, 1972, by a vote of 380–2. Briefly, the House-passed bill would do the following:

First, make murder or manslaughter of a foreign official or a member of his family, or conspiracy to murder such individual, a Federal offense punishable as a felony.

Second, make the kidnaping of a foreign official or a member of his family, or conspiracy to kidnap such an individual, a Federal felony if committed anywhere in the United States.

Third, make the assaulting, striking, wounding, imprisoning, or offering of violence to a foreign official a Federal offense punishable as a felony.

Fourth, make the intimidation, coercion, threatening, harassment or willful obstruction of performance of duties of a foreign official a Federal offense punishable as a misdemeanor.

Fifth, prohibit certain demonstrations within 100 feet of foreign government buildings for the purpose of intimidating, coercing, threatening or harassing any foreign official or obstructing him in the performance of his duties, and make this punishable as a misdemeanor.

Sixth, make the willful injury, damaging or destruction, or attempted injury, damaging or destruction, of real or personal property within the United States belonging to or used or occupied by a foreign government, foreign official or international organization a Federal offense punishable as a felony.

Seventh, make several changes in the Federal kidnaping law as it will apply generally. In this regard, the law is amended to make the thrust of the offense the kidnaping itself rather than the interstate transporting of the kidnaped person. This effort to clearly differentiate the question of what is criminal from the question of what criminal behavior falls within Federal jurisdiction not only makes the sanction more rational, but also has the practical effect of assuring that a kidnaping which occurs in a hijacking situation is an extraditable offense from a country which does not recognize an offense keyed to interstate transportation.

I urge its adoption.

Mr. President, I ask unanimous consent to have included in the RECORD at this point three exhibits as follows:

First, a chart of incidents against diplomatic and other personnel for the period January 1, 1972, through September 10, 1972, and a breakdown of incidents involving foreign personnel occurring in the first 6 months of 1971 which is illustrative of the acts which pose a threat to free diplomatic intercourse.

Second, an article from the Evening Star, Washington, D.C., September 6, 1972, page A9, column 5, noting a call for retaliatory assassinations.

Third, an excerpt from the U.S. News & World Report of September 18, 1972, entitled "The Grim Toll Taken by Arab Guerrillas."

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

INCIDENTS AGAINST DIPLOMATIC, QUASI-DIPLOMATIC, AND CONSULAR ESTABLISHMENTS AND PERSONNEL, SEPTEMBER 11, 1972

Threats against public and foreign officials from January 1 through September 10, 1972

State Department Officials, 3.
Foreign Officials, 60.

Incidents for the Period January 1 through September 10, 1972

New York Area, 61.
Washington and Elsewhere, 86.

Incidents Against Cultural Exchange Groups for the period January 1 through September 10, 1972

Nationwide, 31; total 241.

Incidents affecting diplomatic consular and quasi-diplomatic establishment and personnel from January 1, 1971 through June 30, 1971

January 8, 1971—Explosion at the Soviet Commercial and Information Office, Washington, D.C.: minor damage.

January 8, 1971—Automobile of an Argentine Embassy employee was stolen.

January 12, 1971—Wife and daughter of the Korean Air Attache at Washington, D.C. were victims of an armed robbery at their residence.

January 14, 1971—Two bricks were thrown thru the window of the Aeroflot Office, New York City, causing minor damage.

January 17, 1971—A molotov cocktail was thrown thru the glass door of the UAR Mission at New York causing minor damage.

January 22, 1971—The Latvian Legation at Washington, D.C. was burglarized and equipment valued at $100 was stolen.

February 2, 1971—The tires on an automobile belonging to the Vice Consul of Kuwait, New York City, were slashed.

February 11, 1971—A member of the Iranian Embassy, Washington, D.C. was assaulted in the Embassy. Minor injury sustained.

February 17, 1971.—The residence of the Charge d'Affaires of Mauritania was burglarized and a color television was stolen.

February 19, 1971—Three automobiles belonging to Soviet Embassy personnel were fire-bombed. One vehicle sustained serious damage and the other two minor.

February 25, 1971—An employee of the Iranian Embassy, Washington, D.C. was assaulted, however, received no injuries.

February 25, 1971—Two vehicles belonging to Soviet Embassy personnel were broken into and the spare tires stolen.

February 26, 1971—Red paint was thrown on the steps of the Greek Consulate, New York City.

February 26, 1971—A Soviet diplomat's automobile was stolen at Washington, D.C.

March 2, 1971—The Chancery of Mexico was burglarized and approximately $600 worth of cash and jewelry stolen.

March 2, 1971—The Iraq Mission to the U.N. was fire-bombed causing minor damage.

March 14, 1971—An attempted burglary was thwarted at the Embassy of Kenya; however, the intruder escaped.

March 16, 1971—The residence of a German Embassy employee was burglarized and $2700 in cash and personal papers were stolen.

March 23, 1971—An automobile belonging to the Greek Consulate, New York City was stolen.

March 26, 1971—An automobile belonging to an employee of the Embassy of Chile was vandalized and burglarized.

March 29, 1971—The automobile of an Australian Embassy employee was broken into and a movie camera was stolen.

April 2, 1971—An automobile belonging to the Albanian Mission to the U.N. was stolen.

April 12, 1971—The South African Consulate General, New York City, was bombed, minor damage resulting.

April 12, 1971—An employee of the Embassy of New Zealand was assaulted and robbed.

April 12, 1971—The automobile belonging to the Counselor of the Yugoslav Mission, New York City was burglarized.

April 14, 1971—Three Soviet diplomats were subjected to harassment and reported physical violence at Washington, D.C.

April 14, 1971—An automobile belonging to the Embassy of Ghana was vandalized.

April 18, 1971—Several windows at the Mexican Chancery were broken by a group of juveniles.

April 19, 1971—A South African Tourist Office, New York was bombed causing moderate damage and slight injury to one person.

April 20, 1971—The automobile belonging to a Soviet diplomat at Washington was vandalized.

April 22, 1971—A bomb exploded at the Soviet Trade Office, New York City causing moderate damage.

April 23, 1971—The Viet Nam Embassy was subjected to vandalism causing minor damage.

April 26, 1971—The Chancery of Lesotho was burglarized of business equipment.

April 26, 1971—The Chancery of Peru was burglarized of business equipment.

April 26, 1971—Two automobiles belonging to the Soviet Mission to the U.N. were vandalized causing minor damage.

May 2, 1971—The wife and child of the Byelorussian Ambassador to the U.N. were subjected to harassment.

May 3, 1971—The Counselor of the Lesotho Mission to the U.N. thwarted a burglar in his apartment and fired three shots at them. No injuries sustained.

May 7, 1971—Two stench bombs were thrown inside the South Vietnamese Consulate General at San Francisco.

May 8, 1971—A Soviet diplomat was robbed of his wallet in Washington, D.C.

May 11, 1971—The residence of a Syrian U.N. diplomat was burglarized.

May 18, 1971—The Jordanian Embassy was burglarized and Metropolitan Police apprehended the culprit.

May 20, 1971—An automobile belonging to the Consulate General of Argentina was burglarized in Washington, D.C. and the culprit was arrested.

May 21, 1971—The automobile of an employee of the Embassy of Thailand was stolen at Washington, D.C.

May 27, 1971—The Peruvian Air Attache Office at Washington, D.C. was burglarized.

June 1, 1971—Three suits from the auto-

mobile of a Nicaraguan diplomat at Washington were stolen.

June 2, 1971—The Ambassador of the Netherlands at Washington thwarted an attempted theft of his automobile.

June 13, 1971—The Mexican Tourist Office at Los Angeles was bombed causing extensive damage.

June 22, 1971—A bomb containing 15 sticks of dynamite was found near the gate of the Soviet Mission residence, Glen Cove, New York.

June 23, 1971—Eleven alleged JDL members were arrested near the Soviet Mission in New York City and were charged with harassment and disorderly conduct.

June 24, 1971—A brick was thrown thru the window of the residence of a Soviet diplomat in Silver Spring, Md.

June 25, 1971—The swimming pool at the Minister of the Italian Embassy's residence was vandalized.

June 27, 1971—A heavy glass ashtray wrapped in JDL literature was thrown through the window of a Soviet diplomat's residence in Silver Spring, Maryland.

June 30, 1971—An Italian Embassy Officer was assaulted and robbed of $140 and sustained minor injuries.

[From the Washington Evening Star, Sept. 6, 1972]

JDL CHIEF CALLS FOR KILLING ARAB ENVOYS IN RETALIATION

NEW YORK.—The head of the Jewish Defense League says retaliation for the killing of Israelis at the Olympic games by Arab terrorists "can only be done by the assassination of Arab diplomats all over the world."

The JDL, a militant group whose activities have been mostly aimed at the Soviet Union for its alleged mistreatment of Jews, said retaliation for the murder in Munich "must reach into the Arab ruling class."

The statement was issued by Betram Zweibon, national chairman of the JDL and its chief counsel.

Dr. M. T. Mehdi, secretary general of the Action Committee on American-Arab Relations, condemned the murders, but blamed them on Zionism.

"If the Zionists had not invaded Palestine and killed or expelled its people, there would have been no Palestinian terrorism and no invasion of an Israeli village," Mehdi said.

Hadassah, the Jewish women's organization, telegraphed President Nixon, demanding that he recall U.S. participants from the Olympic Games as a protest to the Arab terrorism.

Mrs. Max Natzkin, Hadassah president, said in the telegram that it represents 325,000 American Jewish women.

Mayor John V. Lindsay ordered increased police security at Israeli and Arab consulates. He called the killings a tragedy that had "cast a pall" on the Olympic Games.

"We can only pray that it will be relieved and ended without further bloodshed," the mayor said at a news conference.

Militant JDL pickets marched outside the Lebanese mission to the United Nations in New York.

Elsewhere, a continuous prayer service was held in a Cincinnati synagogue, and there was a protest rally in Madison, Wis.

Rabbi Albert Goldman in Cincinnati began a continuous prayer service at 11 p.m. last night after receiving a flood of calls from members of the Jewish community wanting to take part in a memorial service.

About 350 persons gathered at the University of Wisconsin Library mall in Madison last night for a 45-minute rally to protest the killings. "The terrorism of the past few years will not cease until it is made clear that no country will give refuge to these criminals," said Madison lawyer Chaim Golden, who helped organize the rally.

Wisconsin Gov. Patrick Lucey ordered flags on all state buildings flown at half staff today in tribute to the dead and called the killings a "brutal, wanton and senseless act."

The Most Rev. Humberto S. Madeiros, archbishop of Boston, said in a statement that the "murdering and taking of hostages in the limelight of the Olympics are actions that must be condemned."

[From U.S. News & World Report, Sept. 18, 1972]

THE GRIM TOLL TAKEN BY ARAB GUERRILLAS

The massacre at the Olympic Games was one more in a growing list of terrorist acts by Arab guerrillas in just the past two years. Their bloody trail across Europe and the Mideast is traced in this list of major incidents:

September, 1970—Guerrillas from the Popular Front for the Liberation of Palestine (PFLP), in concerted operations, hijacked three airliners—U.S., British and Swiss—to a landing strip in the Jordanian desert. After being held captive for days, passengers and flight crews were released, and the guerrillas blew up the three huge planes. During the same period, another U.S. plane was hijacked to Cairo and blown up on the ground.

November, 1971—Guerrillas of the Black September group assassinated Premier Wasfi Tal of Jordan on the steps of a Cairo hotel.

February, 1972—PFLP brigands hijacked a West German airliner, forced it to land at Aden and held it until the West German Government paid a 5-million-dollar ransom.

May, 1972—Black September gunmen took over a Belgian airliner en route to Tel Aviv. Upon landing, they demanded release of Palestinian Arabs held in Israeli jails in return for safety of the passenger. Israeli troops stormed the plane and killed two hijackers. A passenger was fatally wounded.

May, 1972—Three Japanese terrorists hired by the PFLP took weapons out of suitcases and opened fire in the Tel Aviv airport, killing 26 persons and wounding 80. Two of the gunmen were slain by police.

August, 1972—A guerrilla plot to blow up an Israeli airliner failed. Two Arabs in Rome duped two British girls into taking aboard the Israel-bound plane a bomb secreted in luggage. The device exploded after takeoff, but the pilot brought the aircraft safely back to Rome.

Sept. 5, 1972—The day of horror at Munich ended with 17 dead—11 members of the Israeli Olympic delegation, five Black September terrorists and a West German policeman.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Indiana for the purpose of offering an amendment.

The PRESIDING OFFICER (Mr. HUGHES). The Chair is informed that the committee amendments are pending and amendments would not therefore be in order until the committee amendments are taken care of.

Mr. BAYH. This is a committee amendment, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, as all colleagues know, on two previous occasions, the Senate, by an overwhelming vote, has passed a measure which has become known as the Foreign Service Grievance Act. The Senator from Kentucky and the Senator from Indiana were the principal sponsors of this particular measure, an effort to try to provide a grievance procedure for Foreign Service Officers which is now available for all other similar employees in other departments of the Government save the State Department. It is fair to say that we have been faced with unalterable opposition from the State Department. It seems to be the feeling down there that they do not believe it is anyone else's business what they do to their employees, even faced with some tragic consequences as a result of what I would call arbitrary and unappealable administrative decisions.

Mr. President, we are now debating H.R. 15883, a bill for the protection of foreign diplomats and official visitors. As every Member knows, the Judiciary Committee proposed several amendments to this bill as passed by the House. However, I want to take this opportunity to inform my colleagues that I do not plan to ask the Senate to vote on the part of the Judiciary Committee's amendments to the pending bill which provides badly needed protections and procedural due process for Foreign Service officers and their survivors.

The Senate has already gone on record in two separate rollcall votes this year, showing that it is overwhelmingly in favor of this legislation and that it believes that these vital guarantees of due process must be accorded as soon as possible to those who serve in the Foreign Service. However, to date action in the House has not been forthcoming. Last week when the Judiciary Committee was considering H.R. 15883 a report was carried in the press that the chairman of the House committee, Congressman WAYNE HAYS, had vowed not to let any such bill come out of his committee during this Congress. In addition, I had been advised that Congressman HAYS would espouse the State Department position of longtime opposition to any meaningful due process for Foreign Service officers. Unfortunately, I did not have time to check out the accuracy of these reports personally with Congressman HAYS before the conclusion of last Friday's Judiciary Committee meeting. I should have done so.

Faced with what I thought was the reality of certain defeat for the bill, I asked my colleagues on the Judiciary Committee the other day, when we were discussing the measure now before us, which has the strong support of the Secretary of State, if we could attach the Foreign Service grievance bill to it and, thus, convey to the House our determination to get action on this measure. It was adopted as a committee amendment by the Judiciary Committee by a unanimous vote and is now part of the bill.

As the committee stated in its report:

> Until the Congress acts, these dedicated foreign service officers will continue to be routinely and systematically deprived of one of their most basic rights—their right to procedural due process in the resolution of their employment grievances. The State Department has failed to act to provide the rights for 26 years—now it is time for Congressional action. For these reasons, the Committee adopted this amendment.

Normally, I am opposed to bypassing normal committee procedures unless such a step is absolutely necessary. Therefore, I met with Chairman HAYS last week and we talked about the future of foreign service grievance legislation

in his committee. He assured me that any reports that he was determined to kill grievance legislation were absolutely and categorically untrue. He gave me his personal word that he will make every effort to get a bill out before adjournment. We both recognize, however, that it might not be possible to get a bill out of subcommittee, through the full committee and through the House and conference before sine die adjournment, especially if there is no postelection session. However, Congressman HAYS suggested that if such should be the case, Foreign Service grievance legislation guaranteeing basic rights of due process to all grievants would be the first order of his committee's business in the new Congress and that no new hearings would be necessary.

Therefore, Mr. President, I see no reason for the Senate to pass this same grievance bill yet again. S. 3722, which is identical to the Judiciary Committee's amendment, was passed by a record vote of 56 to 27 on June 22, 1972. Chairman HAYS' committee is now holding hearings on and is planning to mark up that bill. Therefore, I do not wish to encumber or delay Senate passage of H.R. 15883. I do not plan to press for a vote on these amendments.

But while the Senate will not be voting on foreign service grievance legislation today I do want it clearly understood that this decision in no way alters the strength of my personal commitment to obtaining final enactment of this bill. Nor should it be taken as a dilution of the committee's interest, as expressed in the report, in getting prompt action. These Foreign Service officers have been waiting far too long. Since the Department refuses to act responsibly, the Congress has no choice but to act and to act now.

Unlike some who are not familiar with Congressman HAY's past efforts to secure justice and due process for aggrieved foreign service officers on an individual basis, I believe that Congressman HAYS shares the concern of all who desire to see the Americans who serve their country in the Foreign Service treated as first-class Americans. Despite subtle inferences from some in the higher levels of the State Department, I think Representative HAYS will be a leader in the effort to see that due process and justice are done. Because of this discussion, I ask unanimous consent that amendment No. 18, title V, beginning on page 9, which is the Foreign Service Grievance Act, as amended in the pending bill, be stricken therefrom.

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

Who yields time?

Mr. MCCLELLAN. Mr. President, I ask unanimous consent that the committee amendments that remain in the bill be considered and agreed to en bloc, and that the bill as thus amended be considered as original text for purposes of amendment.

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

Mr. MCCLELLAN. Mr. President, I support and have authored most of the amendments Nos. 1 to 17 to the bill which have just been adopted.

I should like to speak to them for just a minute.

Mr. President, H.R. 15833, as drafted by the House, recognizes that the United States as a host country has a particular responsibility to protect the person and property of foreign officials, including ambassadors, agents, employees, and their families, while they are present within the United States. However, the measure would not, without the adoption of the committee amendments, offer any expanded protection for foreign citizens, who might visit our shores as official guests of our country as members of an Olympic contingent. Thus, had the situs of the kidnaping and subsequent murder of the Israeli standard bearers been Milwaukee rather than Munich, our response would have been limited to State law enforcement resources. No Federal jurisdiction would exist even though our responsibilities would at least parallel those which exist vis-a-vis visiting diplomatic personnel.

It is still too early to judge the actions of West Germany in response to the Arab terroristic lunacy of Munich. However, it is at least clear that the state governments of West Germany now realize that their Federal Government cannot be limited to a mere consultative role with regard to such matters. State governments simply cannot cope alone with crimes involving international politics and diplomacy.

Hopefully, we will never again witness the political assassination of visiting athletes in any country. Nonetheless, our criminal laws must recognize such behavior as a violation of Federal as well as State law and authorize the use of Federal law enforcement resources in such cases.

The amendments now under discussion, sponsored in the committee by the distinguished Senator from Nebraska (Mr. HRUSKA) and myself and supported by the Justice Department and the State Department, would extend the umbrella of Federal protection to cover "official guests" of the United States as designated by the Secretary of State so as to include visiting athletes in international competition, and visiting academic, artistic, or scientific groups.

I am glad that the full Senate has now given its approval to them.

Mr. HRUSKA. Mr. President, this Senator is pleased to join with my colleague from Arkansas (Mr. MCCLELLAN) in urging that the Senate approve H.R. 15883, as amended, as soon as possible.

Just over a year ago this Senator introduced a similar bill, S. 2436, on behalf of the Nixon administration. On August 7, 1972, the other body approved H.R. 15883 by a vote of 380 to 2. That bill was referred to the Senate Subcommittee on Criminal Laws and Procedures where it was under active consideration on September 5, 1972, the day of the kidnaping and killing of the Israeli athletes in Munich. In light of that tragedy a new urgency for approving this proposal was felt, especially as the United Nations General Assembly opens in New York tomorrow.

At the time of the original introduction of this measure, I commented that new authority permitting Federal jurisdiction in cases involving foreign officials was needed because:

> In the past the Government has had to rely on local authorities for redress of instances of this type with no guarantee that sufficient resources were available to discharge this responsibility appropriately. This has proved particularly embarrassing in view of our international obligations as a host nation.

During the committee discussion of this bill it was noted that in this Nation law enforcement has traditionally been a State and local responsibility. This is absolutely true, and I would have it no other way. This bill leaves that authority where it has always been.

What this bill would do is to promote the conduct of our foreign affairs by protecting the property and personnel of foreign governments while present in the United States. This responsibility is under the Constitution given to the Federal Government and all recognize it to be a matter outside the control of State and local officials. In pursuit of our responsibilities as a host nation to personnel representing foreign governments, this bill would grant concurrent jurisdiction to the individual States and to the Federal Government to prosecute and punish those involved in acts of violence directed at foreign officials, including murder, manslaughter, kidnapping, willful harassment, and willful destruction of property.

In no case will the several States be ousted from whatever jurisdiction they may now exercise over such offenses. Rather, as in cases of assassination or attempted assassination of presidential candidates, the investigative and prosecutorial resources of the Federal Government may be used whenever the Department of Justice, in consultation with the Department of State, thinks such action is in the national interest.

Following the death of the 11 athletes in Munich, Senator MCCLELLAN and I felt that the bill as approved by the House was not sufficiently comprehensive to cover incidents involving foreigners who were not officials of another government but who were in the United States as our special guests. On September 7 we introduced an amendment to broaden the bill to include "official guests." At the same time, the Secretary of State on behalf of the administration was considering this problem. He subsequently wrote to our committee indicating his full support for this amendment. I ask unanimous consent that the text of his letter be printed in the RECORD.

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

WASHINGTON, D.C.,
September 7, 1972.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
Washington, D.C.

DEAR MR. CHAIRMAN: This is further to my telephone call yesterday concerning the urgency of the bill now before your Committee that would make it a federal offense to commit certain crimes against foreign officials in the United States. This bill, H.R. 15883, was recently passed by a vote of 380–2 in the House of Representatives. Assist-

ant Secretary Abshire has written to you to request prompt action on it.

The recent tragedy at the Olympics in Munich underlines the need for additional urgent action by the United States Government. I understand that Senators McClellan and Hruska are considering an amendment to H.R. 15883 which would extend its coverage to official guests of the United States. This would accord protection to foreign nationals who visit the United States for such special reasons as to compete in international sports events.

I fully agree with that aim and hope the Senate will act on this matter with the highest sense of urgency. To facilitate your consideration of the matter, my staff and that of the Department of Justice have developed language that would extend protection to official guests. A copy of the proposed amendment is enclosed. The effect of the amendment would be to make it a federal crime to murder, kidnap, or assault an official guest who is in the United States. The term "official guest" will apply to foreign nationals or citizens who are in the United States but not permanent residents of the United States, and whom I have designated as official guests of the United States. This will allow me to designate individuals or groups of individuals who are here for important international sports or other events.

Sincerely,

WILLIAM P. ROGERS,
Secretary of State.

Mr. HRUSKA. Mr. President, the Judiciary Committee unanimously approved the amendment extending the coverage of H.R. 15883 to those foreign nationals designated by the Secretary of State to be "official guests" of the United States. In granting the Secretary this authority, I believe that we should make it clear that the designation is to be used sparingly and only in those cases in which a nonofficial is in this Nation on special business, such as the Olympics, and not simply as a tourist or businessman.

The bill deals at some length in subsection (b) of section 112 with the harassment of foreign officials. This Senator feels that it should be indicated that this provision in the bill should in no way be used to limit the constitutionally protected free speech guaranteed by the first amendment. A provision is contained in the District of Columbia Code, section 22–1115, which prohibits, among other things, the intimidation or harassment of representatives of foreign governments or intereference with their peaceful pursuit of their duties.

The courts have accepted that provision as it regards harassment of foreign officials for a number of years.

In *Frend* v. *United States*, 69 App. D.C. 281, 100 F. 2d 691 (1938), *cert. denied*, 306 U.S. 640, the court, in upholding the law, noted that its purpose "is to protect foreign diplomats in their Embassies and legations from harassment and annoyance." 100 F. 2d. 691 at 692. Judge Gallagher, in a concurring opinion of the D.C. Court of Appeals in *Zaimi* v. *United States*, 261 A. 2d. 233 (D.C. Ct. App. 1970), noted that it "would not comport with the rationale of this statute to require a showing of such factors as incitement to violence or threatened breach of the peace as required frequently in purely domestic free speech cases. To require things to come to such a stage prior to arrest under this statute would largely undo its clearly valid purpose of insulating foreign dignitaries from harassment and annoyance while in their residences." 261 A. 2d. 233 at 234. This case is presently on appeal to the U.S. Court of Appeals for the District of Columbia Circuit.)

In *United States* v. *Travers*, Chief Judge Harold Greene, citing Frend, noted that one purpose of the District of Columbia law was "to implement the obligation of the United States, under the Law of Nations, to protect foreign diplomatic personnel from harassment." D.C. Ct. Gen. Sess., Crim., No U.S. 42935–69, slip opinion, p. 5, April 2, 1970

I ask unanimous consent that the text of the Travers opinion be printed in the RECORD.

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

[District of Columbia Court of General Sessions, Criminal Division, Criminal No. U.S. 42935–69 et al.]

UNITED STATES OF AMERICA
v.
JOHN MICHAEL TRAVERS, *et al.*, Defendants

OPINION

This is a motion to dismiss nineteen informations charging violations of D.C. Code § 22–115,[1] on the ground that the statute violates the First and Fifth Amendments to the Constitution.[2] The Second clause of section 1115—which is the provision here involved[3]—prohibits anyone "to congregate within five hundred feet of (a building occupied by a foreign government for official purposes and to) refuse to disperse after having been ordered to do so by the police authorities . . . " The informations allege a violation of this provision by defendants on November 17, 1969, apparently in connection with a planned demonstration near the Japanese embassy concurrently with the visit of the Prime Minister of Japan to the United States.

I

The constitutionality of Section 1115 is largely determined by its scope. The United States urges upon the Court a broad construction which, it is suggtsted, is compelled by the language of the statute.[4] Defendants embrace the government's interpretation and go on to argue that, as so construed, the statute is unconstitutional. In my view, if the construction advanced by the United States Attorney is correct, the statute could not withstand constitutional scrutiny.

Read literally, the second clause of section 1115 constitutes a restraint on speech and assembly that is neither reasonable nor proper. As so read, the law is not concerned with the purpose of a meeting but solely with its geographical proximity to a foreign embassy. Its ban, on that view, includes assemblies that are non-political, that have no relationship to any foreign nation or its policies, and that are concerned with purely domestic American affairs.

Application of this law to activities in no way related to foreign missions is not a matter of speculation; those charged with its enforcement have so applied it on at least some occasions. Thus, on May 5, 1969, an individual who had been picketing the White House in protest against the Vietnam War was arested and prosecuted pursuant to section 1115 because his activities occurred within 500 feet of Blair House where the Prime Minister of Australia was then staying.[5]

More recently, on March 14, 1970, a group of demonstrators who were picketing the Gridiron Club banquet on account of its alleged discrimination against women were dispersed and one of them was arrested pursuant to section 1115, the theory apparently being that that demonstration was illegal because the site of the banquet (the Statler-Hilton Hotel) is located within 500 feet of the Soviet embassy.[6] If the construction advanced by the United States Attorney is correct as well as constitutional, meetings, for whatever purpose, may be held in a large portion of Northwest Washington only at the suffrance of the police; for most of the public and private meeting places in that area are within a 500-foot radius of some diplomatic mission.[7]

Notwithstanding the important purpose of protecting the emissaries of foreign nations (see *infra*), that is too broad a restriction on First Amendment rights to be constitutionally acceptable.[8]

To be sure, the Police Department is today largely acquiescing in the free use of this area by a failure to disperse meetings or to make arrests. But, as the experiences in front of the White House and in connection with the Gridiron dinner demonstrate, this attitude is subject to change in selected instances at the discretion of the Police Department or individual police officers. The Supreme Court has held many times that a legislative enactment which leaves the regulation of speech or assembly to the unfettered discretion of law enforcement officers cannot stand. *Cox* v. *Louisiana*, 379 U.S. 536, 552 (1965); *Shuttesworth* v. *Birmingham*, 382 U.S. 87 (1965); *Brown* v. *Louisiana*, 383 U.S. 131 (1966); *Wright* v. *Georgia*, 373 U.S. 284, 291 (1963); *Cleveland* v. *Baker*, 167 N.E. 2d 119 (Ohio 1960).[9] As this Court had occasion to observe in *United States* v. *Nicholson* (D.C. Gen. Sess., Crim. No. 20210–69A, Greene, Ch. J.) *affirmed*, — A. 2d — (D.C. App., March 13, 1970), "in a government of laws, the regulation of conduct—particularly conduct in the sensitive area covered by the First Amendment—must be predicated on a set of definite rules, not on the opinions of police officers" (slip opinion, p. 7).

II

Notwithstanding the agreement of the prosecution and the defense (though for different reasons) as to the meaning of the second clause of section 1115, it is neither necessary nor appropriate to adopt the literal construction they espouse.

Section 1115, as noted in *Frend*, was designed to implement the obligation of the United States, under the Law of Nations, to protect foreign diplomatic personnel from harassment, indignity, and annoyance.[10] Art. 1, Section 8, Cl. 10 of the Constitution. This governmental obligation includes the duty to protect foreign diplomats, heads of state and government, and other foreign representatives, from acts tending to disturb their peace and dignity and the peace and dignity of the foreign mission.[11] The importance of this duty, which is reciprocal, is even more clearly apparent today—in this age of demonstration and protest here and abroad, when American embassies in foreign countries are frequently subjected to a virtual siege—than it was in 1938 when section 1115 was enacted.

Yet, as noted, the broad, literal interpretation advocated by the parties goes far beyond the international obligations of the United States and the purposes of the statute. If effect is to be given, therefore to legislative history, to obvious congressional intention, and to the statutory scheme as a whole, the pertinent provision must be, and under law construction is particularly appropriate may be,[12] read somewhat more narrowly than the literal language would suggest. Such as when, as here, it is necessary to sustain constitutionality.[13]

Construed in accordance with these canons of construction, the second clause of sec-

Footnotes at end of article.

tion 1115 prohibits those meetings,[14] held within five hundred feet of a building occupied by a foreign nation for official purposes, which have a direct relationship to that nation, including meetings which have as their purpose an expression of views concerning the government involved, its personnel, or its policies.[15]

This construction of section 1115 avoids both an overreach into unconstitutionality and a retreat into meaninglessness.[16] It establishes a moat around foreign embassies to protect them from public pressure; but it does not fashion a device for the control of what are otherwise protected domestic assembly and dissent.

As so restricted, section 1115 is constitutional. To be sure, as defendants point out, the statute represents a limitation on speech and assembly. But this limitation is slight. There is no restriction on assembling within five hundred feet of an embassy for any purpose other than for an activity having a direct relationship to the policies or personnel of the particular nation; and there is no restriction on discussing or demonstrating concerning those policies and that personnel anywhere else in the District of Columbia. In view of the interest of the United States in the protection of the security and tranquility of diplomats and official visitors, and the potential charm from demonstration against foreign dignitaries which become uncontrollable, the minimal restrictions imposed by section 1115 are reasonable and proper. Cf. *Adderly* v. *Florida*, 385 U.S. 39 (1966).

III

The motion to dismiss the informations will be denied. However, in order that the Court and the defendants may be advised whether the informations state offenses under the law as herein construed,[17] the United States shall within ten days file amended informations specifying (1) the nature of the premises and the foreign government which used or occupied it; (2) whether or not the assembly had a direct relationship to that foreign government or its personnel; (3) the place of the assembly and its approximate distance from the premises.

HAROLD H. GREENE,
Chief Judge.

APRIL 2, 1970

FOOTNOTES

[1] Section 1115 provides: "It shall be unlawful to display any flag, banner, placard, or device designed or adapted to intimidate, coerce, or bring into public odium any foreign government, party, or organization, or any officer or officers thereof, or to bring into public disrepute political, social, or economic acts, views, or purposes of any foreign government, party, or organization, or to intimidate, coerce, harass, or bring into public disrepute any officer or officers or diplomatic or consular representatives of any foreign government, or to interfere with the free and safe pursuit of the duties of any diplomatic or consular representatives of any foreign government, within five hundred feet of any building or premises within the District of Columbia used or occupied by any foreign government or its representative or representatives as an embassy, legation, consulate, or for other official purposes, except by, and in accordance with, a permit issued by the superintendent of police of the said District; or to congregate within five hundred feet of any such building or premises, and refuse to disperse after having been ordered so to do by the police authorities of the said District" (Feb. 15, 1938, 52 Stat. 30 Ch. 29, § 1.)

[2] It is also claimed that the informations fail to state facts sufficient to constitute offenses.

[3] The first clause of section 1115, with its more specific prohibitions, has been held to be, and clearly is, constitutional. *Frend* v. *United States*, 69 App. D.C. 281, 100 F. 2d 691 (1938).

[4] In the course of these proceedings, the government at various times urged upon the Court two different interpretations. On oral argument, evidently hoping thereby to preserve constitutionality, the United States Attorney suggested a very narrow construction. A memorandum filed after argument advocates the present broad and literal interpretation.

[5] *United States* v. *Flanagan* (D.C. Gen. Sess. Crim. No. 16283–69A, Kronheim, J.).

[6] The Sunday Star, March 15, 1970, page A–10.

[7] For example, the Dupont Circle area could be declared off limits to gatherings because of the proximity of the Saudi Arabian embassy; meetings could be prohibited in Constitution Hall because the Pan American Union is located across the street; and every use of the large meeting and banquet facilities of the Washington Hilton Hotel would be dependent upon the acquiescence of the police, because of the location, within 500 feet, of the missions of Malta, Burundi, Somalia, and Zambia.

[8] The United States Attorney argues that when international law imposes a duty on government "domestic considerations cannot operate to impede or interfere with the accomplishment of this duty" (Memorandum, p. 4). This far-reaching statement is incorrect. International obligations cannot override the prohibitions of the Bill of Rights. *Reid* v. *Covert*, 354 U.S. 16 (1957); *Geofray* v. *Riggs*, 133 U.S. 258 (1890); *Afroyim* v. *Rusk*, 387 U.S. 253 (1967). Were it otherwise, the President and two-thirds of the Senate could, by treaty, accomplish what otherwise would require a constitutional amendment. International obligations like any other legitimate considerations (cf. *Adderly* v. *Florida, infra*), may, of course, be taken into account in considering the reasonableness of restrictions.

[9] The Court of Appeals in *Frend* v. *United States* (see note 3, supra) likewise noted that the Constitution requires the grant or denial of a police permit (under the first clause of section 1115) to be governed by definite standards.

[10] Senator Pittman, sponsor of the bill which became section 1115 said during Senate debate that (81 Cong. Rec. 8589): ". . . under the Constitution, anyone has a right to express his or her opinion with regard to any ruler or with regard to any government, but I say that they have not the constitutional right—if prohibited by law—to make an offensive demonstration in front of an embassy or in front of a legislation, the residence of a diplomat, who is our guest here, who depends on us wholly for his protection not only against murder, not only against insult, but against any character of annoyance or interference that will bring the hatred of the people of his country against our people."

[11] See 4 Am. Jur. 2d, Ambassadors and Consuls § 4, pp. 89–90; Svarlien, The Law of Nations (1955) p. 239. Cf. *United States* v. *Arjona*, 120 U.S. 479, 484 (1887); Article 22 of the Vienna Convention on Diplomatic Relations, 1111 Cong. Rec. 23773, 23783 (1965).

[12] *Wilson* v. *United States*, 125 U.S. App. D.C. 153, 156, 369 F. 2d 198, 201 (1966); *Schmiedgen* v. *Celebrezze*, 245 F. Supp. 825 827 (D. D.C. 1965); *Markham* v. *Cabell*, 326 U.S. 404, 409 (1945).

[13] *Lynch* v. *Overholser*, 369 U.S. 705 (1962); *Rescue Army* v. *Municipal Court*, 331 U.S. 549, 568–575 (1947); *Bolton* v. *Harris*, ——— U.S. App. D.C. ———, 395 F. 2d 642 (1968).

[14] Meetings may still be held in the forbidden area for any purpose upon issuance of a police permit. As limited by the construction *supra*, the power vented in the police authorities is not so broad as to offend the rule of the *Nicholson* case (p. 5, *supra*).

[15] Unlike the first clause, the second is not restricted to intimidation, coercion, harassment, and similar acts.

[16] One interpretation that has been suggested would prohibit congregating within 500 feet of an embassy only if those in the group engaged in one of the acts prohibited by the first clause of section 1115. This construction would give no independent effect to the second clause and should be avoided for that reason. *United States* v. *Bramblett*, 348 U.S. 503 (1955).

[17] The informations describe neither the foreign country or government sought to be protected by these arrests and prosecutions, the nature of the premises (whether embassy, consulate, etc.), nor the place of the assembly. This is insufficient both in view of the construction of section 1115 adopted herein and Rule 7 of the Criminal Rules of this Court. See note 2, *supra*.

Mr. HRUSKA. Mr. President, H.R. 15883 provides the Federal Government with the means of avoiding the embarrassment and potentially dangerous repercussions which may arise from a foreign government's misunderstanding of our national Government's motivations in failing to respond appropriately to some future incident involving one of its officials.

Because the headquarters of the United Nations organization was located in New York at our request, this country plays host to an unusually large number of foreign diplomats to whom we owe a special duty of protection. This legislation is intended to benefit all of these guests, as well as those who are our official visitors. By approving this legislation, I hope we can in some measure prevent events such as the deaths in Munich. And, if they cannot be prevented, at least we will have the authority to pursue those who commit such acts and see that they are brought to justice.

I hope that this bill will be approved.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ERVIN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield such time to the Senator from North Carolina as he may desire.

Mr. ERVIN. Mr. President, occupants of congressional seats tend to suffer from two great delusions. The first is that Congress can endlessly extract from an empty Federal Treasury, by the legerdemain of deficit financing, unlimited and unrepayable sums of money. The second is that every time something bad happens, they demand that Congress pass a new law. It makes no difference how many laws are already on the statute books, Congress must pass a new law.

The tragedy of Munich was one which certainly tugged at the heart strings of millions of human beings, including the heart strings of the Senator from North Carolina, but it ought not to inspire Congress to adopt a new law which is not only unnecessary, but is offensive to fundamental principles.

This bill is subject to several grave objections. In the first place, the Constitution was ordained to establish a government of laws, rather than a government of men. This bill contains a provision which is totally incompatible with that principle. It provides that whenever the Secretary of State designates any alien within our borders as an official

guest of the United States, notwithstanding the fact that he is not here for any official purpose, the constitutional principle that only the States as a general proposition can enact and enforce criminal laws which prohibit violence shall be suspended.

To me, it is a monstrous notion that one man, the occupant of one office, out of 200 million Americans, by merely designating a particular alien who is within the borders of the United States as an official guest of the Federal Government, can change our entire legal system and extend to that individual alien protection which it denies to all American citizens.

The proposed law is wholly unnecessary because State laws extend to all aliens within our borders all the protections they extend to citizens in respect to crimes of violence, and these laws are sufficient to punish those who commit crimes of violence on aliens. The bill is subject to another grave objection.

It is not only incompatible with the purpose of the Constitution to establish a government of laws rather than a government of men, but this bill also contains provisions which under a multitude of decisions of the Supreme Court of the United States offend the first amendment. The Supreme Court has recognized, and rightly so, that the very existence of the United States as a free society is dependent upon the exercise of first amendment rights, and among these first amendment rights are freedom of speech and the right to assemble and protest and the right to assemble and petition for redress of grievances, real or imagined. Yet this bill has a provision in it which absolutely denies the right to exercise first amendment freedoms to Americans if their exercise disturbs the peace of mind of aliens, designated by the whim or caprice of the Secretary of State to be guests of the Federal Government.

It provides that no matter where one of these aliens who has been officially designated by the whim or caprice of the Secretary of the United States to be a guest of the Federal Government may be residing—whether in an embassy, a palace, a motel, even a tent—no American citizens can do anything within a hundred feet of his temporary habitation to exercise their first amendment freedoms, if the exercise of those first amendment freedoms has a tendency to harass him.

What does the word "harass" mean? I am sure that sometimes when I get up here on the floor of the Senate to express my honest views on public questions, some impatient Senators think I am harassing them.

The Supreme Court says that any law which infringes upon the exercise of first amendment freedoms and which does not specify within the very narrowest of limits what it condemns as a crime is unconstitutional.

The word "harass" means nothing except to annoy people, and the Supreme Court has declared in a number of cases that before one can infringe on the exercise of first amendment rights, one has to prohibit something which rises far above and beyond mere annoyance and which really imperils some overriding national or social interest.

Sometimes I am tempted to think that it would be nice if all Americans would abstain from anything which annoys anybody, but I know that if they always do that, they will never have any freedom. Ours would not be a free society. Our land would be inhabited by a pusillanimous population.

I cannot bring my conscience to the point—and it is pretty tough, I might say—where I can vote for legislation which would convert our Government even partially into a government of men, where the whims and caprices of public officials, rather than laws, rule the conduct of Americans. And this is particularly true if the legislation would deny American people the right to exercise first amendment freedoms on which our very existence as a free society depends.

The motives of those who advocate this bill are good. The motives of most all men are good.

As I remarked this morning in discussing another matter, the people who burned heretics at the stake were actuated by good motives, because they were afraid the heresies they preached were going to result in the sending of many souls to eternal damnation in hell. They were trying to save them from that.

The motives of the proponents of this bill are good, but I do not care how lofty their motives may be, they do not justify the enactment into law of a proposal which substitutes for a government of laws a government of men, or which denies American citizens the right to exercise their first amendment freedoms by saying they cannot engage in otherwise lawful activities within a hundred feet of the temporary residence of any officially proclaimed guest of the Government, who happens to be an alien so designated by the Secretary of State, if those activities harass him, that is, annoy him.

I thank the Senator for yielding his time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, this is not a novel instance of legislation of this character. The District of Columbia currently has a similar law that establishes a harassment perimeter of 500 feet. This bill would establish a 100-feet rule outside the District of Columbia to prohibit certain hostile behavior, within 100 feet of premises belonging to or used by foreign government officials.

It is well established that first amendment freedoms are not absolute. The Government clearly has the right to control the presence of the public in certain areas.

This exact issue, I think, was settled by *Frend* v. *United States*, 100 F. 2d 691 (D.C. Cir.), *cert. denied*, 306 U.S. 640 (1938).

Frend dealt with section 22–1115 of the District of Columbia Code. Section 22–1115 is similar to subsection 112(c). There the court considered the question of whether there was a violation of first amendment rights and noted that anyone could continue to express an opinion with regard to any ruler or with regard to any government. Since the law only prohibited demonstrations in certain limited places, the court concluded that the District of Columbia Code's 500-foot rule was a reasonable and proper restriction. Note that subsection 112 (c) only prohibits demonstrations within 100 feet of specified areas, so it is narrower than the District of Columbia provision.

As Mr. Justice Douglas stated in his dissent in *Adderly* v. *Florida*, 385 U.S. 39 (1966) at page 54:

> There may be some public places which are so clearly committed to other purposes that their use for the airing of grievances is anomalous. There may be some instances in which assemblies and petitions for redress of grievances are not consistent with other necessary purposes of public property. A noisy meeting may be out of keeping with the serenity of the state house or the quiet of the courthouse. No one, for example, would suggest that the Senate Gallery is the proper place for a vociferous protest rally. And in other cases it may be necessary to adjust the right to petition for redress of grievances to the other interests inhering in the uses to which the public property is normally put. (See *Cox* v. *New Hampshire*, [312 U.S. 569]; *Ponlos* v. *New Hampshire*, 345 U.S. 395.)

This tenet of constitutional law is repeated in *Cox* v. *Louisiana*, 379 U.S. 559 (1967) at page 554:

> The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy.

In *Cox* v. *New Hampshire*, 312 U.S. 569 (1941), the Supreme Court elaborates on the necessity of organization within society and its conclusion that certain types regulation by Government is a useful tool, not a denial of first amendment rights. A page 574 the Court states:

> Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses. The authority of a municipality to impose regulations in order to assure the safety and convenience of the people in the use of public highways has never been regarded as inconsistent with civil liberties but rather as one of the means of safeguarding the good order upon which they ultimately depend.

Cases in which convictions for demonstrating have been reversed were instances in which the statute employed was held to be unconstitutionally broad or was applied discriminately. *Cox, supra; Edwards* v. *South Carolina* 372 U.S. 229 (1963). The court in the Edwards case said, at p. 263:

> We do not review in this case criminal convictions resulting from the even handed application of a precise and narrowly drawn regulatory statute evincing a legislative judgment that certain specific conduct be limited or proscribed.

The present section does not establish an offense so generalized as to be not susceptible of exact definition. It clearly and narrowly defines the area, not excessive in which certain activities are prohibited. The language of the Court in Adderley, supra, at p. 42, is applicable here:

> The Florida trespass statute under which these petitioners were charged cannot be challenged on [vagueness ground]. It is aimed at conduct of one limited kind, that is, for one person to trespass upon the property of another with a malicious and mischievous intent. There is no lack of notice in this law, nothing to entrap or fool the unwary.

Section 112(c) is far more circumscribed than the general trespass statute upheld in the Adderley case.

Subsection 112(c) is designed to protect a valid and important Federal interest, that is, the Federal Government's vital function of conducting foreign relations. To deal with foreign nations, the Government must protect foreign officials from danger and allow such officials to work in peace. Repeated incidents of injury and harassment of foreign officials are proof that a problem exists and this prohibition is a reasonable measure to allow the Government to conduct its business.

Proposed subsection 112(b), in a similar fashion prohibits the willful intimidation, coercion, threatening or harassment of a foreign official or the willful obstruction of such an officer in the performance of his duty.

Any argument that such a provision violates the first amendment right of free speech is not consistent with legal precedent.

The Supreme Court has repeatedly emphasized that even pure speech may be reasonably restricted given a compelling social interest. *Feiner* v. *New York* 340 U.S. 315 (1951); *Chaplinsky* v. *New Hampshire*, 315 U.S. 568 (1942). The Chaplinsky case held that resort to personal abuse is not the communication of information which is safe guarded by the Constitution. Mr. Justice Holmes noted that:

> [t]he most stringent protection of free speech would not protect a man falsely shouting fire in a theatre . . ." *Schneck* v. *United States*, 249 U.S. 47, 52 (1919).

This would apply with even more force where conduct is mixed with the speech. As the Supreme Court recently restated:

> This Court has held that when "speech" and "nonspeech" elements are combined in the same court of conduct, a sufficiently important governmental interest can justify incidental limitations of first amendment freedoms. (*United States* v. *O'Brien*, 391 U.S. 367, 376 (1968). See also *Walker* v. *City of Birmingham*, 388 U.S. 307, 316 (1967).

The Government's interest in prohibiting the intimidation, coercion, threatening, or harassment of foreign government officials clearly outweighs the interest of an individual in making such an utterance.

The type of speech prohibited by section 112(b) can serve no legitimate function. To the contrary, it is disruptive and interferes with peaceful operation of Government business. There ought to be no objection to this measure.

I do not think this is an unconstitutional restriction. I do not believe it is unreasonable. The right to assemble for purposes of Government is a right which must be protected as well as the right for individuals to express their views.

If we are not going to protect our guests and officials of foreign countries in this country how can we expect them to protect our officials who are serving in their countries?

I think this is just a matter of reciprocity. It is something we owe them and we also owe it to ourselves to maintain law and order.

Mr. President, 100 feet is just about the width of this Chamber. Under this bill, a person could still stand more than 100 feet away and express his views. We have to have some balance expressed in this statute respecting these valid competing interests.

Mr. ERVIN. Mr. President, will someone yield to me for 3 minutes?

Mr. McCLELLAN. I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the distinction between the Frend case and the Cox case and other decisions mentioned by my good friend from Arkansas, and the legislative proposal now pending is as wide as the gulf which yawns between Lazarus in Abraham's bosom and Dives in hell.

The Frend case related to a demonstration near an embassy. Under the Constitution of the United States the Federal Government has the power, indeed, the duty, to receive ambassadors, and it has the obligation to see that reasonable protection is accorded foreign ambassadors whose officials duties require them to be here.

This legislation does not have reference to anything of that kind whatever. It undertakes to throw the kind of protection we have given ambassadors around any individual alien who happens to be in the United States, and who happens to have been designated by the whim or the caprice of the Secretary of State as an official guest of the United States, even though he is not here for any official purpose whatever, even though he is not here for the purpose of performing any governmental function whatever, and even though he is here merely for his own pleasure or for purpose of picking up a few American shekels by athletic activities or making lectures, or doing anything else.

I submit the authorities cited by my good friend from Arkansas, do not establish the constitutionality of this legislation.

Furthermore, it seems to me that it is unwise for the American Government to throw any such protections around an individual alien because the Attorney General may have falsely designated him as an official guest of the United States. The Constitution forbids Congress to put such protections around American citizens. I sincerely hope that the Senate will defeat this measure. I do not expect it to do so because, as I stated at the outset of my observations, whenever any tragedy happens or anything unfortunate occurs, we have a demand that Congress pass a law about it, notwithstanding the fact that that law may do violence to our system of Government and notwithstanding the fact that laws have already been piled on top of laws which to protect everyone within our borders against similar tragedies or unfortunate events. As a consequence of this demand for new laws which are not needed, Americans are rapidly becoming the most law-ridden people on earth. Multiplication of laws is absolutely inconsistent with the preservation of human liberty.

Mr. McCLELLAN. Mr. President, I have no further requests for time.

Mr. HRUSKA. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. TUNNEY. Mr. President, I wish to express my support for H.R. 15883, a bill for the protection of foreign officials and official guests of the United States. There is a need for this legislation. The recent tragic events in Munich are yet another example of rampant terrorism in the world today. No nation is free from this threat, and every nation must be prepared to deal with it swiftly and effectively.

With international anarchists abroad in the land, responsibility for the protection of foreign officials in the United States should not fall solely on local law enforcement agencies. There are complex diplomatic considerations which must be taken into account in dealing with any act of violence against foreign dignitaries. The Federal Government must assist localities in protecting them during their visits to our country.

I particularly welcome the amendment offered by Senators McCLELLAN and HRUSKA, incorporated into the bill as reported, which extends this protection to all official guests. The tragedy at the 20th Olympiad has demonstrated once again that the danger of attack by desperate terrorists is not limited to heads of state and ambassadors. We have an obligation as a host country to protect persons who have been invited by our Government to participate in international events taking place in the United States. It is most important that we act now to assume full responsibility for protecting our official guests.

This legislation may be only a first step, Mr. President. Hopefully, it will be effective in preventing any acts of terrorism in this country similar to that which occurred in West Germany. But we must be constantly vigilant, for if it proves less than totally effective, we must immediately act to strengthen it in any way necessary. All nations must apply available resources, both individually and collectively, to stem the tide of political assassinations which is sweeping the world. With H.R. 15883, the United States is demonstrating her determination to mount that effort.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the

amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 15883) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Utah (Mr. Moss). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 68, nays 2, as follows:

[No. 443 Leg.]

YEAS—68

Aiken	Eastland	Nelson
Anderson	Edwards	Packwood
Bayh	Fannin	Pastore
Beall	Fong	Pearson
Bennett	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hansen	Randolph
Boggs	Hart	Roth
Brock	Hatfield	Saxbe
Brooke	Hollings	Schweiker
Buckley	Hruska	Scott
Burdick	Hughes	Smith
Byrd, Harry F., Jr.	Inouye	Spong
Byrd, Robert C.	Jackson	Stafford
Case	Jordan, N.C.	Stennis
Chiles	Jordan, Idaho	Stevenson
Church	Kennedy	Symington
Cook	Magnuson	Talmadge
Cooper	Mathias	Thurmond
Cotton	McClellan	Tunney
Cranston	Miller	Weicker
Dole	Mondale	Williams
	Montoya	Young

NAYS—2

Allen	Ervin

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—29

Allott	Griffin	Moss
Baker	Harris	Mundt
Bellmon	Hartke	Muskie
Cannon	Humphrey	Pell
Curtis	Javits	Ribicoff
Dominick	Long	Sparkman
Eagleton	McGee	Stevens
Fulbright	McGovern	Taft
Goldwater	McIntyre	Tower
Gravel	Metcalf	

So the bill (H.R. 15883) was passed.

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic-missile system, and to prescribe the authorized personnel strength for each active-duty component and of the Selected Reserve of each Reserve component of the Armed Forces and for other purposes.

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

WATER RESOURCES PLANNING ACT AMENDMENTS

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent that during the debate on S. 632, the following staff members be permitted to be present in the Chamber: Jerry Verkler, Bill Van Ness, Steven Quarles, Suzanne Reed, and Dan Dreyfus.

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

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate H.R. 8389, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

On page 2, line 4, after the word "probation", strike out "and" insert "or"; in line 5, after the word "incarcerated", strike out "and" and insert "or"; in line 9, after the word "the", strike out "Administrator" and insert "Administration"; and, in line 17, after "January 1,", strike out "1972" and insert "1973".

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, debate on the bill and amendments thereto is limited. Who yields time?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, H.R. 8389 is entitled "Narcotic Treatment Programs in Correctional Institutions."

We are all too familiar with the ravages of drug addiction. Directly or indirectly it touches every American, taking a tragic toll in life and property. It spurs its victims on to victimize others.

Because drug addicts so often commit crimes in order to acquire more drugs, many of these sad but dangerous figures end up in jails and prisons across the land.

Few of these institutions have facilities for treating drug addiction; so, while the addict suffers, he may not be cured. By encouraging the development of drug-treatment facilities in correctional institutions, we would aid in the rehabilitation of these addicts and thereby reduce the number of crimes committed by men and women desperate to obtain more drugs at any cost to other members of society.

Mr. President, title I of the Omnibus Crime Control and Safe Streets Act of 1968—Public Law 90-351—established the Law Enforcement Assistance Administration—LEAA—which is charged with the responsibility of providing financial assistance to State and local govern-

ments to assist them in the control of crime and violence, and the improvement of the quality of criminal justice. The Omnibus Crime Control Act of 1970—Public Law 91-644—amended the 1968 act to establish a program for the improvement of State and local correctional facilities.

States which have created a comprehensive plan can make application for correctional facilities grants by adding an application for such a grant to the comprehensive plan. This application, under the 1970 amendments must contain a plan for the State's correctional institutions and facilities which meet certain minimum requirements.

H.R. 8389 adds a new requirement—that the States make necessary provision for the establishment and development of narcotic treatment programs in their correctional facilities and in their probationary and parole programs. Thus, in order to qualify for funding available from the Law Enforcement Assistance Administration for correctional institutions and facilities, States must submit evidence of their ability to provide treatment for narcotics addicts who enter their correctional system.

Mr. President, I urge immediate passage of this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

Mr. President, I support the enactment of H.R. 8389.

As the original sponsor of legislation in the 91st Congress which added new part E dealing with corrections to the 1968 Safe Streets Act, this Senator is pleased to see the additional language suggested in this bill added to section 453.

As all of us know, drugs and their abuse play a crucial role in much of the crime that is committed in this Nation today. It is estimated that the majority of those convicted of crimes in 1971 were drug addicts; the great bulk of the burglaries and robberies in this Nation have as their root cause a need for money to support a drug habit. Therefore, it is readily understandable that many of the inmates of our prisons are persons with a drug problem. In order for rehabilitative efforts for these people to be successful, the question of drug dependence must be addressed and that problem solved. H.R. 8389 would insure that is done.

I note with approval the individual views filed by the Senator from North Dakota (Mr. BURDICK) and endorse his suggestion that State correctional institutions address not only the problem of drug abuse but alcoholism among inmates as well.

H.R. 8389 would require that before part E grants are approved by the Law Enforcement Assistance Administration, the State submitting the plan must provide "necessary arrangements for the development and operation of narcotic treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts or drug abusers."

This bill was previously approved by the House by a vote of 350 to 2. It does not authorize or call for the appropriation of any additional funds. It has the complete backing and support of the Department of Justice.

It is my hope, Mr. President, that H.R. 8389 will be approved.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPONG. Mr. President, I suggest the absence of a quorum, the time to be charged against such time as I may have after offering an amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally against both sides on the bill.

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

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. 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. HRUSKA. 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:

At the end of the bill, insert:

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) Section 512 is amended by striking the word "five" and inserting in lieu thereof the word "six";

(b) Section 520 is amended by striking the word "and" in the first sentence thereof, substituting a comma for the period at the end of the sentence and adding the following thereafer: "and $1,750,000,000 for the fiscal year ending June 30, 1974."

Mr. HRUSKA. Mr. President, I yield myself 2 minutes.

The purpose of this amendment is to extend the authority of the Omnibus Crime Control and Safe Streets Act for 12 months following its expiration on June 30, 1973. There will have been, by the time we complete our deliberations today, Senate approval of at least five major, fundamental amendments to this act, as amended. In order to allow the agency time to adjust itself to a working basis, taking into consideration the several amendments that are involved, it is my judgment that it would be well to extend the authority for 1 year, so that they will have that assurance of continued existence. It is my hope that the chairman of the subcommittee, the manager of the bill, will concur in the amendment.

Mr. McCLELLAN. Mr. President, I am personally willing to accept this amendment. I do not know of anyone who wants LEAA's authorization to expire. As far as I know, the program is considered to be a positive measure, though it may need some modification and some amendment.

Mr. President, we know that early next year there will be a Presidential inauguration. Following that occasion, many other things will arise to take up the early days of the 93d Congress. I think it would be well to get this extension at this time, recognizing that it will shortly be our purpose in the Subcommittee on Criminal Laws and Procedures to start a study of a continuation of the provisions of the Omnibus Crime Control and Safe Street Act.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. It is my understanding that the LEAA expires on June 30 of next year. Could we not extend it for a year, if it is necessary, in February?

Mr. McCLELLAN. We are extending it for 1 year from the current expiration date.

Mr. TUNNEY. I understand that.

Mr. McCLELLAN. This will give us some 18 months after the beginning of the next session of Congress to take appropriate action and, in my opinion, that length of time is appropriate and realistic.

Mr. TUNNEY. The reason I ask this question is that for the past several months, in my trips to California, I have been meeting regularly with police chiefs and sheriffs and other law enforcement officials in various parts of the State. As a result of the many meetings I have had, involving probably in excess of 200 law enforcement officials, I have come to the conclusion that there is a very definite need, as perceived by local law enforcement agents and officials, to amend the law as it relates to the Law Enforcement Assistance Administration so that there can be a better ordering of priorities and so that they feel that there will be a greater impact at the local level than presently exists.

One thing I am somewhat concerned about is that if we extend the LEAA today by a year, it would mean that it would expire on June 30 of 1974. Would we be able next year to make some of the necessary changes which I think the Senator from Arkansas, the distinguished chairman of our subcommittee, would have no objection to whatever? As a matter of fact, I think he would find those changes to be necessary as the committee gets into the problem of oversight hearings.

Mr. McCLELLAN. I say to the distinguished Senator from California that this extension would not set to rest any objections to the act in its current form. As I said earlier, it will be the purpose of the Subcommittee on Criminal Laws and Procedures to begin early next year an immediate study of the changes that may be desirable.

Mr. TUNNEY. Would it not have the impact, if we extend it for 1 year, to put off this process of amending the law by an additional year? That is something of considerable interest to me, because I have had extensive, indepth meetings with law enforcement officials in my State; and I can assure the able chairman of the subcommittee that these law enforcement officials, with a degree of unanimity that is rarely found, recognize that there is a need for amendments—not that they all agree to what the amendments should be.

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

Mr. HRUSKA. I yield the Senator 3 additional minutes.

Mr. TUNNEY. They feel that there should be some changes in the present law.

I am concerned today, quite frankly, that these changes will be put off by at least a year if we extend the life of the LEAA 1 year today, because the law expires on June 30 of next year. If we were to extend it to June 30, 1974, it would seem to me that those necessary changes probably would not take place until January, Ferbrary, or March of 1974, rather than January, February, or March of 1973.

Mr. McCLELLAN. One of the purposes in seeking the extension is that we can have time to give consideration to the proposed amendments. It is my intention, if I remain on as chairman of this subcommittee—so far as I know, I will, if I am here—to process crime bills next year, just as we have done this year. Hopefully, we will not be crowded and can take up such amendments.

I said earlier today in my remarks on one of these bills or with respect to one of the various amendments that the LEAA is a measure that needs continuing study. That will be one of the programs of the subcommittee next year.

Mr. TUNNEY. It will be 9 months before the LEAA expires. I wonder whether the chairman or the distinguished Senator from Nebraska, who is offering the amendment, could expand on the reasons for the need to make this extension now—why we cannot wait until next year, as we come closer to the date of expiration.

Mr. HRUSKA. The reason stated by me is this: By the time we will finish our deliberations today, the Senate will have approved at least five, and perhaps six, very substantial and fundamental amendments to the Omnibus Crime Control and Safe Streets Act. They are very fundamental. They are extensive. If the agency will be required to adjust its entire program and the allocation of funds and the functioning of its agency to these amendments with any degree of assurance for the coming fiscal year, they ought to know now and have the assurance that there will be continued authority following midnight of June 30 next, when the authority of this act expires. Without that assurance, they will be operating in limbo, very likely, for the first few months of the next fiscal year.

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

Mr. HRUSKA. I yield.

Mr. McCLELLAN. All the amendments we are adopting to the bill will expire with the act, and the LEAA will not have an opportunity to get them into operation.

Mr. HRUSKA. The Senator is correct. It is a matter of sound administration that the authority be extended, but the extension would in no way militate against the consideration by Congress next year of any type of amendment as to the substance of the act itself. It would simply allow the ordinary routine of the agency to continue, and it would allow the new appropriations for the fiscal year beginning July 1 of next year to attach as soon as they are perfected. This is the purpose of the amendment.

Mr. TUNNEY. I see. I appreciate the distinguished Senator's comments.

I certainly feel that we ought to extend the life of the LEAA when it expires next year, and I would not want to see the LEAA living in limbo.

However, I do believe strongly that certain amendments should be made to the basic authorization which would make the program much more effective at the local grassroots level. There is a crying need for this.

In my State, I have spoken to a couple of hundred law enforcement officials who have had to deal with this problem on a day-to-day basis. This has made me realize that there is an urgency for reform—not that all the law enforcement officials agree as to what the reform ought to be. I would not pretend to suggest that that is what I have learned. But I have learned that they feel that the program could be much more effective than it presently is.

I confess that I am concerned to see the basic authorization extended for another 12 months, which would put off, it would seem to me, by at least 8 months, the kind of reform that I think is needed and which I think the chairman of the subcommittee and the distinguished Senator from Nebraska would agree to in the way of amendments.

It is not a substantial departure from the normal procedures of our committee to bring something as important as an extension of the LEAA for 1 year to the floor without any discussion in our committee.

Mr. McCLELLAN. Does the distinguished Senator believe that all possible amendments to the safe streets bill can be processed and enacted before the authorization expires next June?

Mr. TUNNEY. Well, I would think——

Mr. McCLELLAN. Unless we act to extend it, we will at some future date have nothing to amend.

Mr. TUNNEY. It is clear that the LEAA should have a continued life. It would also seem to me that inasmuch as it expires June 30 next year, we would have a good, solid 6 months in which to extend it as simply as we are doing it here today, if it appeared that we would not be able to have the necessary oversight hearings and make the necessary recommendations for amendments prior to the expiration date, June 30.

Mr. McCLELLEN. I might point out to the Senator that another thing to consider is the press of appropriation measures that we will face. If the act has not been extended by June 30, there would not be any program to make appropriations for. I do not believe the amendment operates against the Senator's wishes. Indeed, it will likely serve his purpose.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts will state it.

Mr. KENNEDY. Who has charge of the time?

The PRESIDING OFFICER (Mr. ALLEN). All time allotted has expired——

Mr. KENNEDY. On the proposed amendment?

The PRESIDING OFFICER. The Chair asks, who would yield time? Ten minutes remain to the Senator from Nebraska and 9 minutes remain to the Senator from Arkansas on the amendment, but all the time that has been allotted, the last 4 minutes, to the Senator from California, has expired.

Mr. KENNEDY. Mr. President, I should like to know, who is handling the time?

The PRESIDING OFFICER. The Senator from Nebraska is handling time on his amendment and the Senator from Arkansas is controlling the other side.

Mr. KENNEDY. Would the Senator from Arkansas yield me 4 minutes?

Mr. McCLELLAN. If I have any time, I will be glad to yield it to the Senator.

The PRESIDING OFFICER. The Senator from Arkansas has 9 minutes remaining.

Mr. McCLELLAN. I yield 4 minutes to the Senator from Massachusetts.

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

Mr. KENNEDY. Mr. President, I share the concerns expressed by the Senator from California (Mr. TUNNEY). Here is an amendment coming up, concerning what is perhaps the most important weapon to meet the problems of law enforcement in this country, trying to provide some kind f help and assistance to the local communities in the States, and it is being considered here almost by a voice vote, on the question of extending it for 2 years. That was the initial amendment, as I understand it, of the Senator from Nebraska, for 2 years?

Mr. HRUSKA. Oh, no. One year. Twelve months.

Mr. KENNEDY. One year. It was not even considered in the committee. No one made any expression that it would be considered. We do not know what the particular figure will be as suggested by the Senator from Nebraska.

I, too, would share the concern of the Senator from California about those in my State and in the New England area who are very much concerned about the whole direction of the LEAA. This is not only said by those who are involved in the program. The GAO has made a report on the LEAA. It has raised all kinds of questions and problems about the financing of the program. The House Government Operations Committee has held hearings on it as well and has pointed out all kinds of problems connected with it.

I also share the concern as to whether we are fulfilling our responsibilities by deferring action for 1 year. I, for one, think that the best way to proceed is to hold hearings the early part of next year. If we get into the problem of extending the time there is adequate time that will come along and I will join the chairman so that we will be able to extend it and not interrupt the orderly workings of the agency.

All of us understand the importance of this legislation. LEAA has faced many problems since its earliest days, especially with the troika setup, in the war on crime in this country. Now, in the quiet of the afternoon, in almost routine fashion, we are considering extending it for another year. I join the concern of my colleague from California that we should find out about the whole country's crime needs and whether additional kinds of appropriations and authorizations will be needed. If they are, we should be prepared to go to the American people and make that request by justifying it in the Appropriations Committee. If not, that is another matter. But deferring this kind of action on it, I, for one, have the most serious kinds of reservations about it.

I am distressed by the fact that, as the Senator from California has pointed out, we had no idea that this would come up. Many members of the Committee on the Judiciary have spent long hours on the development of this legislation and I am sure that they would all be interested and concerned.

Mr. McCLELLAN. Would the Senator want to abolish the LEAA?

Mr. KENNEDY. No. The answer to that is in the negative.

Mr. McCLELLAN. If your goal is short of abolition, I point out that there is nothing to keep Senator from Massachusetts or any other concerned Senator from offering amendments or introducing a new bill now, early next year, or at any other future date. It was suggested that we would like it for 2 years. I said that was too long and that 1 year would be long enough, because that would give us the opportunity to consider legislation and amendments which would be offered, or other bills that might be brought up elsewhere. If the Senator does not want to do it now, then get ready to do it next year, or abolish it. It seems to me no one is trying to keep anything from anyone. This is a more orderly procedure to follow, and it gives us an opportunity to work on it.

Mr. KENNEDY. Obviously, I am committed to the program, but we should not renew without much longer consideration a program that sends huge sums out to the local communities when all kinds of questions have been raised about the program. The GAO has raised questions and problems about it, and so has the Government Operations Committee in the House. Rather than suddenly extending the time period now, I feel that this matter should be our subcommittee's first order of business early next year.

I do not think that any program in which the Federal Government aids States and localities is as important in helping and assisting local law enforcement and State law enforcement agencies through the LEAA.

I think that we have responsibility on that program to consider whether it represents the best judgment, and that 6 months, or the early part of next year, all the time that it takes to do it, should be put into it.

I think the Senator would agree with me that it appears, around this body—at least in the limited time I have been here. 10 years—that nothing really gets done until the legislation has already expired. I have seen half a dozen programs this year that were extended for 1 year even though they did not expire until the next year, but we cannot get support for them because they want to have additional studies, additional testing, and so forth. I feel that we have a responsibility here and I think that what we should do is be about that business the early part of next year.

As a member of the subcommittee, I give assurance to the chairman that I will consider offering amendments that will help and assist the chairman in this effort; but I cannot for the life of me see why we should consider extending it a year when so many serious and grievous questions have been raised about the funding and the administration of it, which have been raised by law enforcement personnel as well as by the GAO, let alone various questions of employment raised by civil rights leaders. So I would hope that rather than delaying the time, what the chairman should do, with all the various responsibilities he has, is to see that this will be the first order of business in the next session.

I want to indicate my reservations about this amendment. I would certainly hope that the Senator would withdraw it. After the hearings are over, and we are unable to get about the business of completing the legislation, I shall join as a cosponsor with the Senator from Nebraska and the Senator from Arkansas in extending it. If we are unable to do it, because of the complexity of the legislation, obviously, none of us wants to see it, but in the meantime we have a responsibility to see that we start early hearings on the most important Federal program we have to fight the problems of crime in this country.

Mr. McCLELLAN. I want to agree with my distinguished friend from Massachusetts that this is a very important program for law enforcement. But I do not know why the Senator objects to extending it a year. Senators can offer amendments at any time.

There is nothing wrong with this amendment. Certainly, there is no ulterior motive here in trying to get it adopted. If the Senator wants to cut it off, it is all right with me. I would not have to work as hard.

The point is that we are trying to get time so that we will have time in which to deliberate and offer proper amendments to the act.

I think the amendment should be agreed to.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes.

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

Mr. HRUSKA. Mr. President, when this law establishing the LEAA, and the Crime Control and Safe Streets Act was enacted, it was referred to as one of the most important programs in the country today. I fully agree. I subscribe to that.

It is in the interest of emphasizing its importance and to make it highly applicable in the interest of sound administration that the amendment is proposed.

Mr. President, there is no harm done. On the contrary, a lot of benefit can result, because LEAA can go forward with the assurance that they can make tentative plans for the allocation of funds and can make plans for the following year. In the meantime, any effort to revise the program or amend it or extend it further or contract it so as to make it less extensive can certainly be made. We are not foreclosed from attempting that. We can go forward in any way we choose.

We do not have 6 months next year before the expiration of the authority of this bill. The usual procedure is not to introduce any bills in this body, as I remember it, until after the President has sent down his state of the Union message. I do not remember if that applies in inaugural years. However, normally we do not do so, and with the inaugural ceremonies and everything else, we can cut off the entire month of January. There are many other things we have to do in the remaining months.

We should not lay this aside. They can plan the administration of many of the programs, including the change we are proposing here. It would be well that we do this.

Mr. President, I reserve the remainder of my time, and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has all time remaining. Does the Senator from Nebraska desire to yield back his time?

Mr. HRUSKA. Mr. President, I have no further request for time. I yield back the remainder of my time.

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

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. KENNEDY. Mr. President, I send to the desk an amendment in the nature of a substitute for the amendment of the Senator from Nebraska on behalf of the Senator from California (Mr. TUNNEY) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) offers on behalf of the Senator from California (Mr. TUNNEY) and himself an amendment in the nature of a substitute for the amendment of the Senator from Nebraska as follows:

In line 4, strike the word "six" and insert in lieu thereof the words "five and one-half".

In line 8, strike "$1,750,000,000" and insert in lieu thereof "$875,000,000".

In lines 8 and 9, strike "June 30, 1974" and insert in lieu thereof "December 31, 1973".

The PRESIDING OFFICER. It is not in order for the Senator from Massachusetts to propose his amendment in the nature of a substitute. It can be offered as a perfecting amendment.

Mr. KENNEDY. Mr. President, I offer my amendment as a perfecting amendment to the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in effect, this amendment would change the

1-year extension to a 6-months' time extension.

Mr. McCLELLAN. Mr. President, I have no objection to it if the sponsor of the amendment does not, though I think the 1 year would be more consistent with the fiscal year. The point I make is that I think we will need more time than we have. We have 5 months after inauguration in which to deal with these problems. And we will have appropriations bills coming up. I was trying to keep it on a fiscal year basis.

Mr. KENNEDY. Mr. President, I would hope that the Senator from Nebraska would consider this amendment. This would provide for an extension of a period of 6 months at the rate contained in the amendment of the Senator from Nebraska. It would give us a full year to consider the extension of the LEAA. The Senator can be assured that if, at the expiration of such time, the subcommittee wants to consider the various ramifications of the measure, certainly the Senator from California and I would urge that there be an extension.

Certainly from this point of view, 6 months, as the Senator from Arkansas has pointed out, is the time necessary to consider the various amendments. It would also fulfill our responsibility of being about the business of the prompt consideration of the most important single Federal program that assists State and local law enforcement.

Mr. McCLELLAN. I see only one objection to it, and that concerns the fiscal year. Other than that, I do not see any objection. I think that in a year's time we can get the amendments together and handle the matter. I do not think that we can do it in 5 months.

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

Mr. KENNEDY. I yield.

Mr. TUNNEY. There certainly is no intention on my part to cripple the LEAA. As a matter of fact, I think basically the LEAA program is a good one, although it has administrative problems and some of the funding mechanisms have not been as successful as some of us would like to see.

I think that a program in which there is the funding of hundreds of millions of dollars with which to fight crime in this country deserves to be protected. And the way to guarantee that would be to have early hearings next year, as soon as possible, and work out a new authorization bill which would provide the changes that some of us feel are necessary. Obviously with any bill as complex as the LEAA, there will be differences of opinion as to what is and what is not needed. However, 1 year from the beginning of next year would seem to me to be adequate time to make the necessary changes in the law.

I appreciate the statement of the chairman of the subcommittee that he does not have any objection to the 6 months' period. I think 6 months' additional time would be December 3, 1973, and that time would be adequate time in which to hold hearings and hold executive sessions and markup so that we can get the kind of legislation that we all want.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Nebraska does not have time.

Mr. KENNEDY. Mr. President, I yield 5 or 7 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I thank the Senator from Massachusetts. This would result in conditions that would be impracticable administratively. It would not work. The way the funds are disbursed is by getting the State plans approved by the LEAA. Then there is an allocation of funds pursuant to that allocation. The basic law is geared to that sort of thing. It is also geared to a given percentage, a statutorily fixed percentage of funds For instance, I think it is 20 percent with regard to part E relating to corrections. There is no provision for 6 months and no provision for dividing that up We would have to follow the basic law if we wanted to extend the authority of the act by half a year or by 5½ months or 7½ months, or whatever it is.

I suggest that we cannot proceed on that basis. Administratively it would not be possible. The clean-cut way to do it would be to give them the assurances of going forward in a basic way. If there are any amendments that should be considered Congress can still consider those. There is more than plenty of time to consider amendments of the act itself, I urge that the substitute amendment be rejected for those reasons.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, may I have some time from the manager of the bill?

Mr. KENNEDY. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator has only 4 minutes remaining.

Mr. BAYH. The Senator just gave 5 or 7 minutes to the opposite side. Could we ask someone to compensate?

Mr. McCLELLAN. Mr. President, the Senator who has the amendment has control of the time.

The PRESIDING OFFICER. The Senator from Massachusetts has time.

Mr. McCLELLAN. Mr. President, I have been yielding to others. I yield to the Senator.

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

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. McCLELLAN. How much time does the Senator desire?

Mr. BAYH. Five minutes.

Mr. McCLELLAN. I yield 5 minutes to the Senator from Indiana.

Mr. BAYH. Mr. President, I must say I am deeply alarmed not only by the substance of this proposal but also by the procedure being used here. I say to my friend from Nebraska, who always has been a stickler for first discussing matters before the committee in charge of the legislation, that the committee has met regularly. We have discussed all types of legislation in the crime area. Four such bills are presently before us; and here at the last minute, on the floor with no notice, we are presented with a crucially important 1-year extension of a major crime control act. Yet the full Committee on the Judicicary was not approached about this at all. The subject was never raised. I feel this should be brought to the attention of the Senate, at least. Perhaps the amendment of the Senator from Massachusetts is a compromise I would be willing to accept, although I would apply the same basic criticism to that as I do to the proposal of the Senator from Nebraska, which extends this for a whole year.

If the Senator from Arkansas feels he needs 6 months, I cannot quarrel with that. But I hope we address ourselves seriously as soon as possible to the effort to stop crime.

Mr. McCLELLAN. Mr. President, it is not that I need 6 months or that anybody needs it. I have no objection if they want to pass the whole matter over for a year. I said I have no objection to it and I do not. If there is serious objection to it, it makes no difference to me. I do not see how it is going to militate against those who want other matters in the bill. In fact, it gives more opportunity instead of less. I have no objection to the full committee considering it. I thought everybody would probably be agreeable for the act to be extended, but it does not make any difference to me if it is or not.

Mr. BAYH. In theory I agree, but we all know how difficult it is to get the Judiciary Committee and the Senate to act much before the statutory deadline, if then. It concerns me that there are certain programs in LEAA which have made a significant contribution to fighting crime and establishing better law and order, and that there are some programs that are self-defeating. We have to start thinking and planning to separate the one from the other.

As chairman of the Subcommittee on Juvenile Delinquency I believe no one can argue with the fact that we can do a more effective job with that juvenile by trying to treat him when that first crime is committed, or by trying to create a certain atmosphere in the home before any crime is committed; then, we are making an impact on crime. I think we should start focusing the attention of LEAA on these matters, rather than on hardware.

If we accept the full year extension of the Senator from Nebraska we are putting off for another year an effort to find a way in which these programs can be worked together. I know the Senator from Arkansas will be diligent, as usual, in trying to get action before then. But I for one just do not think it will happen.

Mr. McCLELLAN. Mr. President, the Senator can amend it now or in January, June, or in July. The bill can be amended if Congress agrees.

Mr. BAYH. The Senator from Arkansas has made a larger contribution to the fight against crime than anyone. But I think he, too, is aware of what the situation is.

Mr. McCLELLAN. They can consider amendments to LEAA. If the Senator wants to withdraw his amendment, it is

all right with me. I was trying to do the best I could under the circumstances. My purpose is to try to help those who wanted it amended. I have some amendments to it, also. I do not think all of them can be considered in the 5 months we will have after inauguration next year. There will be other things to consider.

Another thing is that it takes annual appropriations. We will not have authority beyond June of next year. I think it should be extended at this time. However, personally, to me it makes no difference in the world. That is the way I feel about it.

Mr. BAYH. I appreciate the feeling of the Senator from Arkansas. It is almost unbelievable that neither he nor any of the rest of us who serve on the Judiciary Committee heard about this 1-year extension until it was proposed on the floor.

Mr. McCLELLAN. I have no objection to it.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, this argument about being a stickler for germane or nongermane amendments amuses me. Last month we witnessed a scene in this Chamber when we took a whole day considering legislation dealing with the well-known Bicentennial Commission. Seven-eighths of that time was devoted to nongermane amendments, amendments alien to the bicentennial bill. That was the situation different from this one. With five or six amendments to the omnibus crime control bill which alter the administration, the degree and direction of their administration, and expands their activities a great deal, when the impact of that action came to my mind, I felt it should have an extension of 1 year's authority so they could adjust themselves, and accommodate themselves and the program to the input of these new amendments, and to do so on an annual basis, which they have to do under the basic law.

It is said this is the time to address ourselves to the whole concept. Sure enough; if it is that pressing, I have every confidence that those who feel there should be such a move will come here with their legislative capabilities and do it. They are not foreclosed by this extension of authority. It is that simple.

I think the amendment of the Senator from Massachusetts should be rejected and the main amendment for an extension of 1 year should be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, if I may have 1 minute more. I certainly do not want to infer anything personal, but I am sure as that commission bill was being argued the Senator from Nebraska was against all those nongermane amendments. Be that as it may, the Senator from Nebraska knows, having served with distinction on the Subcommittee on Juvenile Delinquency and on the full committee, there is a significant difference of opinion among the experts on LEAA as to how much emphasis should be given to dealing with youth problems and juvenile problems, and crime prevention problems, and how much attention should be given to hardware. I believe we can reconcile these differences better if everybody knows there is a limit and the bill is going to expire, than if we delay giving attention to some of these problems for still another year. If our study needed more time, we could always pass an extension when the need became clear.

We have to put more emphasis on crime prevention. If we really dealt with first offenders, we would have less of a problem with adult criminals. The situation would be helped also if we decided to do something about the 70-percent recidivism rate. Seventy percent of those whom we catch and incarcerate are right back on the street committing those crimes all over. I would like to give attention to the problem much earlier so we have some chance to rehabilitate them. That is why I am concerned about this effort to put off this debate for another year.

Mr. McCLELLAN. Mr. President, does the Senator wish to comment?

Mr. HRUSKA. I have no further comments.

Mr. McCLELLAN. Mr. President, I just want to make a further comment. I yield myself 1 minute on the bill, or such time as I may need.

I just want to make this observation. Nobody is being delayed from doing anything he wants to do about this bill. Nobody is being delayed 1 minute by extending the bill. We have today adopted one amendment after another. We are going to adopt one in a minute. There can be no delay or harm extending the act. We can still continue to amend it.

I am willing to suggest that the Senator from Nebraska withdraw his amendment, and that next year let those who oppose this get their own amendments adopted. I may point out that this is an argument without merit. There is no merit in the contention either way. All we are trying to do is to have an amendment adopted to accommodate a situation. We all say we are in favor of the bill. We do not like certain things in the bill. We are going to amend them. We are going to have to do it. But next year we are going to be faced with budget requests for financing the very proposals certain Senators are advancing today. Extending the act does not prevent anyone from proposing amendments.

It is all right with me to withdraw the amendment and then have to face the problem next year getting the act extended.

I do not think anybody wants to repeal the act. They do not want it to expire. All we want to do is extend it for 1 year. Senators can offer amendments now.

Mr. HRUSKA. Mr. President, I yield myself 1 minute.

If there are those in this Chamber who want to undertake the burden and the high potential jeopardy of obstructing and even delaying and impeding the program of the law enforcement agency by splitting the fiscal year, and visit that kind of result, that is their responsibility. This Senator is not going to do it.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

I think it is important to know there was a 5-year original authorization for the LEAA. For over 4 years now, the Senate has not had an opportunity to review this program. Next year was the year we were to have it.

Now, all of us want to provide sufficient time so that we will have an opportunity for full review. It does not seem to me to make a great deal of sense to extend it another year. It would be the only bill that I know of that would have had a 5-year authorization that was extended 1 year without full deliberation.

It seems to me that a matter of this importance, this significance, certainly should have the first priority. So I would hope that the 6 months substitute would meet the objections on both sides, to provide sufficient time for a hearing and also to provide early consideration by the Congress.

The PRESIDING OFFICER. Each side has 1 minute remaining on the amendment.

Mr. KENNEDY. I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. Does the Senator from Arkansas desire to yield back his remaining 1 minute?

Mr. McCLELLAN. I yield it back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Is this a vote on the substitute amendment of the Senator from Massachusetts?

The PRESIDING OFFICER. This is a vote on the perfecting amendment of the Senator from Massachusetts to the amendment of the Senator from Nebraska. The yeas and nays have not been ordered on the amendment to the amendment. They had been ordered on the amendment of the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from Nebraska. 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 Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from North

Carolina (Mr. ERVIN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. GOLDWATER) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 28, nays 43, as follows:

[No. 444 Leg.]

YEAS—28

Anderson	Fulbright	Saxbe
Bayh	Hart	Schweiker
Beall	Hughes	Scott
Bentsen	Inouye	Stevenson
Brooke	Kennedy	Symington
Burdick	Mansfield	Tunney
Case	Mathias	Weicker
Chiles	Nelson	Williams
Church	Percy	
Cranston	Proxmire	

NAYS—43

Aiken	Edwards	Mondale
Allen	Fannin	Montoya
Bennett	Fong	Packwood
Bible	Gambrell	Pastore
Boggs	Gurney	Pearson
Brock	Hansen	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
	Hollings	Smith
Byrd, Robert C.	Hruska	Spong
Cook	Jackson	Stafford
Cooper	Jordan, N.C.	Stennis
Cotton	Jordan, Idaho	Talmadge
Dole	Magnuson	Thurmond
Dominick	McClellan	Young
Eastland	Miller	

NOT VOTING—29

Allott	Griffin	Moss
Baker	Harris	Mundt
Bellmon	Hartke	Muskie
Buckley	Humphrey	Pell
Cannon	Javits	Ribicoff
Curtis	Long	Sparkman
Eagleton	McGee	Stevens
Ervin	McGovern	Taft
Goldwater	McIntyre	Tower
Gravel	Metcalf	

So Mr. KENNEDY's amendment to Mr. HRUSKA's amendment was rejected.

The PRESIDING OFFICER (Mr. BROCK). The question now recurs on agreeing to the amendment of the Senator from Nebraska (Mr. HRUSKA). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah, (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), 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 further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. GOLDWATER) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. JAVITS), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 63, nays 9, as follows:

[No. 445 Leg.]

YEAS—63

Aiken	Ervin	Packwood
Allen	Fannin	Pastore
Anderson	Fong	Pearson
Beall	Fulbright	Percy
Bennett	Gambrell	Proxmire
Bentsen	Gurney	Randolph
Bible	Hansen	Roth
Boggs	Hatfield	Saxbe
Brock	Hollings	Smith
Burdick	Hruska	Spong
Byrd, Harry F., Jr.	Hughes	Stafford
	Inouye	Stennis
Byrd, Robert C.	Jackson	Stevenson
Chiles	Jordan, N.C.	Symington
Church	Jordan, Idaho	Talmadge
Cooper	Magnuson	Thurmond
Cotton	Mansfield	Tunney
Cranston	McClellan	Weicker
Dole	Miller	Williams
Dominick	Mondale	Young
Eastland	Montoya	
Edwards	Nelson	

NAYS—9

Bayh	Cook	Mathias
Brooke	Hart	Schweiker
Case	Kennedy	Scott

NOT VOTING—28

Allott	Harris	Mundt
Baker	Hartke	Muskie
Bellmon	Humphrey	Pell
Buckley	Javits	Ribicoff
Cannon	Long	Sparkman
Curtis	McGee	Stevens
Eagleton	McGovern	Taft
Goldwater	McIntyre	Tower
Gravel	Metcalf	
Griffin	Moss	

So Mr. HRUSKA's amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. WILLIAM F. RYAN, late a Representative from the State of New York, and transmitted the resolutions of the House thereon.

The message announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 10243) 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; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLER of California, Mr. DAVIS of Georgia, Mr. CABELL, Mr. MOSHER, and Mr. ESCH were appointed managers on the part of the House at the conference.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Senate continued with the consideration of the bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from cor rectional institutions and facilities.

AMENDMENT NO. 1539

Mr. TUNNEY. Mr. President, I call up my amendment No. 1539 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 2, line 2, after the word "programs" insert a comma and the following: "including community-based programs,".

Mr. TUNNEY. Mr. President, this amendment is offered for purposes both of clarification and emphasis.

The bill requires a State applying for part E funds for correctional institutions to include in its comprehensive State plan a provision for the development and operation of drug treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for addicts and abusers either incarcerated or on parole.

My amendment, by adding the phrase "including community-based programs," would prevent any possible misinterpretation of the intent of the legislation and at the same time emphasize the desirability and encourage development of programs which have some base in the world outside the institution.

It is well recognized by authorities on addict rehabilitation that the crucial time in the process comes when the individual leaves whatever institution he has been receiving treatment at—whether prison, hospital, or some other form of structured program—and returns to

his own community. It is there that he finds the same old set of values and stimuli which contribute to, or are the major cause of, his drug problem and his criminal propensities. As Norman Carlson, the Director of the Federal Bureau of Prisons, testified before a Senate committee last year.

In the final analysis, only through successful reintegration into the community can the ex-offender avoid becoming a recidivist.

It is all very well to keep a guy motivated and on the mend while he is directly under your thumb, but certainly the purpose of this legislation and of all the drug abuse treatment legislation we have passed in recent years is the permanent rehabilitation of these people.

If the acid test is community re-entry, then I think we have to emphasize the desirability of treatment programs which pave the way for this. Any program which involves a relationship with the world outside the institution should be constructive in this regard. Additionally, there is probably far more likelihood of finding innovative approaches in community-based programs than in those which are strictly institutional. Use of such community-based programs will permit the involvement of a wide range of professional and paraprofessional talent which is necessary to successful efforts against drug abuse.

In addition, by emphasizing the development of community-based treatment programs, there can be greater assurance of continuity of care once the addict is released from prison. At the same time the rehabilitative process during incarceration is aided by the strong focus of community programs on the needs of the addict upon his release, particularly the need for a job. The great strength of existing programs where there is a strong partnership between the prison and a community treatment program is the increased attention and resources devoted to training and employment opportunities and the supportive measures necessary to help the addict make it.

As the language of the bill now stands, there would appear to be no question that it covers community-based programs outside the institution for persons on probation, parole, or some kind of short term supervisory release. However, it is not clear that such community-based programs could be used within the institution themselves. I fear that some State officials might read the provision as requiring operation of a program by the institution itself, to the exclusion of contracting with an outside agency to bring its expertise into the institution. Adoption of this amendment will preclude the possibility of such an interpretation and at the same time indicate the strong congressional interest in the use of available community resources where it is desirable. It is this latter concern which is paramount in my mind. We must do all we can to encourage the trend toward the development of community-based programs, and I believe this amendment will assist in that effort.

Mr. McCLELLAN. I yield myself 1 minute.

Mr. President, I have examined this amendment. So far as I can tell, it would do no harm to the bill and perhaps would improve it. I have not had an opportunity to give it that kind of thorough consideration but, at the moment, so far as I am concerned, I am willing to accept it and take it to conference.

Mr. TUNNEY. I want to thank my distinguished chairman——

Mr. McCLELLAN. I think it is all right, but I am perfectly willing, for the present, to take it to conference.

Mr. TUNNEY. If there is no objection, I am prepared to yield back my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER (Mr. BROCK). All time has now been yielded back.

The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Illinois (Mr. PERCY), I ask unanimous consent that Mr. Stuart Statler be permitted the privilege of the floor during the remainder of the consideration of this bill, and during the debate and vote on the next bill, the Land Use Act.

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

Mr. SPONG. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated:

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

That the last sentence of section 301(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "July 1, 1972" and inserting in lieu thereof "June 30, 1974."

Mr. SPONG. Mr. President, drug abuse is one of our most pressing domestic problems. As I travel throughout my State of Virginia, I hear concerns about drug abuse voiced again and again. Yet some of our most successful programs to combat crime and drug abuse are threatened. They are threatened by the new hard-match requirement which will become applicable to the action grants for the Law Enforcement Assistance Administration this year.

Where previously States have been able to provide equivalent goods and services in lieu of cash, the amended Safe Streets Act requires that effective this fiscal year, at least 40 percent of the non-Federal funding be in money. Despite the fact that the Virginia General Assembly added about $400,000 to the budget for matching purposes, Virginia still stands to lose about $1.5 million over the next 2 years which could be applied to the fight against drug abuse.

I believe this hard-match requirement should be delayed. And that is what my amendment would do. Shortly, the whole safe streets program will come under congressional review for reauthorization. That is the time to recommend changes in the program and not in the middle of the planning that has gone forth up to this point.

Mr. President, the problem my State is experiencing in meeting the matching fund requirements of the LEAA program is shared by many other States and local communities around the Nation. A recent survey taken by Mr. George W. Orr, executive director of the Iowa Crime Commission, indicates that fully 30 percent of the States surveyed were pessimistic about being able to continue their safe streets programs at present levels of participation, while another 8 percent could go either way.

States indicating that they would have trouble continuing present levels of participation in LEAA drug and crime programs were Kansas, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Indiana, Louisiana, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, West Virginia, and Virginia.

For the record, it should be clear that States are probably more deeply concerned about the new, so-called "buy-in" provisions. My amendment would do nothing directly to ease that new requirement; but indirectly, by delaying the hard-match requirement for 1 year, it would make it easier for States to participate under the "buy-in" provisions in the Safe Streets Act.

Mr. President, there is nationwide support for this legislation not only on the part of States, but also by our cities. These cities are coming to recognize that they will suffer as a result of their State's being unable to come up with sufficient money to take full advantage of full Federal compliance.

They are the innocent pawns in this problem between the States and the Federal Government. Even if cities wish to make up the shortages in their States' contribution, they are not permitted to do so under present law.

As an indication of the support for relaxation of the new hard-match requirement, I ask unanimous consent that a section from the legislative program adopted by the National League of Cities at its recent meeting in Hawaii be printed in the RECORD at the conclusion of my remarks. This section, which deals with the Safe Streets Act specifically, endorses congressional action to remove the requirements for cash match before it takes effect this year.

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

(See exhibit 1.)

Mr. SPONG. Mr. President, a recent survey was made of major cities to determine which of those would have difficulty meeting the matching fund requirement under the new hard-cash provision. I would like to quote from the conclusion of that study conducted by the National League of Cities, U.S. Conference of Mayors, and I ask that the complete study be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. SPONG. Mr. President, the study concluded:

In general, the participation of cities in LEAA programs that now require hard

(cash) match is doubtful. Nine cities definitely say that their participation with LEAA will be reduced because of this requirement. Ten give no answer or are undecided, but when taken in conjunction with the other answers, their participation will also be likely to decline.

In addition, there is a question as to the type and amount of participation of the states under the Buy-In requirements. Some cities commented that they still expect only in-kind contributions from the states; others expected the SPA's to go out of business if they are required to come up with cash.

Mr. President, the arguments against this amendment are largely fiscal in nature and I am not one who treats lightly the problem of Federal overspending. It is true that the Federal Government has funded too many programs and that its expenditures are far in excess of expected revenues. I believe these expenditures should be cut back, but I do not believe that we should begin these economies with the most vital domestic program we have. It was not many months ago that President Nixon in a major policy address identified efforts to combat drug abuses as our No. 1 domestic priority. He said:

We must have no budget cuts in waging total war on drug abuse.

Some have argued that the revenue-sharing bill which recently cleared both Houses of Congress—although it is still pending in conference—will help States and cities in meeting the cash shortages. It is highly doubtful, however, that the revenue-sharing bill will assist in any way with the problem under discussion today. First, the legislation strictly prohibits the use of revenue-sharing funds to provide matching money for Federal grant programs. Second, the legislation contains strict language concerning maintenance of effort in other programs so that revenue sharing is not used to substitute for previously State and local funded projects.

My amendment does not ask increased spending for the safe streets programs. It does not ask for anything new. It merely provides that States and local communities which are currently engaged in drug education, drug prevention, drug rehabilitation programs can continue under the same ground rules which have been in effect since the program was established in 1968.

Again, I repeat that this program will soon be up for review and reauthorization. If at that time it is found that changes should be made in the program, fine. I will support them if they are justified. But let us not now tell the people and the communities and the States which have taken the war against drug abuse seriously and which have devoted their efforts and their money to this cause that we are now going to up the ante in the middle of the game. That means that States like my own State of Virginia are going to have to cut back on their programs.

Mr. Richard N. Harris, director of the Division of Justice and Crime Prevention for the State of Virginia, says:

The situation in Virginia remains the same as indicated in my letter of May 1, 1972, specifically, that unless this relief is enacted by Congress, Virginia will lose a minimum of $1.5 million of Safe Streets Act action grant Part C funds for which we will otherwise be eligible. It is vital that Senator Spong's efforts to delay the hard match provision succeed, and we in Virginia urge that everything possible be done to assure that the bill is enacted.

Since my letter of May 1 to you I have been contacted by a number of other SPA directors, and more recently by directors in New York and Missouri, all of whom have expressed their extreme concern, and have urged me to renew efforts for passage of the legislation. In turn, they have indicated that they would contact their own Senators and representatives, and I know that this has been done in the case of New York, Missouri, Arkansas, and others.

There is no item in our Federal budget or in our State budgets more important, in my judgment, than programs to deal with our growing drug problems.

The Virginia State Crime Commission recently reported that drug abuse in Virginia is becoming more prevalent at a younger and younger age reaching down to the high school, junior high school, and sometimes even the lower grades. What is even more alarming, the report went on, is the fact that the use of heroin is becoming more prevalent among the youth and many young people have been found to be involved in the selling of heroin.

Against this background, many organizations and community groups in my own State and other States of this Nation are organizing efforts on a volunteer basis to do something about drugs. This is very encouraging. I believe we need more of it if we are ever going to resolve the problem. But how can we tell these people at a time when they are moving ahead that the Federal Government is moving backward in its support of their efforts?

Mr. President, the official position of the LEAA is that it has no objection to this amendment. Unofficially, however, the position of LEAA appears to be somewhat more enthusiastic.

In a letter dated September 11, 1972, to the National League of Cities-U.S. Conference of Mayors, Mr. Leonard wrote:

I might suggest to you parenthetically that you now begin consideration of a reversal of some of the 1970 amendments with respect particularly to the Buy-In and hard match requirements which are wreaking havoc with many of our national scope programs. Specifically endangered in addition to the activities that you are conducting, are work being done in the court reform and correctional reform areas. We intend to discuss this further with you, of course, in the near future.

Mr. President, it has been charged that there are abuses in the LEAA program—that some States are not doing all that they can to supplement Federal grant money in this area. That may be true, but I do not believe it is true in Virginia. In any event, that is a problem which can be dealt with administratively. If there are abuses in crediting goods and services toward local matching funds, then I think the LEAA is equipped with ample authority now to deal with those abuses. It is not necessary and I believe it is harmful for the Federal Government at this juncture to require the States and cities to put up more money than many States have to put up in order to participate in our most vital domestic program.

Mr. President, I believe that, having extended the authorization as we have, we would do well, in view of the concern being expressed even today by the President about drug abuse, to continue the law as it has existed since 1968. This means delaying the hard-match requirement which came into effect on June 30 of this year.

I reserve the remainder of my time.

EXHIBIT 1

7.006 THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACTS OF 1968 AND 1970

A. The Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, should set minimum levels of planning funds to be distributed to local governments with greatest need.

B. A major purpose of the Amendments of 1970 to the "Safe Streets Act" was to insure real and meaningful participation by local governments in state-wide planning. In many states, this has not happened. The federal government and LEAA should take steps to remédy this situation by creating appropriate guidelines for states and local governments, by refusing to accept plans from states using only "paper participation," and by refusing to grant state block funds for planning or action in all cases where states have not met their obligations in this area.

C. LEAA, most states and most local governments agree that the discretionary part of the "Safe Streets Act" has not been successful. In its place, the federal government should institute a program of direct block grants to cities. At least fifty percent of the appropriated funds under the Act should be directed for this program.

D. The experience of the "Safe Streets Act" thus far has been one of many layers of bureaucracy duplicating each other's tasks. As many as twelve reviews of each proposal have been common. To alleviate this situation, LEAA should encourage states to make block grants to those cities which operate large numbers of projects under this Act.

E. The Metropolitan Criminal Justice Centers (MCJC) project currently being considered by LEAA is, in its general outlines, consistent with the needs for direct block grants from LEAA to cities. However, if this program is to be successful, local staff capacities provided to MCJCs should take their direction from general local government, and the city selection criteria should be such that LEAA is willing to fund cities of great need, even where the city and its county have difficult relationships.

F. The "Safe Streets Act" is a particularly complicated piece of legislation, and it has a complicated legislative history and intergovernmental structure through which funds and information should flow. For a variety of reasons, both funds and information actually reaching local government have been grimly inadequate in far too many cases. Guidelines, policy regulations and all other pertinent information on all parts, of the Act must be issued on time and directly to cities with greatest need. To participate successfully in this important Act, cities must understand the guidelines under which their states operate.

G. Since its inception, LEAA has been enshrouded by a cloud of secrecy and suspicion which has prevented essential information from reaching local governments, despite the fact that seventy-five percent of the action funds can only be granted to local governments. Whatever organizational structure it chooses to operate under, LEAA

must establish direct lines of communication to cities with greatest need.

H. The current budgetary crisis in the Nation's cities and states requires that the Congress remove the requirement for cash match from the legislation before it takes effect, that the Congress reduce the overall matching requirement for both cities and states to below ten percent and that under the state "buy-in" provision, if a state declines to buy into the LEAA program for its local governments, the block allocation for that state shall become available to that state's local governments in the form of local block grants.

I. LEAA has a surplus of unfunded proposals, while it has never sought its full appropriation. At the local level there has been a severe shortage of cash under the Act, caused by the procedures of many levels of bureaucracy. To combat all of these facts, LEAA should seek its full appropriation in Congress.

J. Many cities and counties continue to face major problems in working through largely rural multi-county regions in their states. That being the case, cities and counties should not be arbitrarily placed in multi-county regions by their states, without their express written permission. States should, when requested, deal directly with such cities and counties.

K. The Congress should amend the Safe Streets Act to remove the "variable pass through" provision (Section 303, paragraph 2) and continue the 75% pass through to local general government, recognizing that local governments have already over-burdened tax resources.

L. LEAA should refrain from making the block grant program a categorical grant program, and should, through guidelines and review of state plans, similarly discourage states from moving in this direction.

EXHIBIT 2

NATIONAL LEAGUE OF CITIES U.S. CONFERENCE OF MAYORS—CASH MATCH/STATE BUY-IN QUESTIONNAIRE

SUMMARY QUESTIONNAIRE SHEET

(This summary does not include all of the answers. This is due to the fact that some of the answers are impossible to summarize either because of length or because of incomplete answers.)

I. *Ability of city to meet cash match requirements:*

A. "In the past years, have you asked your city to provide cash match for criminal justice projects?" Yes, 12; no, 8.

A. 3. "Generally, how did your city council react?" 6 gave no comment. 14 gave the following comments: 1 enthusiastically; 9 favorably; 2 neutral; 1 unfavorably; 1 opposed.

The comments made ranged from "hold the line/scrutinize closely," to "they are totally opposed to cash match."

B. 3. "For FY '73, how much cash match have you asked your city council for?" 10 cities have not asked; 5 have asked, but have not been notified as to council's final decision; 5 have asked and received approval, but only 3 received the amount that they requested.

II. *Procedural issues in meeting the cash match requirement:*

A. 2. "Once your city budget is approved do you believe that you can successfully request special appropriations during the rest of the year for the purpose of matching LEAA programs?" Yes, 11; no, 6; doubtful, 3. (This category of answers included such possibilities as: only in emergency; depends on size; undecided.)

A. 3. "If you have not requested a specific appropriation for LEAA matching money, do you intend to use funds from the general fund for that purpose?" Yes, 9; no, 6; doubtful, 5. Again, this category includes such answers as: emergency only, depending on size; possible.)

A. 4. "Do you intend to meet the cash match requirement in another manner?" Yes, 7; no, 9; doubtful, 4. (Some of the ways to meet it that were suggested in this questionnaire are: only with surplus; reallocation of police funds; appropriated State Buy-in funds; sayings.)

B. 1. "Do you intend to have your city council appropriate money for hard match by:

"Taking each project before the council on an individual basis;

"Requesting the city council to appropriate a specific amount for several program areas;

"Asking the city council for a lump sum of cash;

"Other."

10 cities said that they will have to take each individual project before the city council.

None will use the several programs approach.

5 will use the lump sum approach.

3 will use their "other" category.

2 gave no answer.

B. 2. "Why have you chosen this particular strategy?"

8 cities responded that it was their city council's policy to scrutinize each proposal on an individual basis before awarding funds for it.

5 had no particular reason.

2 cities that chose the individual review approach said that it is easier for the city council and the Mayor.

4 cities gave answers which implied that they chose the lump sum approach either because their city required it, or because they lacked sufficient information from the state to adequately plan.

B. 3. "What effect do you believe the strategy you have chosen will have on the kinds of submissions the city makes for LEAA programs during the following year?"

9 cities stated that it will reduce participation.

10 cities were undecided.

1 city stated that it will enhance the effort.

C. "To the best of your knowledge, how much money do you expect the city to receive as a result of the state buy-in procedure; or, what do you think the effect of the state buy-in procedure will be on LEAA funding for your city in the coming year?"

10 cities have no idea about the amount of monies, nor the effect.

5 cities already know the amount they are to receive.

2 cities state that the SPA might go out of existence.

2 cities still expect in-kind contributions from the states.

1 city expects a great deal of resistance from the state.

D. "In general, just how tight do you believe your city's budget is for the coming year and, as a consequence, what is your best guess as to the ability of your city to cope with the hard match requirements of the Safe Streets Act in the coming year."

16 cities stated that they have very tight budgets and their ability to cope with hard match is very poor.

3 cities stated that they did not know; however, they felt that their city could meet the hard match.

1 city stated that their budget was in good shape and that it could cope with the hard match, taken in light of the general priorities.

CONCLUSION

In general, the participation of cities in LEAA programs that now require hard (cash) match is doubtful. 9 cities definitely say that their participation with LEAA will be reduced because of this requirement. 10 give no answer or are undecided, but when taken in conjunction with the other answers, their participation will also be likely to decline.

In addition, there is a question as to the type and amount of participation of the states under the Buy-In requirements. Some cities commented that they still expect only in-kind contributions from the states; others expected the SPA's to go out of business if they are required to come up with cash.

Mr. McCLELLAN. Mr. President, I have no objection to delaying it for 1 year. This idea can be considered along with other suggested revisions in the act in the conference.

Mr. SPONG. I thank the Senator from Arkansas. I am delighted——

Mr. McCLELLAN. At least we will take it to conference. I do not know what will happen there, but I am perfectly willing to take it to conference.

Mr. SPONG. I am confident that if the able Senator from Arkansas take it to conference, he will do everything he can to see that it stays in.

I do not, however, want to fly under any false colors——

Mr. McCLELLAN. I do not want to, either. I will say that we will take the amendment to conference. I cannot guarantee what will happen to it.

Mr. SPONG. I know the able Senator from Arkansas will do everything he can in conference. I simply wanted to point out that I modified my amendment to make it comply with the amendment offered by the Senator from Nebraska.

Mr. McCLELLAN. That is all right.

Mr. SPONG. I thank the Senator from Arkansas. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I am in agreement with the statement made by the Senator from Arkansas. This is a fundamental problem that is far reaching and will undergo very strenuous debate next year as to the several alternatives available in it. It would be the better part of wisdom to accept it at this time and go into the rest of the debate a year from now.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia (Mr. SPONG).

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that no time be charged against either side.

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

The legislative clerk proceeded to call the roll.

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

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

CHANGE OF TIME FOR CONSIDERATION OF UNFINISHED BUSINESS

Mr. MANSFIELD. Mr. President, under the unanimous-consent agreement we are supposed to proceed to the consideration of the unfinished business at 3:30 this afternoon. I ask unanimous consent that that time be extended until the pending business is disposed of.

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

Mr. MANSFIELD. 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. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Senate continued with the consideration of the bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities.

Mr. HUGHES. Mr. President, I send to the desk amendments on behalf of the Senator from North Dakota (Mr. BURDICK) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 2, after the word "narcotic" insert the words "and alcoholism".

On Page 2, line 6, delete the words "or drug abusers" and insert in lieu thereof a comma and the following: "drug abusers, alcoholics, or alcohol abusers".

On Page 2, line 11, after the word "drug" insert the words "and alcoholism".

Mr. HUGHES. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. HUGHES. Mr. President, I have offered this amendment on behalf of myself, the Senator from North Dakota (Mr. BURDICK), and the Senator from California (Mr. TUNNEY), I send the amendment to the desk and ask that it be stated.

Mr. President, as I understand it, H.R. 8389 would require that plans for narcotics programs for drug dependent persons in correctional facilities and for those on probation or parole be included in the comprehensive plans required of States applying for funds from the Law Enforcement Assistance Administration. Our amendment would simply include a similar requirement for those dependent upon alcohol.

I know of no reliable figures comparing the numbers in need of help for drug dependence among our jail and prison populations and those out on probation or parole. Indeed, we are now finding that drug and alcohol dependence in the same individual occurs frequently. The best current estimates are that in our total population there are some 9 million persons with alcohol problems and at least 560,000 persons dependent on heroin. While the heroin abuser is more likely to be involved in the thefts and street crimes which have become the focus of national concern, no one knows how many alcohol dependent persons have been convicted of crimes, such as burglary, assault with deadly weapons, or manslaughter when driving while intoxicated. Commonsense tells us, therefore, that there must be at least as many, and almost certainly many more, offenders in need of help for alcohol than for drug dependence problems. Both kinds of programs are urgently needed within our criminal justice systems.

Mr. President, I am convinced that this is one of the most important investments our Nation could make in the fight against crime. We have known for too long that for the offender who is dependent on alcohol or drugs, jail is a revolving door. He serves his time but emerges with his addiction intact. With little hope for honest employment and with no help for his addiction, he will quickly resort to further crime, at a tragic cost for himself and for society. It is time for all of us to come to grips with the futility of our failure to treat the addiction promptly and continuously.

Some of the States and local communities have already recognized the problem. They are working out ways to treat the addicted offender while he is incarcerated and as he moves into probation. Some cities are beginning to develop systems for diverting offenders, when appropriate, out of criminal justice systems and into treatment programs. These States and cities have made good use of LEAA funds for such efforts. Unfortunately, other States are wasting LEAA funds in elaborate law enforcement hardware, or even worse, in police state techniques for spying on their citizens by methods which are destructive of their personal liberties guaranteed by the Constitution.

I believe it would be far more effective, and certainly far more humane, to spend money to treat the addicted offender who, if untreated, is certain to return to a career of crime.

Every State should be required to plan for the treatment of both drug and alcohol dependent offenders. H.R. 8389, with this amendment, would accomplish that objective. I urge, therefore, that the amendment be adopted.

Mr. President, I do not see any reason to belabor the issue. In its simplest form, what the amendment does is add the words "alcoholics, or alcoholic abusers" in relation to drugs and drug abusers.

If the Senator in charge of the bill would see fit to accept the amendment, I would be pleased to yield back the remainder of my time. First, I yield to the Senator from North Dakota.

Mr. BURDICK. Mr. President, there are estimated to be between 500,000 and 600,000 narcotic addicts in the United States, in addition to thousands of other drug users. But there are more than 9 million alcoholics in the country, and alcoholism afflicts a far greater number of people. In many States the problems of alcoholism among convicted offenders is greater than the narcotic problem, in terms of numbers of people.

The relationship between crime and alcoholism is not as clear as the relationship between street crime and heroin. However, drugs and alcohol do afflict many of the same individuals, and there is growing evidence that many may pass back and forth between alcoholism and drug addiction.

States should have no difficulty complying with the requirements of this amendment. It will require planning, but alcoholism programs can be easily meshed with existing programs, if they are not already conducting alcoholism programs.

This amendment was not offered in committee because in itself it might have created a need for a conference with the House on the bill, H.R. 8389. Since other amendments have been offered, it is offered now as a meritorious amendment which should be considered and adopted.

Mr. McCLELLAN. Mr. President, I have no objection to the amendments. I am perfectly willing to take them to conference. I think they very well have a proper place in the bill.

Mr. HRUSKA. Mr. President, I have no objection to accepting the amendments and having a voice vote on the amendments.

Mr. HUGHES. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Iowa (Mr. HUGHES).

The amendments were agreed to.

Mr. McCLELLAN. Mr. President, I have no further requests for time on the bill. I do not know whether anyone has a request for time in opposition to the bill.

Mr. MANSFIELD. Mr. President, does the chairman know of any other amendment to be offered?

Mr. McCLELLAN. I know of none.

Mr. MANSFIELD. Mr. President, I seek recognition to offer a substitute on behalf of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Massachusetts (Mr. KENNEDY), myself, and the following cosponsors:

Senators ALLEN, BAYH, BENTSEN, BIBLE, BURDICK, CANNON, CASE, CHILES, CHURCH, COOK, CRANSTON, EASTLAND.

Senators GRAVEL, GRIFFIN, GURNEY, HARRIS, HART, HARTKE, HOLLINGS, HUGHES, HUMPHREY, INOUYE, JACKSON, KENNEDY, MANSFIELD, MATHIAS, McCLELLAN, McGOVERN, McINTYRE, METCALF, MONDALE.

Senators MOSS, MUSKIE, NELSON, PELL, PERCY, RANDOLPH, RIBICOFF, ROTH, SCHWEIKER, STEVENSON, TUNNEY, WILLIAMS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

That this Act may be cited as the "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that: (1) there is an increase in crimes of violence, racketeering

activity, theft and drugs; (2) the increase in such crimes increases the chances of a person becoming a victim of such a crime; (3) on an increasing basis crimes of violence are being directed at public safety officers; (4) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are not financially responsible; (5) the victims of crimes of violence, or their surviving dependents, are often themselves unable to bear the consequent losses; (6) the victims of crimes of racketeering activity and theft could with strengthened civil remedies often help themselves to meet the financial consequences of such crimes; and (7) the victims of drug dependency could with treatment programs often help themselves to overcome their dependency.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime or their surviving dependents within the area primarily of Federal responsibility to bear the consequential losses and to assist the States to aid those within the area primarily of State responsibility; to establish insurance, death, and dismemberment benefit programs for public safety officers or their surviving dependents; to strengthen the civil remedies available to victims of racketeering activity and theft; and to assist the States in establishing narcotic treatment programs in correctional institutions.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, which is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eight years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of a State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) the principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies devel-

oping or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the Members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other sources based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for any compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compenstaion.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 445. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or

privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g) (1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study, shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title and with respect the adequacy of State programs under section 105."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Idemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity fund.".

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

TITLE II—GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as

amended, is further amended by adding after part F the following part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees.

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Prorgam of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date

such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess

shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premiums costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 517. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

SEC. 203. (a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position;

and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce, any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than ten years, or both; or if death results, shall be punished as provided under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof: (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States."

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, fireman, or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offense, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

TITLE III—DEATH AND DISMEMBERMENT BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part G the following new part:

"PART H—DEATH AND DISMEMBERMENT BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' includes a stepchild, an adopt-

ed child, an illegitimate child, and a posthumous child;

"(2) 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime;

"(3) 'dependent' means a person who was wholly or substantially reliant for support upon the income of a deceased public safety officer;

"(4) 'dismemberment' means the loss of all or a substantial portion of one foot or one hand or legal blindness in one eye;

"(5) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs or other substances into the body;

"(6) 'line of duty' means within the scope of employment or service; and

"(7) 'public safety officer' means a person serving the United States or a State or unit of general local government, with or without compensation, in any activitiy pertaining to—

"(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the Armed Forces,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting.

"AWARDS

"SEC. 526. (a) Upon a finding made in accordance with section 529, the Administration shall provide the following benefits:

"Loss	Benefit payable
Death or multiple dismemberment	$50,000
Single dismemberment	25,000

"(b)(1) Whenever the Administration determines, prior to taking final action, that a death or dismemberment of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $5,000 to the public safety officer, dependent, or dependents entitled to receive a benefit under section 527 of this part.

"(2) The amount of any interim benefit paid under paragraph (1) of this subsection shall be deducted from the amount of any final benefit paid to such public safety officer, dependent, or dependents.

"(3) Where there is no final benefit paid, the recipient of any interim benefit paid under paragraph (1) of this subsection shall be liable for repayment of such amount. The Administration may waive all or part of such repayment.

"(c) The benefit payable under this part shall be in addition to any other benefits that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (4-531(1) of the District of Columbia Code);

"(2) gratuitous lump-sum death or dismemberment benefits authorized by the United States, a State, or unit of general local government without contribution by the public safety officer, but not including insurance or workmens compensation benefits;

"(3) compensation made pursuant to part F of this title; and

"(4) compensation under a State program funded in whole or in part under paragraph (10) of section 301 of part C of this title.

"(d) No benefit paid under this part shall be subject to execution or attachment.

"RECIPIENTS

"SEC. 527. Upon receipt of a certification under the Attorney General, the Governor or the highest executive officer of a State that a public safety officer has been killed or has suffered dismemberment in the line of duty and the proximate cause of such death or dismemberment was a criminal act or an apparent criminal act, the Administration shall pay a benefit as provided in section 526 of this part as follows:

"(1) If the public safety officer suffered dismemberment, to the public safety officer.

"(2) If the public safety officer was killed—

"(A) to the dependent person or persons specifically designated in the public safety officer's duly executed authorization to receive the benefit provided for in this part;

"(B) if there is no such surviving designated person or persons and no surviving dependent child of such officer, to the surviving dependent spouse of such officer;

"(C) if there is a surviving dependent child or children and a surviving dependent spouse of such officer, one-half to the surviving dependent child or two-thirds to the surviving dependent children of such officer in equal shares, with the remainder to the surviving dependent spouse of such officer;

"(D) if there is no such surviving dependent spouse, to the dependent child or children of such officer, in equal shares;

"(E) if none of the above, to the dependent parent or parents of such officer, in equal shares; or

"(F) if none of the above, to the other dependent next of kin of such officer under the laws of domicile of such State of such officer at the time of his death, in equal shares.

"LIMITATIONS

"SEC. 528. No benefit shall be paid under this part—

"(1) if the death or dismemberment was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death or dismemberment;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death or dismemberment;

"(3) in the event the public safety officer was killed, to any person who would otherwise be entitled to a benefit under this part, if such person's actions were a substantial contributing factor to the death of the public safety officer; or

"(4) if a notification of death or dismemberment has not been filed by or on behalf of a public safety officer under this part with the Attorney General or the Governor or highest executive officer of a State within one year after the date of death or dismemberment, unless the Administration finds that the failure to file was justified by good cause.

"PROCEDURE

"SEC. 529. (a) Awards under this part shall be made as follows—

"(1) in the event the death or dismemberment of a public safety officer serving a State or unit of general local government, the notification of such death or dismemberment shall be filed with the Governor or the highest executive officer of the State of service; or

"(2) in the event the death or dismemberment of a public safety officer serving the United States, the notification of such death or dismemberment shall be filed with the Attorney General or his designate.

"(b) The Governor, the highest executive officer of a State, or the Attorney General upon receipt of notification of the death or dismemberment of a public safety officer shall promptly notify the Administration of the pendency of a certification, and, after due investigation, shall certify to the Administration all facts relevant to the death or dismemberment upon which the benefit will be paid.

"(c) The Administration, upon receipt of certification by a Governor or the highest executive officer of a State, or the Attorney General, indicating that a benefit is due under this part, shall pay such benefit.

"(d) The adjudicatory provisions of chapter 5 of title 5 of the United States Code are not applicable to the procedures authorized under this part."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity and theft.

RACKETEER CIVIL REMEDIES

SEC. 402. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction".

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking the word "action" in subsection (b) and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) of such section and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger of irreparable loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The United States may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this

chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States", and inserting in lieu thereof "or proceeding".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

THEFT CIVIL REMEDIES

SEC. 403. (a) Section 659 of title 18 of the United States is amended to read as follows:

"§ 659. Interstate or foreign shipments by carrier; State prosecutions; civil remedies for victims of theft

"(a) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(b) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

"(c) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(d) Whoever violates any provision of subsection (a), (b), or (c) of this section shall in each case be fined not more than $5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods, chattels, or other property does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(e) The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(f) The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States under subsection (e) of this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions as it shall deem proper.

"(g) Any person may institute proceedings under subsection (e) of this section. In any proceeding brought by any person under subsection (e) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a temporary restraining order and preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(h) Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of the action.

"(i) Any person who is injured in his business or property by reason of any violation of this section may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover three-fold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(j) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(k) In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(l) In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(m) All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

"(n) The United States may, upon timely application, intervene in any civil action or proceeding brought under this section if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

"(o) A final judgment or decree rendered in favor of the United States in any criminal action or proceeding under this section shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(p) Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

"(q) A violation of this section shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, chattels, or other property.

"(r) The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate or foreign commerce, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained, shall constitute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or into which it shall have been brought by such violator.

"(s) To establish the interstate or foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping

document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained possession of any money, baggage, goods, chattels, or other property, recently embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was, or that such person had, embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods, chattels, or other property in violation of this section. Proof that a person bought or received for a consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section.

"(t) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof."

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code, for section 659, is amended to read:

"659. Interstate or foreign shipment by carrier; State prosecutions; civil remedies for victims of theft.".

TITLE V—NARCOTIC TREATMENT PROGRAMS IN CORRECTIONAL INSTITUTIONS

SEC. 501. (a) Section 453 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by redesignating paragraph (9) as paragraph (10), by striking out "and" at the end of paragraph (8), and by inserting immediately after paragraph (8) the following new paragraph:

"(9) provides necessary arrangements for the development and operation of narcotic treatment programs, including community-based programs, in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts and alcoholics or drug abusers and alcohol abusers; and".

(b) Section 454 of title I of such Act is amended by adding at the end thereof the following new paragraph:

"In addition, the Administration shall issue such regulations as may be necessary concerning the standards that shall be met by drug treatment programs in State and local prisons and those to which persons on parole are assigned."

TITLE VI—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION AUTHORIZATION AND MATCHING REQUIREMENTS

SEC. 601. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) Section 512 is amended by striking the word "five" and inserting in lieu thereof the word "six".

(b) Section 520 is amended by striking the word "and" in the first sentence thereof, substituting a comma for the period at the end of the sentence and adding the following thereafter: "and $1,750,000,000 for the fiscal year ending June 30, 1974."

SEC. 602. The last sentence of section 301 (c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "July 1, 1972" and inserting in lieu thereof "June 30, 1974".

TITLE VII—MISCELLANEOUS PROVISIONS

AUTHORIZATIONS

SEC. 701. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $5,000,000 for the purposes of part F; and

"(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G.

"(d) There is authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1973, for the purposes of part H."

USE OF APPROPRIATIONS

SEC. 702. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEVERABILITY

SEC. 703. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 704. (a) Titles I, II, IV, and VI of this Act shall become effective on the date of enactment of this Act.

(b) Title III of this Act shall become effective on the date of enactment of this Act and the benefits thereunder shall be retroactive with respect to any dismemberment or death of a public safety officer as defined in part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, which occurred on or after January 1, 1967.

(c) Title V shall take effect with respect to the comprehensive State plans filed with the Administration on and after January 1, 1973.

Amend the title so as to read: "An act to provide for the compensation of innocent victims of violent crime in need; to make grants to the States for the payment of such compensation; to authorize an insurance program and death and dismemberment benefits for public safety officers; to provide civil remedies for victims of racketeering activity and theft; to provide for treatment programs for certain drug abusers; and for other purposes."

Mr. MANSFIELD. Mr. President, this amendment would include the Victims of Crime Act of 1972 in the pending measure. Its major thrust is to provide an omnibus program in behalf of victims of crime. This is a single amendment, a complete substitute and in no way represents a Christmas tree. Its provisions encompass four measures already approved by the Senate: The compensation program for the criminal victim; the group insurance program for public safety officers—a proposal sponsored chiefly by Senator KENNEDY; the death and disability benefit program for public safety officers, a proposal of Senator MCCLELLAN's passed earlier this month; and the victims of racketeering program, also authored by Senator MCCLELLAN and passed by the Senate earlier this month.

Let me read from the statement of findings and purposes of the act:

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension, and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

This Victims of Crime Act substitute would modify the Law Enforcement Assistance Act as would the pending measure. The Victims of Crime Act substitute is designed to improve the quality of criminal justice as is the pending measure. In short, the pending proposal, designed to provide needed impetus in the rehabilitation of the criminal drug user serves as a most appropriate vehicle for the establishment of a program that provides for the innocent victim of the drug user's crime.

Mr. President, the Senate has acted affirmatively with respect to each feature of this proposal.

Its passage in this fashion provides the only prospect for the enactment of an overall program in behalf of the criminal victim during this Congress.

I hope the Senate will not now turn its back on the criminal victim, the policeman, killed or wounded in the line of duty, or the innocent citizen bilked at the hands of the criminal racketeer.

To repeat: The amendment under consideration would combine four separate bills which have already received Senate approval. It would put back together S. 2994, the Victims of Crime Act of 1972.

S. 2994 has as cosponsors 44 Senators: MCCLELLAN, BAKER, BAYH, BEALL, BENNETT, BIBLE, BOGGS, BURDICK, CANNON, CASE, COOK, CRANSTON, EASTLAND, FANNIN, GRAVEL, GRIFFIN, GURNEY, HANSEN, HARRIS, HOLLINGS, HRUSKA, HUGHES, HUMPHREY, MANSFIELD, MATHIAS, METCALF, MILLER, MONDALE, MOSS, MUSKIE, NEL-

SON, PELL, PERCY, RANDOLPH, RIBICOFF, ROTH, SCHWEIKER, SCOTT, STAFFORD, STEVENS, STEVENSON, THURMOND, WILLIAMS, and YOUNG.

This represents a true cross section of the Senate.

As S. 2994 was considered by the committee on the Judiciary, the decision was made to separate its four titles into four separate bills. Since then, the Senate has given its approval to S. 750, providing for the compensation of the financial losses suffered by the innocent victims of violent crime; S. 33, establishing a contributing group life, accidental death and dismemberment program for public safety officers; S. 2087, authorizing a noncontributing death and dismemberment benefit for public safety officers in those situations where the death or dismemberment occurs in the line of duty as the result of a crime; and S. 16, providing expanded civil remedies for the victims of certain types of organized crime, or theft activity.

The 92d Congress will soon become a matter of history. If we are to hold any reasonable expectation of final congressional action responding to the various needs of criminal victimization, this step is essential.

Adoption of the amendment under consideration followed by passage of H.R. 8389 will allow this program of legislation to be considered in conference. I understand the House Judiciary Committee would be willing to consider this program as a whole. I do believe that it would be a positive step to take in the interest of all who fall prey to criminal behavior.

I urge its adoption on behalf of all who suffer the ravages of crime and violence.

Mr. McCLELLAN. Mr. President, will the Senator yield for purposes of clarification?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLELLAN. I understand the amendment of the distinguished Senator would add to this bill the provisions of S. 750, Victims of Crime Act of 1972 that we passed earlier today.

Mr. MANSFIELD. Our substitute would do that. I say "our substitute" because we are cosponsors of the substitute.

Mr. McCLELLAN. It would also include the gratuity program for public safety officer—S. 2087.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Would it also include the group life insurance program for public safety officer—S. 33?

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Might I ask if it would also incorporate the civil remedies provision of S. 16?

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Those bills would be added here as part of this bill, and they would go to the House.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. The House would have the opportunity of either taking all of them in this bill or acting on them independently.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. But they will all go to conference on this bill.

Mr. MANSFIELD. Absolutely.

Mr. McCLELLAN. So we will have an opportunity to get them enacted into law in this session.

Mr. MANSFIELD. This is the only chance to have that done in this fashion.

Mr. McCLELLAN. I wanted everyone to realize that that was the purpose—to try to get the will of the Senate and the Congress enacted into law in this session.

Mr. MANSFIELD. The Senator is correct.

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

Mr. MANSFIELD. I yield.

Mr. KENNEDY. Mr. President, I join in commending the recommendation of the distinguished majority leader.

I feel all the programs we are considering today, the ones we passed earlier, on policemen and firefighters, all refer to the very central concern about victims of crime. This approach is consistent with the central theme of the bills that have been passed and they offer us the best opportunity to meet our responsibility to those needs. I commend the distinguished majority leader for the initiative he has provided in this area. As one extremely interested in two particular parts of this package and in general support of the others, I think this is a commendable step and I hope the Senate will support the majority leader in this approach. I think it is the best way to provide relief for those who are the victims of crime.

Mr. MANSFIELD. I thank the distinguished Senator and I call to his attention that he, too, is a cosponsor of the substitute.

Mr. President, I yield back the remainder of my time.

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

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the substitute bill and I do so very reluctantly.

There is a mix here of a number of aspects of legislation that Congress is considering in the field of law enforcement and criminal statutes. There is a wide mix with some new innovative ideas, while some are extension of things we now have. It has been suggested it was not a Christmas tree; it is not a Christmas tree but it is a Christmas tree. The substitute includes several bills that have been considered in this body and that have been debated and on which there have been hearings. That is not true as to the other body. In all fairness to the other body there should be opportunity for it to consider the several bills severally and not jointly. This is true not only in fairness to the House but also in fairness to the President because there is considerable impairment and there is dilution of his veto power when we get an omnibus Christmas tree bill of this kind. It would certainly be a miscarriage of legislative purposes here if it were found on balance that it was not possible for the Chief Executive to go with the entire bill, and that he would be compelled, if that were his final decision, to turn down the whole package because one portion was unacceptable. What we are doing may be perfectly legal, but it is not wise.

We witnessed an example of that technique on the extension of the debt ceiling, when there was adopted a measure for a 20-percent increase in social security benefits. It deprives those who wanted to vote one way or another of their right to choose, and the President was not able to exercise his veto power if he chose to do so. I do not know that he would have, but it impaired his veto power.

There is sufficient difference on each of these separate titles to the bill for a consideration of each one of them on its own merits by the other body, and not on the basis of a power play, and I say that in a kindly way, not in a way that would indicate that there is anything improper about it parliamentarily. There is not, but the impact of it is bad, Mr. President, and it seems to me that in all fairness to the other body we should go to them with these bills on a several basis, a several and separate basis, and give them a chance to take part in this process of selection.

It is for that reason, and not because of the merits or the demerits of the individual basic bills, that I do suggest that the substitute bill not be accepted, but that H.R. 8389, as amended up to this time, be accepted and enacted and approved by this body.

The PRESIDING OFFICER. Does the Senator from Arkansas desire further time or does he yield back the time?

Mr. McCLELLAN. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment in the nature of a substitute by the Senator from Montana.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri, Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), 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 further announce that, if present and voting, the Senator from Nevada. (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Min-

nesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from Indiana (Mr. HARTKE) would each vote "yea."

MANSFIELD SUBSTITUTE NO. 446

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 70, nays 4, as follows:

[No. 446 Leg.]

YEAS—70

Aiken	Dominick	Muskie
Allen	Eastland	Nelson
Anderson	Edwards	Packwood
Bayh	Fannin	Pastore
Beall	Fulbright	Pearson
Bennett	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hansen	Randolph
Boggs	Hart	Roth
Brock	Hatfield	Schweiker
Brooke	Hollings	Scott
Buckley	Hughes	Smith
Burdick	Inouye	Spong
Byrd, Harry F., Jr.	Jackson	Stafford
Byrd, Robert C.	Jordan, N.C.	Stennis
Case	Jordan, Idaho	Stevenson
Chiles	Kennedy	Symington
Church	Magnuson	Talmadge
Cook	Mansfield	Thurmond
Cooper	Mathias	Tunney
Cotton	McClellan	Weicker
Cranston	Miller	Williams
Dole	Mondale	Young
	Montoya	

NAYS—4

Ervin	Hruska	Saxbe
Fong		

NOT VOTING—26

Allott	Harris	Moss
Baker	Hartke	Mundt
Bellmon	Humphrey	Pell
Cannon	Javits	Ribicoff
Curtis	Long	Sparkman
Eagleton	McGee	Stevens
Goldwater	McGovern	Taft
Gravel	McIntyre	Tower
Griffin	Metcalf	

So Mr. MANSFIELD's amendment, in the nature of a substitute, was agreed to.

Mr. HOLLINGS. Mr. President, due to eye surgery which I underwent in Charleston this morning, I was unable to have my votes recorded on final passage of S. 750, the victims of crime compensation bill, and S. 33, a bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers. I ask unanimous consent that I be announced as favoring enactment of these bills at the appropriate place in the RECORD, and I wish to note that I have in fact voted for these by voting for the Mansfield amendment.

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

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 8389) was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MCCLELLAN. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BROCK). All remaining time having been yielded back, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), and the Senator from Connecticut (Mr. RIBICOFF), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 74, nays 0, as follows:

[No. 447 Leg.]

YEAS—74

Aiken	Eastland	Montoya
Allen	Edwards	Muskie
Anderson	Ervin	Nelson
Bayh	Fannin	Packwood
Beall	Fong	Pastore
Bennett	Fulbright	Pearson
Bentsen	Gambrell	Percy
Bible	Gurney	Proxmire
Boggs	Hansen	Randolph
Brock	Hart	Roth
Brooke	Hatfield	Saxbe
Buckley	Hollings	Schweiker
Burdick	Hruska	Scott
Byrd, Harry F., Jr.	Hughes	Smith
Byrd, Robert C.	Inouye	Spong
Case	Jackson	Stafford
Chiles	Jordan, N.C.	Stennis
Church	Jordan, Idaho	Stevenson
Cook	Kennedy	Symington
Cooper	Magnuson	Talmadge
Cotton	Mansfield	Thurmond
Cranston	Mathias	Tunney
Dole	McClellan	Weicker
Dominick	Miller	Williams
	Mondale	Young

NAYS—0

NOT VOTING—26

Allott	Harris	Moss
Baker	Hartke	Mundt
Bellmon	Humphrey	Pell
Cannon	Javits	Ribicoff
Curtis	Long	Sparkman
Eagleton	McGee	Stevens
Goldwater	McGovern	Taft
Gravel	McIntyre	Tower
Griffin	Metcalf	

So the bill (H.R. 8389) was passed.

Mr. MCCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to make such technical and conforming changes as may be necessary in the engrossment of the substitute as passed by the Senate for the original bill.

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

TRIBUTE TO SENATOR MCCLELLAN AND OTHER SENATORS ON PASSAGE OF CRIME RELATED MEASURES

Mr. MANSFIELD. Mr. President, it is with the greatest respect and admiration that I commend at this time the distinguished Senator from Arkansas (Mr. MCCLELLAN). His magnificent record against crime and violence, as proven today beyond question, can be equaled only by his efforts in behalf of those charged with the responsibility for apprehending criminals—the public safety officer—and those who suffer at the hands of the criminal—the innocent victim.

It was Senator MCCLELLAN's outstanding advocacy that made possible today's successful action on the victim aspect of

crime. It was Senator McCLELLAN's leadership that has provided the impetus for legislative remedies across the entire front of the crime issue. In short, JOHN McCLELLAN deserves the deepest thanks of a grateful Senate. For his achievements in this field he has not been surpassed. For his steadfast devotion, he is unexcelled. His already abundant record has once again been enhanced and the American people are once more in his debt.

I wish to thank also Senator HRUSKA. As the ranking minority member of the committee he and many others joined to assure the swift and efficient disposition of all of these highly important measures. The Senate as a whole may be truly proud.

DEATH OF REPRESENTATIVE WILLIAM F. RYAN OF NEW YORK

Mr. BUCKLEY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Resolution 1119.

The Chair laid before the Senate House Resolution 1119, which was read as follows:

H. RES. 1119

Resolved, That the House has heard with profound sorrow of the death of the Honorable William F. Ryan, a Representative from the State of New York.

Resolved, That a committee of 18 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolution and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Mr. BUCKLEY. Mr. President, I send to the desk a resolution on behalf of myself and the senior Senator from New York and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Res. 365) was read, as follows:

S. RES. 365

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. William F. Ryan, late a Representative from the State of New York.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BUCKLEY. The death of Representative WILLIAM FITTS RYAN reminds us of the fact that there are human considerations that often transcend the political imperatives that play such an important part in our lives. I can think of no man in Congress with whom I shared fewer political beliefs than BILL RYAN; I can think of few whose qualities as a human being has commended such wide affection.

It is difficult, at times, to remember, in the heat of partisan controversy that an opponent is not an ideological abstraction but a flesh and blood creature, subject to the same passions and often the same prejudices as ourselves. Anyone who knew BILL RYAN knew that he was a man who was deeply devoted to his political principles, but who never let his ideological zeal for one moment interfere with his essentially and irrevocably decent approach to others. It is a measure of the respect he engendered in all who knew him, especially those with whom he disagreed, that he is deeply and genuinely mourned in Congress today.

My condolences go to the family of Representative RYAN. I think I speak for all of those who knew him when I say that he will be remembered as one who combined a fierce belief in his principles with an engaging, amiable personal quality that will long be remembered.

The senior Senator from New York regrets that he cannot be here to express his sentiments. He is detained because of the Jewish holidays which are being celebrated today.

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

Mr. BUCKLEY. I am glad to yield.

Mr. KENNEDY. Mr. President, I join in the sentiments expressed by the Senator from New York in connection with the loss of Representative RYAN. I knew Representative RYAN, and I want to express sympathy on this sad occasion. Both on behalf of myself and for members of my family.

We are grateful for all of the assistance that Congressman RYAN gave to my brothers. To President Kennedy, Congressman RYAN was a dedicated and faithful advocate for causes of justice, humanity, and equality.

To Robert Kennedy, BILL RYAN was always a friend and close adviser. I remember the many hours they spent campaigning together in 1964. And later, BILL gave my brother some of the strongest support he had in the 1968 campaign.

All of the time that I knew him, BILL RYAN blazed trails for other men to follow. Last year in Congress, he showed the courage he always had by standing firm against the antibusing tide on the floor of the House, thereby setting a magnificent example for all of us in the Senate.

We know his brilliant record on all the leading issues. Title VI of the Civil Rights Act of 1964—the school desegregation title—is a tribute to the work of BILL RYAN in Congress. More than any other single person, he helped to rally the conscience of American against the brutal killings in Philadelphia, Miss., and to lay the groundwork for the most successful Civil Rights Act of them all.

He led the fight in 1962 against the House un-American Activities Committee and its repressive tactics. He led the challenge in 1965 to the seating of the Mississippi delegation in the House.

He led the fight for prison reform and his life was interrupted as he fought vigorously for better health care.

He and I worked closely together in our long and successful fight for decent legislation to end the blight of lead-paint poisoning, and thereby protect the lives and health of thousands of children in countless cities throughout the Nation.

Above all, BILL RYAN was there at the beginning in 1965, when the earliest voices of protest were beginning to be heard in America against our deepening involvement in Vietnam. That is where BILL has always been, leading the fight for principles and the things that are right—seeing the issues, as they really are long before they are clear to others.

If a man does not keep pace with his companions, perhaps it is because he hears a different drummer. Let him step to music which he hears, however distant or far away.

Throughout his public career, BILL RYAN has followed that wise advice, and again and again the causes he has championed have been vindicated by the history of events.

The west side is strong today because you have able men like BILL to lead the way. He is the sort of Congressman every district needs. He knows the importance of government at the local level, and he knows the issues that really matter to the people. It is a pleasure to serve with him in Congress, and I wish we had more like him.

He was an extremely committed Congressman. He left his stamp on a host of major legislation. He was in the forefront of many of the great social battles in the House of Representatives many of which I shared his views.

He was a man of great capacity and great integrity and compassion for the people he represented.

I join the Senators from New York in expressing a very deep sense of loss to the members of Representative RYAN's family and to the people he served so well. All of us have lost an outstanding Member of Congress.

Mr. BUCKLEY. I thank the Senator.

BILL RYAN—A DEDICATED PUBLIC SERVANT

Mr. SCHWEIKER. Mr. President, I was most grieved to learn this past weekend of the untimely death of Representative BILL RYAN, of the 20th District of New York.

BILL RYAN and I came to Congress together in 1960, and it was an honor for me to serve with him during my four terms in the House of Representatives, and to continue to work closely with him on issues vital to our urban areas after I was elected to the Senate.

During the last two sessions, Congress has made significant progress in enacting measures to detect and treat lead-paint poisoning in children, a dread disease that strikes primarily in low-income and ghetto areas. Representative RYAN was one of the first to recognize the serious problem of lead poisoning from paint chips, and has been an important leader in getting Congress to act to provide treatment for children afflicted with

the disease, and eliminate conditions in which lead-paint poisoning occurs.

Representative RYAN was a strong advocate for our cities. He understood the impact of technological progress on the people who live in increasingly crowded urban areas. He dedicated his public life to making cities more livable, and to solving the complex problems of modern life that threaten to strangle our cities.

A man of conscience, a man of conviction, and a dedicated Congressman, BILL RYAN will be missed by all of us.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

The Chair appoints the Senators from New York (Mr. JAVITS and Mr. BUCKLEY) to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

SENATOR SPONG'S ACCOMPLISHMENTS ON DRUG ABUSE LEGISLATION

Mr. MANSFIELD. Mr. President, earlier today the Senate completed action on two measures designed to combat drug abuse: It agreed to the protocol to amend and strengthen the Single Convention on Narcotic Drugs, the basic international agreement to control narcotics, and it adopted an amendment to facilitate State participation in certain drug control and crime prevention programs authorized under the Safe Streets Act.

I wish to pay tribute to the junior Senator from Virginia (Mr. SPONG), whose strong leadership was indispensible to the success of both items. As the only first-term Democrat member of the Foreign Relations Committee, he presided over the hearings on the protocol with the greatest distinction, later presenting it for ratification to the Senate. In turn, the Senate's advice and consent were assured because of BILL SPONG's effective advocacy. Senator SPONG's second achievement today in the war against drug abuse was as the author of the amendment to delay the hard-match requirement under the law enforcement administration's action grant program. It, too, was greeted with success.

In all, Senator SPONG's efforts today reflect his deep and longstanding concern over the problems of drug abuse; consistent efforts put forth with broad understanding of the need to curtail the use of narcotics and other dangerous drugs.

I ask unanimous consent that a chronology listing Senator SPONG's actions to combat drug abuse be printed in the RECORD.

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

CHRONOLOGY OF ACTIONS BY U.S. SENATOR WILLIAM B. SPONG, JR., ON DRUG ABUSE

May 8, 1967—Voted on ratify U.S. accession to Single Convention on Narcotic Drugs, the basic multilateral agreement for control of narcotic drugs.

May 23, 1968—Voted for Omnibus Crime Control and Safe Streets Act of 1968. Funds authorized have been used for law enforcement activities related to drug control.

June 17, 1968—Speech to the Virginia Pharmaceutical Association urging its members to take an active part in publicizing the dangers of habitual and indiscriminate use of drugs such as amphetamines and barbiturates.

March 25–26; April 9–10–11, 1969—Participated, as member of Senate District of Columbia Committee in investigation of drug problems in Washington-Baltimore area.

June 17, 1969—Chaired hearing on crime in the District of Columbia schools, which included consideration of drug problems.

July 30, 1969—Met with metropolitan area police, prosecutors and Federal narcotics officials to discuss cooperative measures to curb narcotics traffic in region.

Jan. 21, 1970—Reported the findings of the Young Lawyers Section of the Virginia State Bar Association to the Senate. Figures showed spread of illegal drug use in the state coupled with an increase in drug-abuse prosecutions. Also introduced into the *Congressional Record* was information developed by the Virginia Beach City Public Schools on how to recognize symptoms of drug abuse.

Oct. 7, 1970—Voted for Comprehensive Drug Abuse Prevention and Control Act of 1970, which provided for expanded programs of rehabilitation, treatment and education. The Act also stiffened penalties for drug pushers, but reduced penalties for first offenders possessing or using marijuana.

Oct. 8, 1970—Offered, and the Senate adopted, an amendment to delay for one year (July 1971 to July 1972) the hard-match requirement (matching federal funds with money rather than goods and services) for states under the Omnibus Crime Control and Safe Streets Act. This meant that additional funds could be made available to the states for law enforcement activities, a number of which involve drug control programs. Sen. Spong then voted for passage of bill extending Omnibus Crime Control and Safe Streets Act, which authorized programs operated by the Law Enforcement Assistance Administration (LHAA).

Nov. 17, 1970—Voted for the drug abuse education bill.

March 19, 1971—Called on Sen. Thomas Eagleton, chairman of the Senate District of Columbia Committee, to hold early hearings on the growing abuse of the methadone program. He expressed concern about the availability of the drug to Northern Virginia residents from sources in the District of Columbia.

April 7, 1971—Speaking to the District of Columbia City Council hearing on methadone treatment program, commended the Council and the District of Columbia Medical Society for actions taken to deal with methadone abuse and urged their further efforts along these lines. (See previous entry)

May 1971—Report to constituents including a letter from Mr. Robert A. Ward, Dean of Amherst College, in which the tragedy of the drug culture is told in terms of wasted human lives.

June 9, 1971—Voted for amendments to authorize a program for identifying and treating drug and alcohol dependent persons in the Armed Forces and to require the President to submit to Congress periodic reports on measures being taken in concert with foreign governments to control and eliminate the production, processing or trafficking in heroin and other narcotic drugs.

June 23, 1971—Statement before the Senate District of Columbia Committee calling for a regional methadone treatment program involving Northern Virginia communities, suburban Maryland jurisdictions and the District of Columbia to coordinate activities of methadone treatment and supervise more closely the dispensing of methadone (see April 7, 1971, entry).

June 25, 1971—Letter to Dr. Charles C. Edwards, Commissioner of the Food and Drug Administration, urging the FDA to require physicians to be associated with some comprehensive drug treatment program in order to dispense methadone.

July 1971—In his newsletter to constituents pledged full support of programs to rehabilitate American GI's who become addicted to drugs while serving in Vietnam. He called for a cutoff of foreign aid to countries which refuse to cooperate in efforts to control the illegal drug traffic.

July 1, 1971—Testimony before the Senate Foreign Relations Committee, supporting as an ultimate sanction, the termination of foreign aid to nations which refuse to cooperate in international drug control efforts. Proposal included in the foreign aid bill which passed.

July 7, 1971—In a news release on statement before the Senate Foreign Relations Committee, expressed the need for research to develop alternatives to methadone, extensive educational programs, and vigorous action to shut off smuggling of illegal drugs into this country.

Aug. 14, 1971—Speech to the Virginia Commonwealth Attorneys' Association, calling for a single federal agency to be responsible for coordinating all programs in this field, for basic medical research into the causes and cure of narcotics addiction, for attention to rehabilitation as well as detoxification of American GI's, and for stronger federal efforts to curb the international drug traffic.

Nov. 24, 1971—Voted for the Senate measure to create a national institute to deal with drug abuse problems and to act as an aid to state and local agencies.

Jan. 17, 1972—Speech to the Hopewell Jaycees, calling for new and intensified efforts to combat the illegal international traffic in narcotics and dangerous drugs and presented supporting figures and examples of where action was needed.

Feb. 14, 1972—Speech to Rotary Clubs of Clifton Forge, Covington Bath and Alleghany declaring that reducing funding for drug control requirement of the Law Enforcement Assistance Administration (LEAA) for a hard-match for federal funds, scheduled to become effective in July, as placing a greater financial burden on the state which could previously put up its share in equivalent value goods and services. (See October 8, 1970 entry).

March 17, 1972—Voted for conference report on bill to create a Special Action Office for Drug Abuse Prevention in the Executive Office to coordinate federal drug activities.

March 21, 1972—Letter to President Nixon, requesting the President's attention to the possible negative effects of the Law Enforcement Assistance Administration's new requirements on matching funds, which were scheduled to become effective July 1. (See February 14, 1972, entry).

March 22, 1972—Speech at Westminster Presbyterian Church, Alexandria, calling in the fight against drug abuse. He said that we must guarantee that in opening trade and commerce with Mainland China we do not open the way for an increased flow of opium from that part of the world.

March 28, 1972—Senate floor statement calling for action on his bill which would delay for one year (July 1972–July 1973) the new matching requirements for the Law Enforcement Assistance Administration's federal action grants, which enable many states to operate drug control programs. (See February 14 and March 21, 1972).

April 3, 1972—Speech in Hampton expressing concern about the vast wasteland being created in our nation by drug abuse . . . the deterioration of our cities, increased robberies, destroyed lives. He called for an attack on the research level, the educational level, the crime level, and the rehabilitation level to help overcome drug problems.

April 14, 1972—Letter to Sen. John McClellan, chairman of the Criminal Laws and Procedures Subcommittee, which has jurisdiction over LEAA requesting early attention

to Spong bill to delay the hard-match requirement for states. (See March 28, 1972).

April 25, 1972—Senate floor statement detailing the need to delay matching requirements for LEAA programs. (See April 14, 1972).

April 27, 1972—Cosponsored legislation to help stem the illegal barbiturate traffic which is expanding.

May 24, 1972—Senate floor speech in support of authorization of $42.5 million for international narcotics control programs, as recommended by the Foreign Relations Committee.

May 26, 1972—Letter to Frank Shakespeare of the U.S. Information Agency suggesting use of USIA facilities to educate those in poppy-producing countries to dangers of drug abuse and to reasons for U.S. efforts to restrict illegal trade.

May 27, 1972—Speech to the Virginia Federation of Business and Professional Women, Sen. Spong urging additional efforts to combat illicit drug use.

June 26, 1972—Called for an all-out attack on drug abuse and announced that he would undertake a 10-day drug study tour to Germany, France, Turkey and Iran for the Senate Foreign Relations Committee, on which he serves.

June 27, 1972—Chaired hearings before Senate Foreign Relations Committee on Protocol to amend and strengthen the Single Convention on Narcotic Drugs, 1961, the basic international agreement for narcotics control.

June 29, 1972—Letter to Sen. McClellan, Sen. Spong requesting that bill to delay the hard-match requirement be attached to H.R. 8389, which had passed the House and was scheduled for consideration by McClellan's Subcommittee. (See April 14, 1972).

June 30–July 11, 1972—Undertook, on behalf of the Senate Foreign Relations Committee, a drug study tour in Heidelberg, Germany; Marseilles, France; Ankara and Afyon, Turkey; Tehran, Iran; and London, England. Accompanied by John Ritch of the Senate Foreign Relations Committee and Lieutenant Lewis Hurst, head of the narcotics squad of the Norfolk Police Force.

July 8, 1972—In Ankara, Turkey, commended the Turks for the ban on poppy growing and their efforts to prevent the current crop from moving into illicit channels.

July 18, 1972—Statement submitted to the Virginia Crime Commission summarizing the general findings of his tour and urging increased attention to the law enforcement aspects of drug control. Copy of statement also included in Congressional Record.

August 7, 1972—Speech to Virginia State Sheriff's Association calling for delay of hard-match requirement. (See June 29, 1972).

September 14, 1972—Statement in U.S. Senate presenting Protocol to amend the Single Convention on Narcotic Drugs. (See June 27, 1972).

September 18, 1972—Voted for Protocol to amend and strengthen Single Convention on Narcotic Drugs. (See September 14, 1972).

September 18, 1972—Offered in Senate amendment to delay hard-match requirement under LEAA. Amendment adopted. (See August 7, 1972).

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. On behalf of the Vice President, pursuant to Senate Resolution 304, the Chair appoints the following Senators to be members of the Special Committee on the Termination of the National Emergency: Senators CHURCH, HART, PELL, STEVENSON, MATHIAS, HANSEN, PEARSON, and CASE.

LAND-USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. BROCK). Under the previous order, the Chair lays before the Senate S. 632, which will be stated by title.

The assistant legislative clerk read 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.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Land Use Policy and Planning Assistant Act of 1972".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions, have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to the real concerns of a sound national land use policy.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impact of Federal, regional, State, and local programs and private endeavors which do not possess or are not subject to readily discernible land management goals or guidelines; and that a national land use policy is needed to develop a national awareness of, and ability to measure, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers; and that a national land use policy must place a high priority on the procurement and dissemination of useful land use data.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, including but not limited to facilities for the development, generation, and transmission of energy, because of unresolved land use questions, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to local activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of a consistent land use policy, often result in needless, undesirable, and costly conflicts between the Federal agencies and between Federal, State, and local governments, and thereby subsidize undesirable and costly patterns of development; and that a concerted effort is necessary to coordinate existing and future Federal policies and programs and public and private decisionmaking in accordance with a national land use policy.

(f) The Congress finds that while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems of broad national or regional concern and often results in irreparable damage to commonly owned assets of great national importance.

(g) The Congress finds that, because the land use decisions of the Federal Government, including those concerning the Federal lands, often have a significant impact upon statewide and local environments and patterns of development, a national land use policy ought to take into consideration the needs and interests, and invite the participation of, State and local governments and members of the public.

(h) The Congress finds that Federal, regional, State and local decisions and programs which establish or influence the location of land uses often determine whether people of all income levels and races have or are denied access to decent shelter, to adequate employment, and to quality schools, health facilities, police and fire protection, mass transportation, and other public services; and that such decisions and programs should seek to provide the maximum freedom and opportunity, consistent with sound and equitable land use planning and management standards, for all citizens to live and conduct their activities in locations of convenience and personal choice.

DECLARATION OF POLICY

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government, in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land use planning and management, to undertake the development and implementation of a national land use policy, which shall incorporate environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide for national decisionmaking in Federal and federally assisted programs which have land use impacts and in programs which affect the pattern of uses on the Federal lands, and shall provide a framework for the development of State and local land use policies.

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

(2) assist State governments to develop and implement land use programs for non-Federal lands which will incorporate environmental, esthetic, economic, social, and other appropriate factors, and to develop a framework for the formulation, coordination,

and implementation of State and local land use policies;

(3) assist the State and local governments to improve upon their present land use planning and management efforts with respect to areas of critical environmental concern, key facilites, development and land use of regional benefit, and large scale development;

(4) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands so as to encourage sound land use planning and management; and

(5) promote the development of systematic methods, for the exchange of land use, environmental, economic, and social data and information among all levels of government.

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and ehancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

PURPOSE

SEC. 103. It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

(b) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, and establish the procedures, necessary to develop and implement State land use programs;

(c) establish reasonable and flexible Federal requirements to give individual States guidance in, and to condition the distribution of certain Federal funds on, the establishment and implementation of adequate State land use programs;

(d) establish the authority and responsibility of the Secretary of the Interior to administer the grant-in-aid program, to review statewide land use processes and State land use programs for conformity to the provisions of this Act, and to assist the coordination of activities of Federal agencies with State land use programs;

(e) develop and maintain a national policy with respect to federally conducted and federally assisted projects having land use implications; and

(f) coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands.

TITLE II—ADMINISTRATION OF LAND USE POLICY

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 201. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior (hereinafter referred to as the "Secretary") may assign.

SEC. 202. The Secretary, acting through the Office, shall—

(a) maintain a continuing study of the land resources of the United States and their use;

(b) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(c) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which has on file—

(1) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(2) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(3) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(4) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(5) such other information pertaining to land use planning and management as the Director deems appropriate;

(d) make the information maintained at the Data Center available to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(e) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible agencies in order to coordinate such programs;

(f) administer the grant-in-aid program established under the provisions of this Act; and

(g) provide administrative support for the National Advisory Board on Land Use Policy established under section 203 of this Act.

NATIONAL ADVISORY BOARD ON LAND USE POLICY

SEC. 203. (a) The Secretary is authorized and directed to establish a National Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) the Director of the Office of Land Use Policy Administration (hereinafter referred to as the "Director") who shall serve as Chairman;

(2) representatives of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; and the Environmental Protection Agency, appointed by the respective heads thereof;

(3) observers from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget, appointed by the respective heads thereof; and

(4) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) render advice to the Secretary and the agency designated pursuant to section 502 concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(5) provide reports to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS–15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this Act;

(3) assist in the dissemination of policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

INTERSTATE COORDINATION

SEC. 204. (a) The States are authorized to coordinate land use planning and programs with appropriate interstate entities, and a reasonable portion of the funds made available to such States under the provisions of this Act may be used therefor: *Provided, however,* That an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by State land use planning and programs is assured: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(b) Subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes such States which possess coherent geographic, environmental, demographic, or economic characteristics which would serve as reasonable bases upon which to coordinate land use planning and programs to negotiate interstate compacts for the purpose of such coordination, with such terms and conditions as to them seem reasonable and appropriate: *Provided, however,* That such compacts shall provide for an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in Section 507 of this Act.

(c) The Secretary shall conduct a review of federally established or authorized interstate agencies, including but not limited to river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection, together with his recommendations, not later than two years after the date of enactment of this Act. Such recommendations may include proposals for either the establishment of new entities or the use of existing agencies of two or more States and the Federal Government to coordinate land use planning and programs in interstate areas: *Provided, however,* That such entities or agencies and the procedures

thereof, so recommended, provide for an opportunity for participation in the coordination process by Federal, State, and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs.

TITLE III—PROGRAM OF ASSISTANCE TO THE STATES

SEC. 301. (a) The Secretary is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this title.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning processes set forth in section 302. Prior to making any further grant during such period, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding to meet the requirements of section 302.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of section 302 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 303 and 304.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of sections 303 and 304.

(e) States receiving grants pursuant to this Act during the five complete fiscal year period following enactment of this Act shall submit for review not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305. For grants made after such period, the State shall submit its State land use program not later than one year after the date of each award to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *Provided*, That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *And provided further*, That, should no grant be requested by or active in any State during any two complete fiscal year period after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 302. (a) As a condition of continued State grant eligibility after the three complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the State's land and natural resources;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various types of land use;

(5) the preparation and continuing revision of an inventory of State, local government, and private needs and requirements concerning Federal lands within the State;

(6) the preparation and continuing revision of an inventory of governmental organization and financial resources available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(7) the establishment of a method for identifying large-scale development and development and land use of regional benefit;

(8) the establishment of a method for inventorying and designating areas of critical environmental concern and areas which are, or may be, impacted by key facilities;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with the development and implementation of State and local land use programs;

(10) the establishments of arrangements for the exchange of land use planning information and data among State agencies and local governments, and with the Federal Government, among the several States and interstate agencies, and with members of the public;

(11) the establishment of a method for coordinating the programs and services of all State and local agencies significantly affecting land use;

(12) the conducting of public hearings, preparation of reports, and soliciting of comments on reports concerning the State land use planning process or aspects thereof;

(13) the provision, and continuation thereof, of opportunities for participation by the public and the appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process; and

(14) the consideration of the interstate aspects of land use issues which involve two or more States.

(b) In the determination of an adequate statewide land use process, the Secretary shall confirm that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 303 and 304;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; the planning activities of areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Deevlopment Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; and the planning activities of Federal agencies;

(5) have authority to conduct public hearings, with adequate public notice, allowing full public participation in the development of the State land use program; and

(6) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings.

STATE LAND USE PROGRAMS

SEC. 303. As a condition of continued State grant eligibility after the five complete fiscal year periods following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate State land use program, which shall include—

(a) an adequate statewide land use planning process as provided for in section 302 of this Act; and

(b) (1) methods of implementation for—

(A) exercising determinative State authority over the use and development of land in areas of critical environmental concern within the State;

(B) exercising determinative State authority over the use of land in areas within the State which are or may be impacted by key facilities, including a method for exercising determinative State authority over the site location and the location of major improvement and major access features of key facilities;

(C) assuring that local regulations do not unreasonably restrict or exclude development and land use of regional benefit;

(D) exercising determinative State authority over proposed large-scale development within the State of more than local significance in its impact upon the environment;

(E) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

(F) regulating large-scale subdivisions to insure the planned maximum beneficial use of land;

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

(H) 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 (b) shall include either one or a combination of the two following general techniques—

(A) direct State land use planning and regulation, and

(B) State administrative review of land use plans, regulations, and implementation

thereof of local governments with full powers to approve or disapprove.

Such techniques or any combination thereof shall include the State's authority to prohibit, under State police powers, the use of any land in a manner inconsistent with any provision or portion of the State land use program.

SEC. 304. As a further condition of continued State grant eligibility after the five complete fiscal year period following the enactment of this Act, the Secretary shall review the State land use program and determine that—

(a) in designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of major national significance and require special planning and management;

(b) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement, the purposes, policies, and requirements of its land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement the State land use program, or any portion thereof, and which is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its land use program;

(c) State laws, regulations, and criteria affecting the State land use program and the areas and uses and activities over which the State exercises authority as required in section 303 are in accordance with the requirements of this title;

(d) the State land use program has been received and approved by the Governor;

(e) the State has coordinated its land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this title, and with the planning processes and land use programs of other States and local governments therein with respect to lands and waters in interstate areas; and provided for the participation of, and dissemination of information to, appropriate officials or representatives of local governments and members of the public as provided for in this title; and

(f) the State utilizes, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098 1103–4), and is participating in the programs provided for pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended.

FEDERAL REVIEW AND DETERMINATION OF GREAT ELIGIBILITY

SEC. 305. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant pursuant to this Act, shall consult with the heads of all Federal agencies listed in subsection (d) of this section and all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significant affecting land use in the State, and with the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a State land use program grant pursuant to this Act, shall submit the State land use program of such State to the heads of all Federal agencies listed in subsection (d) of this section and all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and to the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act. The Secretary shall take into consideration the views of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the State's land use program concerning large-scale development, development and land use of regional benefit, and large-scale subdivisions pursuant to clause (F) of subsection 303(b)(1) meet the requirements of this title. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary.

(c) The Secretary shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the State's application for its first grant, a State's report on its previous grant, or the State's land use program pursuant to section 301.

(d) Pursuant to subsections (a) and (b) of this section, the Secretary shall consider the views of the heads of the following Federal agencies—

(1) the Department of Agriculture;
(2) the Department of Commerce;
(3) the Department of Defense;
(4) the Department of Health, Education, and Welfare;
(5) the Department of Housing and Urban Development;
(6) the Department of Transportation;
(7) the Atomic Energy Commission;
(8) the Federal Power Commission; and
(9) the Environmental Protection Agency.

(e) A State may at any time revise its State land use program: *Provided*, That such revision does not render the State land use program inconsistent with the requirements of this title: *And provided further*, That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this title, and shall inform the State of his determination.

(f)(1) In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State other than the State the grant eligibility of which is in question, whose State does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor selected by the President may designate;

(B) one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this title. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. Ineligibility shall be deemed to have been determined by the hearing board if no determination in writing is made by it within ninety days of its appointment.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 306. (a) Federal projects and activities significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of sections 303 and 304 of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in regulations issued by the Secretary pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1263–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Secretary may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether Federal projects and activities are consistent with State land use programs funded under this Act.

(b) State and local governments submitting applications for Federal assistance for activities having significant land use implications in an area subject to a State land use program in a State found eligible for grants pursuant to this Act shall indicate the views of the State land use planning agency and/or the Governor as to the consistency of such activities with the program. Prior to indicating such views, the agency and/or the Governor shall consult with officials or representatives of the appropriate local governments. Federal agencies shall not approve proposed projects that are inconsistent with the program, as determined

pursuant to subsection (a) of this section: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views and the relevant Federal agency shall make an independent appraisal of the consistency of the activity with the State land use program.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act, shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 307. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require.

(c) Section 15 of the Airport and Airway Development Act (84 Stat. 219, 225) is amended by adding the following new subsection:

"(d) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a)(1) and paragraphs (A) and (B) of subsection (a)(2) of this section in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

(d)(1) Section 104, title 23 of the United States Code, is amended by adding the following subsection:

"(2) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal-aid highway funds, other than funds authorized to be appropriated under subsection (b) of section 108 of the Federal Aid Highway Act of 1956, as amended, or funds for planning and research, which would otherwise be apportioned to such State in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

(2) Subsection (f) of section 109, title 23 of the United States Code, is amended by deleting "or control of" in the first sentence.

(e) Subsection (b) of section 5 of the Land and Water Conservation Act of 1965 (78 Stat. 897, 900), as amended, is amended by adding after the second paragraph the following paragraph:

"Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement under paragraphs (1) and (2) of this subsection in the fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

TITLE IV

FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands; and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to the Federal lands shall publish a statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and, where inconsistent, the reasons for such inconsistency thirty days prior to the establishment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation at least seven days prior to the publication of such statement.

SEC. 402. (a) As a condition of continued State eligibility for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 303 and 304 of this Act includes methods for insuring that Federal lands within the State, including but not limited to units of the national park system, wilderness areas, and game and wildlife refuges, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with subsection (b) of section 304.

(b) The procedures for determination of grant eligibility provided for in section 305 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the State or States involved and with other appropriate officials of the State or States and local governments involved. The Governor of each State involved shall appoint the officials of the affected agencies of his State.

(b) Each joint committee shall terminate at the end of two years from the date of establishment.

(c) Joint committee members may each be compensated at the rate of $100 for each day each member is engaged in the actual performance of duties vested in the joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however*, That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State official.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary and may include:

(1) conducting a study of and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land

use programs developed pursuant to sections 303 and 304 of this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a conflict pursuant to subsection (e) of this section, the Secretary shall:

(1) where he has legal authority, take any appropriate and necessary action to minimize such conflict;

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to minimize the conflict and to enhance cooperation and coordination between the planning and management of Federal lands and of adjacent non-Federal lands; and

(3) if he determines that the legal authority to resolve general or specific land use planning and management conflicts between the Federal Government and State and local governments is lacking in the Executive Branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner which would impair the national purpose or objective for which the Federal lands involved are being managed.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent of Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such conflict.

SEC. 405. (a) Prior to the making of recommendations on any conflict pursuant to subsection (e) of section 403, each joint committee shall, when the public interest warrants, conduct a public hearing in the State on such conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing be warranted, the joint committee shall solicit the views of all affected parties and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pusuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings.

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (a) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or interstate agency; and (b) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) The term '"local government" means any general purpose county or municipal government, or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(c) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(d) The term "non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (c) of this section and are not held by the Federal Government in trust for the benefit of Indians, Aleuts, and Eskimos.

(e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include—

(1) coastal wetlands, marshes, and other lands inundated by the tides;

(2) beaches and dunes;

(3) significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

(4) areas of unstable soils and high seismic activity;

(5) rare or valuable ecosystems;

(6) significant undeveloped agricultural, grazing, and watershed lands;

(7) forests and related land which require long stability for continuing renewal;

(8) scenic or historic areas; and

(9) such additional areas as a State determines to be of critical environmental concern.

(f) The term "key facilities" means:

(1) public facilities on non-Federal lands which tend to induce development and urbanization of more than local impact and including:

(A) any airport that is designed to serve for regular, scheduled air passenger service, and other airports of greater than local significance;

(B) interchanges between the Interstate Highway Systems and frontage access streets or highways, major interchanges between other limited access highways and frontage access streets or highways;

(C) frontage access streets and highways of State concern; and

(D) major recreational lands and facilities;

(2) major facilities on non-Federal lands for the development, generation, and transmission of energy.

(g) The term "development and land use of regional benefit" means land use and private development on non-Federal lands for which there is demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

GUIDELINES, RULES, AND REGULATIONS

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

(b) The Secretary, after appropriate consultation with representatives of the States and, where appropriate, officials or representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations to implement the guidelines formulated pursuant to subsection (a) of this section and to administer this Act, except with respect to subsection (f) of section 305 of this Act.

BIENNIAL REPORT

SEC. 503. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 504. Upon request of the Secretary, the head of any Federal agency is authorized: (a) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (b) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 505. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State found eligible for grants pursuant to this Act to assist such State in the performance of its function under this Act.

HEARINGS AND RECORDS

SEC. 506. (a) For the purpose of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, re-

ceive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 507. (a) From the sum appropriated pursuant to section 510, the Secretary is authorized to make grants provided for in this Act to States found eligible for financial assistance pursuant to this Act, the proposals of which are approved, in any amount not to exceed ninety per centum of the estimated cost of developing the State land use programs for the five complete fiscal year period following the enactment of this Act. Thereafter, grants may be made in an amount not to exceed two-thirds of the estimated cost of administering the State land use programs.

(b) Grants pursuant to this Act shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any grant made for the purpose of this Act shall increase, and not replace, State funds presently available for State land use planning activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys or investigations under other federally assisted programs.

(d) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 508. The method of computing and paying amounts pursuant to this Act shall be as follows:

(a) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this Act for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Secretary may find necessary.

(b) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this Act was greater or less than the amount which should have been paid to such State for such prior period under this Act. Such payments shall be made through the disbursing facilities of the Department of the Treasury, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 509. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. For each of the eight full fiscal years following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $100,000,000 annually to carry out the purposes of this Act.

SEC. 511. For each of the five full fiscal years following enactment of this Act, there are authorized to be appropriated $10,000,000 annually to the Secretary of the Interior to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his analysis and such recommendations for amendments to the Act as he deems proper and appropriate.

EFFECT ON EXISTING LAWS

SEC. 512. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development, or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; or to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may yield for unanimous-consent requests to the Senator from Idaho, the Senator from Massachusetts, and the Senator from Maine, without the time being charged to either side on the bill.

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

Mr. JACKSON. First, I yield to the Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that Charles Cook, Ray McGuire, and Ed Webster have the privilege of the floor during the consideration of this bill and during the vote.

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

Mr. JACKSON. I yield to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Leon Billings and Don Alexander, of the subcommittee staff, be permitted on the floor during the course of the debate on this bill.

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

Mr. JACKSON. Mr. President, I yield to the senior Senator from Massachusetts.

COMMUNICABLE DISEASE CONTROL AMENDMENTS OF 1972—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 3442, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BROCK). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3442) to amend the Public Health Service Act to extend the authorizatiton for grants for communicable disease control and vaccination assistance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is their 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, volume 118, part 22, pages 29566–29568.

Mr. KENNEDY. Mr. President, I am delighted to bring to the Senate today the conference report on an extremely important piece of health legislation, the Communicable Disease Control Act of 1972. The Senate Health Subcommittee held extensive hearings on the extension of this legislative authority last April. At that time, all of the expert witnesses who testified before the committee recommended that S. 3442 be enacted into law as rapidly as possible. These groups included spokesmen for the American Public Health Association, the American Academy of Pediatrics, the American Social Health Association, the New York City Department of Health, the Action Committee for Childhood Immunization, the Tuberculosis Association, and the State health officers.

The administration, Mr. President, testified against the enactment of this vital piece of health legislation. The Senate Health Subcommittee, the Senate, the House Subcommittee on Public Health and Environment, the House of Representatives, and the conference committee reject that notion. Communicable diseases do not respect political jurisdictions. Accordingly, they are not amenable to control through hit and miss State and local programs. In a society as mobile as ours, the only way to effectively control communicable diseases is through a coordinated national effort.

The impact of communicable disease control on our Nation's history is perhaps nowhere better defined than in the conquest of poliomyelitis. A generation of

young Americans now exist to which the term "infantile paralysis" is essentially meaningless; yet less than two decades ago the annual arrival of summer brought to America's parents a sombre fear of the predictable epidemics of polio about to begin.

Only slightly less dramatic have been the changes wrought by controlling tuberculosis, diphtheria, and measles, by preventing the devastating late sequelae or syphilis.

As a result of communicable disease control activities, communicable diseases have long since given way to chronic degenerative diseases as major causes of death in the United States. However, the efforts to control communicable diseases in this country have also brought with them repeated lessons in the harsh reality that without persisting vigilance, communicable disease control is a sometime thing. In the late 1950's following curtailment of assistance provided under the Poliomyelitis Vaccination Assistance Act of 1955—extended through 1957—epidemics appeared in Providence, Chicago, and Detroit, taking a needless toll among the urban poor. A special appropriation of $1 million in May 1960 was necessary to provide oral polio vaccine for purposes of controlling epidemics.

The apparent need to continue support for polio prevention led to passage of the Vaccination Assistance Act of 1962 which provided funds to combat poliomyelitis, whooping cough, diphtheria, tetanus, and when an effective vaccine became available, measles. The subsequent years constituted a "Golden Age" of gains against diseases preventable by immunization. But on June 30, 1968, the Vaccination Assistance Act expired and funds appropriated under that legislation were exhausted in 1969. The incidence of measles resurged briskly in 1969 and 1970, and in 1971 reached the highest level of incidence recorded since widespread use of measles vaccine began. Significant increases were also seen in the incidence of diphtheria and poliomyelitis. The epidemiological pattern of resurgence in all these diseases was remarkably similar to the earlier experience with poliomyelitis, to wit, the occurrence of outbreaks among the urban and rural poor who had not been afforded the protection of vaccination.

The history of syphilis control activities confirms the need for viewing communicable disease control as a long term commitment. Following World War II syphilis incidence fell sharply under the combined influences of the introduction of penicillin, and the availability of Federal budget support for State and local VD control projects. With syphilis at an all time low level, close to elimination, Federal support was sharply reduced from 1952 to 1955. In 1957, syphilis began briskly to resurge and increased steadily until 1965. Increased Federal support for syphilis control activities, following the report of the surgeon general's task force on the eradication of syphilis in 1961, stimulated an intensified commitment against syphilis and again the incidence of the disease fell. However, with a stable budget during the early mid-1960's, accompanied by increasing inflation, the available effective resources declined and syphilis is again increasing. The other major venereal disease, gonorrhea, until recently was never the target of a nationwide control program. Gonorrhea has dramatically increased and now constitutes a nationwide epidemic of immense proportions. Over 2½ million cases are estimated to have occurred last year in the United States.

In tuberculosis control, under the influence of Federal project support, beginning in 1965 the incidence of new active cases fell at an increasingly rapid rate. More significantly, evidence of new infections among our Nation's children, reached a nearly irreducible minimum. However, the termination of Federal tuberculosis control project support in 1971 has already forced major reductions in preventive services for tuberculosis in many areas. The recent sharp decline in tuberculosis case rates is expected to be slowed if not reversed. Already there is evidence that tuberculosis infections are increasing in incidence in certain groups of the urban poor, especially nonwhite males.

A further lesson learned in the history of disease control in the United States, is the national scope of the threat posed by these diseases. By their very transmissible nature, communicable diseases know no geographic boundaries. Local control efforts are futile in the absence of a nationally coordinated effort. The natural tendency for communicable diseases to spread, particularly among major population conglomerations, has intensified greatly as our citizens have become more mobile in search of personal and occupational satisfaction. There can be no reasonable argument now against continuing Federal responsibility in response to communicable disease control.

Mr. President, the essential elements of the Senate bill are retained in the conference report now pending before the Senate. The conference report authorizes over the next 3 years a total of $33 million for tuberculosis control programs, $18 million to combat measles, $15 million to authorize the secretary of HEW to control any epidemics which may break out, $187.5 million to combat venereal disease, and $69 million to combat other communicable diseases, such as polio, DPT, RH disease, and mumps.

Finally, Mr. President the conference report, like the Senate passed bill, prohibits the use of other authorities contained within the Public Health Service Act, such as section 314(e) for the support of communicable disease control programs. The conferees agreed that this restrictive provision was essential given the actions taken by the administration in respect to the funding of communicable disease control programs since those programs were last authorized by the Congress in 1970.

Mr. President, this legislation has already been overwhelmingly approved, on a bipartisan basis, by both Houses of the Congress. Last week, the House agreed to the conference report. Today, with the approval of the conference report in the Senate, this legislation will go to the White House for the President's approval.

I urge my colleagues to vote in favor of the conference report on S. 3442.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The Senate continued with the consideration of 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.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BROCK). The Senator from Washington will state it.

Mr. JACKSON. Do I correctly understand that the time on this bill is 1 hour, to be equally divided between myself as chairman of the committee and the Republican Member on the Republican side?

The PRESIDING OFFICER. Yes; that would be the Senator from Colorado (Mr. ALLOTT).

Mr. JACKSON. But in his absence——

The PRESIDING OFFICER. The Senator from Idaho (Mr. JORDAN).

Mr. JACKSON. I thank the Chair.

Mr. President, I yield myself 5 minutes.

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

Mr. JACKSON. Mr. President, S. 632, the Land Use Policy and Planning Assistance Act of 1972, embodies a recognition that our country is experiencing a land use crisis which has been caused by increasingly competitive economic, social, and environmental demands upon a very finite land resource. S. 632 would provide the States with financial and technical assistance to exercise States rights and to develop, in full partnership with local governments, a land use planning process and a State land use program.

This matter has been before the Senate in the previous Congress. It has been on the calendar for 2 months and I believe that we should now move expeditiously.

The State land use planning process and program would not displace land use planning functions that have traditionally been made by local government. It would strengthen local government while, at the same time, assisting the States to develop the capacity to make decisions concerning critical areas and uses that are regional in character or of more than local concern. The States must, and can with the assistance of this act, assist localities in rendering land use decisions which have an impact way beyond the jurisdictions of those localities.

Mr. President, this legislation has been under active consideration in the Senate for over 2½ years. Late in the 91st Congress, S. 632's forerunner was reported to

the Senate but not formally considered. After 4 days of hearings in this Congress—8 days of hearings in the past 2½ years—numerous executive sessions and consultations with representatives of the administration, the Governors' Conference, the League of Cities, representatives of industry and environmental groups, S. 632 was again ordered reported on June 5. It has now been on the Senate calendar for nearly 2 months. The time for action on S. 632 is now.

Mr. President, the Land Use Policy and Planning Assistance Act is a realistic and widely favored proposal. It is supported by the Governors' Conference, by nearly 30 individual Governors, by representatives of county and city government, by all the major conservation and environmental groups, and by many users of the land—industry, forest products representatives, farm groups and water resource associations. The need for land use policy legislation has been identified by the Douglas Commission, the Kerner Commission, the Kaiser Committee, and the Advisory Commission on Intergovernmental Relations. Congress recognizes and must respond to this need.

The Land Use Policy and Planning Assistance Act of 1972 is of critical importance if this Nation is to meet the increasing pressures of industrialization, technological advances, population growth, and rapid urbanization, and to attain our economic, social, and environmental goals. As land use increasingly becomes the focal point for conflicts over national, State, and regional goals, public officials and private citizens alike view with dismay the chaotic, ad hoc, short-term, crisis-by-crisis, case-by-case land use decisionmaking employed all too frequently today.

Sobering statistics suggest that, unless our land use decisionmaking processes are vastly improved at all levels of government—local, State, and Federal—the United States will be unable to meet the emerging land use crisis. Over the next 30 years, the pressures upon our finite land resource will result in the dedication of an additional 18 million acres or 28,000 square miles of undeveloped land to urban use. Urban sprawl will consume an area of land approximately equal to all the urbanized land now within the 228 standard metropolitan statistical areas—the equivalent of the total area of the States of New Hampshire, Vermont, Massachusetts, and Rhode Island. Each decade, new urban growth will absorb an area greater than the entire State of New Jersey. The equivalent of 2½ times the Oakland-San Francisco metropolitan region must be built each year to meet the Nation's housing goals. In the next two decades, one industry alone—the energy industry—will require vast areas of land: New high-voltage transmission lines will consume 3 million acres of new rights-of way, while 225 new major generating stations will require some 140,000 acres of prime industrial sites.

In short, between now and the year 2000, we must build again all that we have built before. We must build as many homes, schools, and hospitals in the next three decades as we built in the previous three centuries. In the past, many land use decisions were the exclusive province of those whose interests were selfish, short-term and private. In the future—in the face of immense pressures on our limited land resource—these land use decisions must be long-term and public.

It is the view of the Committee on Interior and Insular Affairs that to avoid a national land use crisis—to advance a design calculated to meet, without dictating, national goals, values, and requirements—there is a major need for early enactment of legislation to assist State and local government to improve their land use planning and management capability. This view is shared by the administration, by the National Governors Conference and many individual Governors, and by almost all of the witnesses who appeared before the committee in the last 2½ years.

Russell Train, chairman of the Council on Environmental Quality, stated:

> It is a matter of urgency that we develop more effective nationwide land use policies and regulations . . . Land use is the single most important element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy. Land is our most valuable resource. There will never be any more of it.

Not only is land finite, but unlike air, water, and many minerals and materials, land too often cannot be "recycled." Mountains carved by strip mines, wetlands dredged and filled, or streams channelized frequently cannot be returned to their former use or beauty. Land, once committed to a use today, be it social, economic, or environmental, may be unable to support uses which our children will find preferable in the future. As President Nixon noted in a recent letter to me:

> As a Nation we have taken our land resources for granted too long. We have allowed ill-planned or unwise development practices to destroy the beauty and productivity of our American earth. . . . The country needs this [legislation] urgently.

Future land use planning, however, should serve more than environmental values alone. It should not be viewed as mission-oriented either in the narrow sense of fostering a specific set of activities or in the larger sense of pursuing exclusively the goal of environmental protection or the goal of improving social services. Rather, it must balance competing environmental, economic, and social requirements and values to avoid the costly mistakes of both thoughtless, precipitate development and unwarranted, dilatory opposition to beneficial development.

Many of the most crucial problems and conflicts facing all levels of government in the areas of protection of environmental quality, siting of energy facilities and industrial plants, design of transportation systems, provision of recreational opportunities, and development of natural resources are the direct result of past failures to anticipate public requirements for land and to plan for its use. The economic loss, the delays, the resource misallocations, and the social and environmental costs which this failure to plan has cost the Nation are in large measure unnecessary expenses which could have been avoided had appropriate planning been undertaken earlier. It is the committee's view that adoption of this act and a good faith effort by the States to exercise responsibility for the planning and management of land use activities which are of more than local concern will greatly reduce needless conflicts, will avoid misallocations of scarce resources, will save public and private funds, will insure that public facilities and utilities—powerplants, highways, airports and recreational areas—are available when needed, and will improve State-Federal relations in all areas of mutual concern.

S. 632, as reported, contains the best features of the previous land use policy bill as introduced, of the administration's proposal (S. 992), of the proposals of Senators ALLOTT, JORDAN, and MATHIAS (S. 3175, S. 3177, S. 2554), and of the many recommendations received during the 2½ years of committee deliberations. The central purpose of the proposal is to provide Federal technical and financial assistance to the States to encourage them to exercise States' rights and improve their knowledge, institutions, procedures and methods for land use planning and management. The measure also provides important new authority designed to improve coordination between the planning efforts of the Federal Government and State governments.

S. 632's grant-in-aid program would provide the States with $100 million a year for 8 years. The grant funds would cover up to 90 percent of the cost of developing the State land use programs for the first 5 years and 66⅔ percent of the cost of administering the programs for the last 3 years.

The State is required to develop a State planning process within 3 years. The process must include a data and information base, adequate funding, competent staff, and an appropriate agency to cordinate planning at the State level.

The State is then required to develop, within 5 years of enactment, a land-use program which focuses on four categories of critical areas and uses of more than local concern. These areas and uses are considered to be of State interest because decisions concerning them have impacts on citizens, the environment, and the economy totally out of proportion to the jurisdiction and the interests of the local zoning body or land-use regulatory entity. These four categories of areas and uses of more than local concern are: First, areas of critical environmental concern—for example, beaches, flood plains, wetlands, historic areas; second, key facilities—major airports, highway interchanges and frontage access highways, recreational lands and facilities, and facilities for the development, generation and transmission of energy; third, development and land use of regional benefit; and fourth, large-scale development—for example, major subdivisions or industrial parks.

I wish to make clear that the act does not contemplate sweeping changes in the traditional responsibility of local government for land-use management. Decisions of local concern will continue to

be made by local government. However, for land-use decisions which would have significant impact beyond the jurisdiction of the local public or private decisionmakers, the act provides for wider public participation and review by the State, as representative of the large constituency affected by those decisions.

The procedures for, and the nature of, State involvement in land-use decisions are left largely to the determination of the individual States. A State may either plan directly for the areas or uses subject to the State land-use program or it may reassert the authority and responsibility of appropriate levels of local and regional governments to plan and control these areas and uses and simply provide oversight through a set of State guidelines and an appeals process. Certainly, most States have demonstrated a decided preference for the latter procedure.

Another point which should be emphasized is that the Federal review of State land use programs focuses not on the substance of those programs, but on whether each State has authority to develop and implement its program and whether it is making good faith efforts to do so. This is in keeping with the act's purpose to encourage better and effective land use decisionmaking at the State and local levels, and not to provide substantial new land use decisionmaking authority on the Federal level.

To administer the grant-in-aid program, the act establishes a new Office of Land Use Policy Administration in the Department of the Interior, separate from any mission-oriented bureau.

To encourage State government to assume responsibility for the major land use activities occurring within its boundaries, in addition to the grant-in-aid incentive, the act provides for two sanctions. Neither sanction may be invoked without an express secretarial finding of a lack of good faith compliance, an opportunity for appeal and review by a disinterested panel, and Presidential action. The first sanction is the withholding of grant-in-aid money authorized under the act. The second sanction, proposed by the administration and amended by the committee, is a phased withholding over 3 fiscal years, beginning at 7 percent, going to 14 percent and ending at 21 percent, of funds under three other Federal programs—airport development funds, primary and secondary Federal-aid highway funds, and land and water conservation fund moneys. This sanction may be invoked only after 5 fiscal years and, when the State land use program again meets the requirements of the act, any funds withheld must be disbursed to the State. The three programs for which funds would be withheld are deemed to have the most significant long-range and irreversible impacts upon land use patterns because of the exceptional influence they have over public and private development.

Certainly, the land use impacts of Federal and federally assisted programs exert the most profound influences upon local, State and national land use patterns. Yet these programs either have conflicting land use implications or the Federal officials administering them are not fully cognizant of their land use impacts. S. 632 requires the Federal Government to "put its own house in order" at the same time that it asks the States to do likewise. The Secretary of the Interior is directed to consult with heads of other agencies and to form a National Advisory Board on Land Use Policy to provide interagency communciation concerning the land use impacts of and policies in Federal and federally assisted programs.

The act also encourages coordinated planning and management of Federal lands and adjacent non-Federal lands. Both the Federal Government and the State and local governments are required to provide for compatible land uses on adjoining lands under their respective jurisdictions. In addition, short term ad hoc joint Federal-State committees, composed of representatives of affected Federal agencies, State agencies, local governments, and user groups, may be established by the Secretary of the Interior to study general or specific conflicts between uses of Federal lands and uses of adjacent non-Federal lands. The Secretary is directed to resolve such conflicts or, where he lacks the requisite authority, to recommend legislative solutions to Congress.

Mr. President, the chaotic land use decisionmaking of today will insure an unsightly, unproductive, and unrewarding land resource for future generations of Americans. To avoid this unfortunate tomorrow, we must improve our land use policy, procedures, and institutions. I commend the Land Use Policy and Planning Assistance Act of 1972 to the Senate as the best vehicle to achieve this improvement.

Mr. President, I feel strongly that this particular piece of legislation is long overdue and I hope that the Senate will act expeditiously this afternoon and this evening to see that it is approved, finally, in this session of Congress.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mr. John Hussey of our Subcommittee's staff on Oceans and Atmosphere be extended the privilege of the floor during debate on the pending bill.

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

Mr. JACKSON. Mr. President, on that same point, because other committees are involved, I ask unanimous consent that Carl Coan and Robert Malakoff of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs be permitted the privilege of the floor during consideration of the pending bill.

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

Mr. JORDAN of Idaho. Mr. President, I yield myself 5 minutes on the bill.

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

Mr. JORDAN of Idaho. Mr. President, I speak in support of S. 632, the Land Use Policy and Planning Assistance Act of 1972.

The language of the bill was refined and improved in a bipartisan effort in the Interior Committee under the able leadership of Mr. JACKSON and Mr. ALLOTT. It is one of the most important pieces of legislation to emerge from the Senate Interior Committee this session.

I am sorry that Senator ALLOTT could not be present today for this floor action on S. 632. Always an able and discerning legislator, he has taken a leading role in perfecting this legislation and helping bring it to the floor under circumstances which forecast Senate approval.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement which Senator ALLOTT prepared in support of this legislation.

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

STATEMENT BY SENATOR ALLOTT

I rise in support of S. 632, a bill commonly referred to as the "Land Use Planning Bill".

Like most legislative landmarks, this measure has undergone substantial evolution prior to arriving at this point in the legislative process. It is, I believe, a fair statement to say that the bill has been totally rewritten several times. It is an understatement to say that land use is a thorny problem, Senators are aware of the many bitter battles over zoning decisions at the local level, and while I believe this is a good bill, it is not a panacea. Land use decisions in the future are likely to be hotly contested, but it is the intent of this measure to insure that the planners and the contestants are more fully informed as to the consequences of a given decision.

It may well be that deficiencies in the measure will manifest themselves in the future, and in order to insure that the Congress would be required to review the administration of this measure, the Committee adopted my amendment to terminate the appropriation authorization for the Secretary to administer the program at the end of five years and to terminate the appropriation authorization for grants to the states at the end of eight years. The termination of these appropriation authorizations provides an action forcing mechanism requiring the Congress to renew and extend them. At such time as the appropriation authorization is renewed, it would be appropriate, proper, and anticipated, that Congress would make a complete review and hold extensive hearings on the measure and how it was working.

The purpose of S. 632, is not to impose land use decisions on the states from the national level, to cloak such decisions in a mantle of emanating from a superior wisdom, and to entomb those decisions in the bureaucratic graveyard never to be exhumed and examined. Rather, it is intended to be a legislative device designed to establish a mechanism whereby and through which balanced and relevant land use decisions may be made, reviewed, and appropriately modified when the need arises and discretion dictates. Frequently, in hindsight, we tend to point to the "mistakes of the past" and express our determination to do better and avoid such mistakes. The danger is that we could cloud our vision and believe that decisions can be made now concerning land use that will always be "right" decisions. Those decisions are then "set in concrete", and are considered sacrosanct, never to be reviewed. Land classification or uses should be periodically reviewed to determine whether they are still relevant to the needs of our citizens and to the circumstances of the present and foreseeable future. Only by so doing can we insure that "right" decisions are indeed "right", and that the "right" decisions of yesterday are still "right" today. S. 632 provides for several review procedures and the automatic updating of planning programs. Such review and updating will help to

insure that land use programs are current and in keeping with the needs of our citizens.

Colorado has been a leader in the field of land use planning. It has enacted organic legislation creating the Colorado Land Use Commission under the able leadership of Governor John Love, and the Commission is vigorously carrying out its mandate from the Legislature. I have been informally advised that Colorado's land use program and control structure would qualify under the provisions of S. 632 as it is now constituted.

The President has indicated that enactment of land use planning legislation is one of his highest priorities. While the Administration does not endorse in every detail S. 632, the bill does incorporate the basic principles of the Administration's proposal for land use legislation and the Administration has urged prompt consideration and action on the measure.

Mr. President, I am sure that many Senators will agree that in the past land use decisions have had grave undesirable results, often not anticipated at the time of the decision-making. The reason for such erroneous decisions has frequently been an inadequacy of reliable data upon which to base a decision. S. 632 would address itself to this deficiency and would assist states to develop land use planning data and information so essential to intelligent decision-making. It is hoped that this legislation will help us to bring order out of the present chaotic land use conditions without unnecessarily impinging upon the rights of the individual citizen to enjoy fully his private property rights.

Mr. JORDAN of Idaho. Mr. President, I wish to echo the statement that has been made many times that a National Land Use Policy Act is an idea whose time is come. In fact, it is long overdue.

We have built a great Nation in this country and we are proud of it. We have put the forces of nature to work to do so. Unfortunately, we did not always exercise the maximum foresight or planning, particularly with respect to the use of the land—our basic natural resource. As the population grows land use conflicts will increase. So, having successfully faced the challenge of acquiring and developing what was originally a wilderness, we now face perhaps a more difficult challenge. That challenge is to repair the damage we have already inflicted and to find ways to meet our ever-growing needs without creating more problems and conflicts in the use of our land resources.

S. 632 addresses this challenge from what I consider the only perspective. It addresses it as essentially a State problem. It offers Federal assistance, financial and technical, to States which are willing to set up land use planning programs. It does not attempt to encourage or even allow the Federal Government to tell the States how to use their land resources.

This was a central feature of President Nixon's proposed National Land Use Policy Act, the essential elements of which we reflected in S. 632 as reported by the committee.

Later I will offer some amendments to the bill on behalf of the administration, myself, and my colleagues. At this point I merely want to voice my support for the bill, and to state that although the administration feels strongly that the bill could be improved, it has also stated in a letter to the committee chairman that S. 632 now conforms in large part to the administration proposal. I hereby ask unanimous consent to have printed at this point in the RECORD, letters from the Department of the Interior and the Council on Environmental Quality bearing on this legislation.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 2, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of July 31, 1972, requesting this Department's comments on S. 632 as reported.

S. 632 as reported would establish a national land use program administered by the individual States. It is similar to the Administration's proposal on this subject in many respects and conforms in large part to the objectives of the Administration's proposal. There are, however, some areas which we feel should be amended, as was indicated in Chairman Train's letter to you on this subject dated August 1, 1972, with which we concur.

You have asked whether this bill would affect this Department's ability to administer laws and programs under its jurisdiction. We have previously and continue to note our objection to much of title II of the bill on the ground that it would unnecessarily restrict this Department's ability to administer the land use program established by S. 632 by creating an unnecessarily cumbersome, inflexible, and expensive organizational structure, including a National Advisory Board on land use policy. We are prepared to furnish language to remove these provisions.

You also ask whether adequate provision is made for this Department to participate in the review of State land use programs. We feel that adequate provision has been made.

We urge Congress to move promptly to enact this important piece of legislation.

Sincerely yours,

JOHN W. LARSON,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., August 1, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested in your recent letter the Council's comment on S. 632, the Land Use Policy and Planning Assistance Act of 1972, particularly with respect to its consistency with other environmental legislation and the Administration's proposals in the environmental area.

As you know, S. 632 incorporates the basic principles of the Administration's proposals for land use legislation announced in the President's Environment Messages last year and this year. This is extremely important legislation on which the Congress should act now. As you know, the Administration has worked closely with you and Senator Allott and other members of the Committee to arrive at a satisfactory land use bill. Although S. 632 in large part now conforms to the Administration's proposal, there are still some parts of the bill to which we will urge amendments, for example:

1. *The Planning Process.* The explicit requirements of S. 632 that the States prepare a complete inventory of their resources, compile extensive data and make projections of land needs, etc., within three years appears to conflict with the Administration's position that the States need not prepare a complete plan but instead simply have a *method* for carrying out a comprehensive planning process.

2. *Sanctions.* We are pleased that your Committee adopted the Administration's recommendations for a graduated reduction of funds from the Federal Highway, Airport, and Land and Water Conservation Funds for States without adequate land use programs. However, we would recommend deleting the "ad hoc hearing board," and also providing imposition of the sanctions after three instead of five years.

3. *Funding.* While adequate funding is necessary, we feel that the $100 million authorization is far in excess of what is reasonably needed. We recommend that the authorization be set at $40 million annually for the first two years on the basis of a two-thirds Federal share and $30 million annually for the next three years on the basis of a one-half Federal share.

The Administration will be furnishing you and Senator Allott promptly the language of the specific amendments to the bill.

However, despite the above changes to the bill which we consider highly desirable, I wish to reemphasize that your Committee has made great progress in reporting out this important legislation. In no way do we view S. 632 as conflicting with existing air or water quality legislation or the goals of other environmental legislation. On the contrary, it is fully consistent with and supports them, and I am informed that the Environmental Protection Agency concurs in these views.

Sincerely yours,

RUSSELL E. TRAIN,
Chairman.

Mr. JORDAN of Idaho. Mr. President, I do not contend that this legislation is the answer to the manifold and complex problems facing us in land use planning, but it is a start.

Fortunately, in this, as in many other problem areas which come before the Congress, the States have voluntarily taken the leadership. A number of States already have enacted land use planning laws. This diverse State legislation will help those farsighted States get off to a fast start in implementing the Federal program proposed here today, and their efforts to solve land use problems on the State level will help other States devise the best means of achieving the goals sought in this legislation. This exploration and testing on the State level is the genius of our republican form of government, and I hope the Congress will continue to cherish and nurture it in such State-oriented legislation as this offered today.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, I appreciate the opportunity afforded by the distinguished chairman of the Committee on Interior and Insular Affairs to comment on the proposed land use management legislation now before the Senate. I have great respect for the chairman and I recognize the diligent work he has done on this problem of national land use management.

My reason for joining this debate today is to discuss with the Senator from Washington and the members of his committee our standing agreement on the compatibility of the national land use bill and S. 3507, the Magnuson National Coastal Zone Management Act of

1972. This bill passed the Senate 68 to 0 on April 25, 1972, and was adopted 376 to 6 by the House of Representatives on August 2, 1972. This bill is now before a committee on conference which expects to report out a final version before this Congress adjourns.

The coastal zone bill has been before the Congress more than 2 years, following a major recommendation by the National Commission on Marine Science, Engineering and Resources in its report, "Our Nation and the Sea." The Committee on Commerce and its Subcommittee on Oceans and Atmosphere, which I am privileged to chair, has conducted exhaustive studies and numerous public hearings to amass a staggering record of support for coastal zone management. This record is consistent with the findings of the Committee on Interior and Insular Affairs about the condition of national land use management.

Members of the Committee on Commerce recognized, however, that the supporters of land use legislation had some genuine concern about the scope of the proposed Coastal Zone Management bill and any conflicts it might pose once a national land use program is achieved. In an attempt to accommodate our bill S. 632, we worked out a series of changes in S. 3507 proposed by Interior Committee members in exchange for an understanding that these two programs can work together, side-by-side, with full and complete communication and coordination on the part of the agencies and States involved. Through our negotiations, the definition of what actually constitutes the "coastal zone" is limited to those lands whose use has a direct, significant and adverse impact upon the coastal waters. The effect of our bill is to protect the waters of the coastal zone—the beaches, salt marshes, sounds, harbors, bays, and lagoons—from the uses of the adjacent land. The intent of the legislation is not to infringe upon or take jurisdiction over any national program of land use management, or any Federal parks, Federal lands or lands under jurisdiction of the Federal Government. Moreover, should the States adopt a land use program, there is absolutely no reason to believe that such a program could not be fully consonant with a coastal zone program. The two could actually be operated by the same State agency. Such plans could be approved by the Secretary of the Interior and the Secretary of Commerce—the administrators of the respective programs—through some congressionally approved consultation and coordination formula, such as a board or commission in the Executive Office of the President.

S. 3507 sets up such a Board for the purpose of providing "for the effective coordination between programs of the Federal agencies within the coastal zone . . ." and, Mr. President, "in the case of serious disagreement between any Federal agency and a coastal State in the development of the program, the Board shall seek to mediate the difference." Finally, this Board can provide a forum for appeals by any areawide planning entity or unit of local government from any decision or action of the Secretary or the management agency of the State and local area.

Personally, I recognize that our national goals must include care to protect all of our lands and waters. But environmentalists and scientists have long recognized the special unique nature of the coastal zones. Today, there is a crisis at hand in our coastlines. S. 3507 will provide the means to avoid this crisis by creating a Federal program to grant financial assistance to the States to protect the coastal waters and shorelines. Many States have already begun to act even without Federal aid. The problem is so critical that these courageous States have committed tax revenues from hard-pressed budgets in their determination to protect this irreplaceable natural asset. S. 3507 recognizes this need and will come to the assistance of the States to help them tackle this immensely important job.

Mr. President, S. 3507 is aimed at providing orderly, sound growth in a narrow strip of land so as to protect the water of our coastal States, Great Lakes States and our territories. The management program authority may extend inland only so far as is necessary to protect those waters, and the bill specifically restricts it to land which, as I have said, has a "direct, significant and adverse impact upon coastal waters." So one can readily see, S. 3507 is not intended to encroach upon national land use planning. By the same token, we believe that the needs of the coastal zone are sufficiently different to demand a separate management regime. The critical and special nature of these needs and the authority of the coastal zone management program created in S. 3507 must be respected by those who eventually administer S. 632. This was the agreement between the Committee on Commerce and the Committee on Interior and Insular Affairs when S. 3507 passed the Senate. I am proud of this coastal zone legislation, proud because it is among the most important pieces of environmental legislation ever adopted by Congress. It will help us preserve the natural beauty and assets of a nation much blessed by nature. And I am doubly proud that the Senate continues to provide the leadership this Nation needs to sort out and solve our environmental problems now, before it is too late. Thank you.

Mr. JACKSON. Mr. President, I would like to take this opportunity to compliment the Senator from South Carolina (Mr. HOLLINGS) on the statement on S. 632 and S. 3507.

The Senator's discussion of the agreement between the Commerce Committee and the Interior and Insular Affairs Committee concerning these two major environmental bills is accurate, and it is appropriate that this agreement be reflected in the legislative history of S. 632.

Let me further say that I have always found the Senator from South Carolina to be reasonable, fair, and gracious in our negotiations on the difficult questions presented by these two measures. It is my judgment that the two bills are compatible and that if enacted into public law they can be administered without conflict, without unnecessary expense, and without placing duplicative requirements upon State and local governments.

Mr. President, I yield 10 minutes to the distinguished junior Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. MUSKIE. Mr. President, the Land Use Policy and Planning Assistance Act which we consider today has significant implications—perhaps greater than any domestic legislation we have yet considered in this session of Congress.

It mandates that States closely supervise or control land use decisions which have long been the province of local government; it requires States to coordinate all State and local services which significantly affect land use; it establishes the Federal Government as supervisor of these newly centralized State responsibilities; and it proposes policies for land use and resource conservation which appear to be oriented towards development and may conflict with environmental legislation we have enacted.

These proposals will have significant ramifications on the financial structure and sovereignty of State and local government, on the relationship of the Federal Government and States in the federal system, and upon the future of Federal and State laws to protect the environment.

This bill creates an outline for national land use policy with no substance; declares a national policy but concedes to the several States responsibility to determine what that policy should be, subject only to procedural review by the Department of Interior.

Federal legislation of this magnitude, with far-reaching impact on many Federal programs—at least 112 by the Interior Committee's count—must provide some Federal policy guidance. This legislation provides none. It is my intent to offer amendments to assure that the bold steps taken in the Clean Air Act and the Federal Water Pollution Control Act are not set back by seeming conflict and inconsistency with the legislation which we consider today. I would also hope there would be little controversy as to an amendment to assure that States and localities continue to be permitted to adopt strict controls on development without dilution by the policy provisions of this legislation.

Mr. President, beyond the impact on environmental laws, there are three issues raised by S. 632 I would like to discuss. I discussed these issues in a Senate floor speech on August 16. I tried to identify the deficiencies which I felt were inherent in the reported bill.

I discussed these issues on the Senate floor in a speech on August 16. I ask unanimous consent that the text of that speech be printed at this point in the RECORD.

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

SPEECH BY SENATOR MUSKIE

Mr. President: The Land Use Policy and Planning Assistance Act which we are about to consider has significant implications—perhaps greater than any domestic legisla-

tion we have yet considered in this session of Congress.

It mandates that states closely supervise or control land use decisions which have long been the province of local government;

It requires states to coordinate all state and local services which significantly affect land use;

It establishes the Federal government as supervisor of these newly centralized state responsibilities; and

It proposes policies for land use and resource conservation which appear to be oriented towards development and may conflict with environmental legislation we have enacted.

These proposals will have significant ramifications on the financial structure and sovereignty of state and local government, on the relationship of the Federal government and states in the Federal system, and upon the future of Federal and state laws to protect the environment. Yet, despite this potential impact, this legislation was subject to only four days of public hearings during this session of Congress during which little attention was given to the key issues relating to our Federal system.

This bill creates an outline for national land use policy with no substance; declares a national policy but concedes to the several states responsibility to determine what that policy should be, subject only to procedural review by the Department of Interior.

Federal legislation of this magnitude, with far-reaching impact on many Federal programs—at least 112 by the Interior Committee's count—must provide some Federal policy guidance. This legislation provides none.

In an effort to meet some of these dificiencies and highlight this area of concern, I will introduce amendments to S. 632 to set such policy goals. These policy positions, if enacted, would provide valuable public benefits.

I propose these indices or criteria as a possible direction for national land use policy. I urge discussion and amendment of my proposal so that our national land use program includes a true national policy—a clear statement of statutory indices to establish the basic elements of good land use.

Congress has already authorized land use control in the air and water pollution control acts which are necessary to implement the control standards they set. Consequently, it is absolutely essential in any and all legislation affecting national land use patterns to incorporate as a first element the requirements and land use controls of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended. My amendment would do this.

In reviewing, with the benefit of hindsight, the causation of land use development, it is possible to discern patterns where human choice is completely eliminated as a factor. Consider, for instance, a stylized description of water resource and related land use development. Early development generally occurred on flood plains for easy accessibility to water.

Upstream mismanagement exacerbated natural flooding and society responded with publicly-supported food control measures, generally expensive dams, to protect private property. This stimulated further development of flood plains with further need for flood protection and so the cycle runs. Land use development such as this cannot continue.

Flood plains are highly productive lands dependent on flood for replenishment and, to the extent possible, they should not be urbanized or industrialized. National land use legislation should firmly establish this as policy.

One of the most unfortunate national land use patterns we have experienced in the last several years is the loss of high quality agricultural land to suburban and urban sprawl. Any analysis of the future reveals that we can simply not tolerate the loss of food production such practices cause. Therefore, another important element in land use legislation should be the preservation of the remaining good agricultural land in the country. The amendments I propose so provide, with the reservation that development may occur when a Governor deems it essential to health and welfare or where it is necessary to provide low income housing.

Current patterns of land use development operate generally without reference to ecological systems, or even to technical substitutes for certain ecological systems essential for industrial and urbanized communities; namely water supply, energy supply, and solid and water waste disposal and recycling. Development must be in phase with such technological systems and such technological systems must in turn be compatible with the environment in which they are located. Technological systems cannot be overloaded nor can they overload the environment, and land use policy must incorporate necessary controls.

Wetlands like flood plains are extremely valuable ecological systems. They represent the most highly productive biological systems on earth, essential to the entire ocean ecosystem. Clearly, national land use policy must provide for the protection of remaining wetlands.

One of the most damaging policies controlling our present land use, arrived at, I would submit, more unconsciously than consciously, is a premise that land use should be developed around the private, four-passenger, internal combustion automobile. The practices and patterns that have evolved from this presumption appear absurd. For instance, many municipal building codes provide that in the construction of buildings so many square feet of parking space must be provided. And yet we do not require a certain amount of open space or recreational opportunity for the individuals working or living in such buildings. What we provide for the automobile we do not provide for people.

The presumption of an automobile-based society must not be allowed to thwart the objectives of national land use legislation. Perhaps the most important criteria that can be written into any national land use policy is the reversal of the premise of automobile dependency that has held us since World War II.

A present land use practice that tends to intensify environmental degradation is the failure to use existing rights of way for multiple purposes. The landscape is literally crisscrossed with rights of way for highways, for one or another utility service, and for gas and oil pipelines. We cannot continue to spend massive amounts of money and set aside land for new rights of way. We must intensively develop existing rights of way, including the median strips on the Interstate Highway System, so that most essential services can be located on such rights of way in or on the ground and thereby enhance the landscape of our communities.

One of the paramount factors causing the blight and the ugliness that prevails in our urban and rural areas is the practice of suspending utility and communication services overhead on poles along highways and roadsides. This practice simply does not offer the quality of the environment that we in this country should have if we are to preserve amenities necessary for a quality of life. As a national policy we should discourage such practices. With the impending expansion of community antenna TV we must act to avoid the perpetuation of this ugliness and seek the elimination of the suspended wires that have accumulated over so many years.

One of the growing problems with municipal waste sewage treatment systems is the inability to process storm water overflow. Consequently, during storms, raw sewage in great quantities is discharged into the natural waterways. In part, this problem is caused by the increasing practice of making impermeable to water ever larger portions of our landscape—highways, airports, parking lots, roof tops—all exacerbate run off water problems. It is a clear example of shifting private costs to the public sector and should be revised. We must require, as an element of land use, that those responsible for making impermeable a portion of the earth's landscape must prevent the storm water from running rapidly into the public sewer system causing storm water overflow and into natural waterways causing flooding.

Related to the problem of runoff water from paved or other sealed landscape is the deterioration of upland watersheds through poor agricultural management and suburban spread. Upland watersheds must be restored and maintained to perform their ecological function of tempering the rate of water flow in the hydrologic cycle. Consequently, as an element of national land use policy we must establish a policy of preservation of the ecological characteristics of upland watersheds and control development accordingly.

These are some of the criteria for good national land use policy which I intend to propose as an amendment. My proposals are intended to fill the void of S. 632 as reported. I would hope, after discussion of this amendment, that the Senate could approve a responsible set of criteria to serve as a policy guide.

But lack of policy direction while it purports to set Federal policy is only one of my concerns with S. 632.

The legislation before us would require, in a short time, great strides in coordination and consolidation of land use planning efforts, but it entirely ignores the other side of the coin—the excessive dependence of cities and counties on property taxes which has led to the haphazard and confused land use patterns of today. This cannot be ignored. You cannot seriously consider land use planning reform without property tax reform, for they are inextricably tied together in a complex series of relationships dating back to the early days of the Republic.

Mandating major reform of land use planning authority, as S. 632 does, without also addressing the local property tax dependence issue, can further strangle many of our major cities that are already on the verge of bankruptcy.

Today 66% of all locally generated revenues come from the property tax—$38 billion.

Today about 40 states set maximum limits on the property tax rates cities may charge and set limits on local borrowing which relate to the property tax base.

When a city reaches the limits imposed by state law—as some cities such as Detroit and Cleveland have—its only recourse is to somehow influence use of land for greater tax productivity. If this fails, municipal services—police, fire protection, sanitation, etc.—must be cut back.

S. 632 would require states to strip cities of this essential revenue raising option—an option which has created well recognized problems—but S. 632 suggests absolutely nothing be substituted to assure that local revenues will be there to support local services if control of the property tax base is lost or its expansion is restricted. Further, this bill grants supervisory authority for program implementation to the Interior Department which has no experience in cities, no experience in state and local finance, and no experience in comprehensive planning.

I submit we cannot act so casually and after so little consideration on an issue of such vital impact to our grassroots of government at the local level.

Let me emphasize that in taking this position, I am in no way justifying the present

property tax system which is often regressive, haphazard and unfair. Nor am I downplaying the need for more sensible land use planning. I am only stating that we cannot have reform of one without reform of the other.

Last year my Subcommittee on Intergovernmental Relations published a study entitled "Property Taxation: Effects of Land Use and Local Government Revenues". This study clearly identified the close identity of property tax and land use. It stated:

"The low taxaton of land based on present-use value also facilitates speculative holding of land in the path of urban development for large capital gains. An added incentive for withholding land from the market for large price rises comes from the favorable capital gains treatment of land investment profits under the Federal income tax laws. Another Federal income tax feature, the allowance of business building depreciation, creates local pressures to allocate more value to building improvements and less to nondepreciable land. A focus on building improvements in assessments for local property taxation inhibits rehabilitation of older residential properties.

"Large acreages of vacant close-in suburban land as well as rebuildable central city sites are withheld from the market for large price rises under the present property tax system. That occurs as land is taxed at low effective rates, in relation to realistic market value, and building improvements are subject to a relatively greater tax burden. Consequently land prices are high in urbanizing areas and builders "leapfrog" further out to cheaper lands for residential development. Less than optimum size communities are created, entailing high per-unit costs of services, increased daily commutation, and an extension of urban sprawl."

The deadening impact of property taxes on land use in central cities has been starkly illustrated by Mayor Kenneth Gibson of Newark, New Jersey, who stated:

"We must rely upon our local property tax for 65% of our revenues. In a city where we already have one of the highest and most confiscatory rates in the country, we were forced to raise the rate of taxation this year by almost 10%. This increase means that an owner of a $20,000 home will pay about $1,850 in annual property taxes. We have reached a point where our property tax has only hastened the flight of industry, commerce, and the remaining middle class homeowners out of Newark. The excessive rates we are forced to impose have actually been the cause of abandonment, deterioration, and a decline in our tax base. The stark reality finds buildings being abandoned at the clip of one a day."

I shall propose amendments to face the property tax issue as part of this land use reform package if it is to be adopted.

Beyond my general concern that major land use reform without property tax reform may be ineffective while doing severe harm to local fiscal structures, I have several very specific questions about the impact of this legislation which, I believe, must be answered before it is enacted:

(1) Will the state assumption of land use control required in this bill shift liability for damages from incompatible land uses—such as airport noise—from local governments to the states? This is no small matter. It will mean shifting up to $10 billion in damage claims from Los Angeles to the State of California. As states are specifically required to assume "determinative" authority over land use around airports, it would appear they also might be liable for allowing continuation of incompatible uses.

(2) Will the uncertainties of impending state controls compromise the capacity of municipalities to borrow money? The borrowing capacity of municipalities is closely tied to property values and property tax income. Changes in zoning designations from agricultural to commercial or from low density to high density residential, for example, can mean thousands of dollars of revenue and hundreds of thousands or even millions of dollars in increased tax base on which to borrow. Any federally required state actions or potential actions which might restrict use designations to less valuable uses could compromise capacity of some localities to sell bonds and if the more restrictive use designations were imposed could make some bond sales based on the higher assessed valuations actually illegal.

(3) If a state assumes major responsibility for land use control, what concurrent responsibility does it assume to pay the cost of local services, particularly in those communities whose levels of service are restricted by a low property tax base? Already in three major cases, *Serrano vs. Priest*, *Van Dusartz vs. Hatfield* and *Rodriguez vs. Edgar*, courts have held that disparities in the level of educational services caused by differing property tax bases are a violation of the equal protection clause of the Fourteenth Amendment. The Supreme Court will consider the issue this fall. It would appear that assumption of a major state role in determining local property values would invite similar rulings relating to other local services—police, fire, sanitation, transportation. Certainly the courts would not permit states to keep levels of local services permanently low in some communities by prohibiting higher value land uses. The potential impact of this radical reform in the way we pay for local services must be seriously contemplated as we examine the ramifications of the bill before us.

(4) What is intended by the requirement that states set up a method for coordinating programs and services of "all State and local agencies significantly affecting land use"? Just what agencies are intended, and what degree of coordination? Almost every major state or local function has a "significant" effect on land use—police and fire protection, welfare, trash disposal, sewage treatment, parks and recreation, schools, transportation. Are all of these activities to be coordinated at the state level? This broad based mandate for coordination in section 302 is typical of the many general phases of potentially severe impact which are unexplained in the legislative development of this bill.

(5) Is this legislation, by setting policy for equal consideration of environment and economics and for "balanced" land use and by requiring states to override local laws designed to restrict development intended in any way to conflict with non-degradation policies and air and water quality improvement mandates of other Federal laws or with state laws intended to restrict development? What will be the impact of these new Federal policy positions on court cases involving those other laws?

(6) Will any state constitutional changes be required by this legislation, and if so, does it give states time enough to consider and act? It would appear that the major redirection of responsibility S. 632 requires will necessitate some constitutional changes, particularly in those states that have strong local home rule laws.

Further, all states which act responsibly and undertake property tax reform and land use reform together will probably have to adopt constitutional changes. But they may not have time. Eighteen states require that constitutional changes be adopted by two sessions of the legislature and then be approved by the electorate. This would be a three to seven year process at best, more if adequate consideration of these vast reforms is to be allowed. In three states where two-session approval is required—Nevada, Tennessee and Vermont—the legislature only meets biannually, and if major reform was not approved in their 1973 session, which might be difficult, final approval would not be possible until at least 1977 and probably 1980.

Just what is intended by this legislation, and what the ramifications of that intent are must be examined in much greater detail before this bill is approved.

Mr. MUSKIE. Mr. President, in that speech I tried to identify some of the key issues of this legislation.

Today I will be more precise. Today I have prepared and have translated into legislative language amendments which address those three critical areas. I think the failure to adopt these amendments will result in confusion, lack of guidance, lack of leadership, lack of effective management of land use and, without question, subrogation of a myriad of national policies to the judgment of the Interior Department and the States.

Mr. President, S. 632 as reported from committee requires that Federal programs which affect land use conform to State land use plans. But S. 632 does not provide any mechanism to permit a Federal substantive involvement in the nature of those land use plans nor does the legislation as reported provide any guidance as to what is and what is not good land use planning.

A State is permitted to establish land use policy which may frustrate national policy. This authority could be devastating in a creative and cooperative federal system. I do not think that States can operate without guidance from the Federal Government and without substantive involvement from the Federal Government. There are obviously too many national interests involved to require Federal conformity to plans in which the Federal Government has only a procedural involvement.

As a practical matter, of course, Federal policy guidance may quickly develop. The lack of Federal policy guidance in S. 632 will present an opening for those in the Federal bureaucracy to impose their individual views of what is best upon the States. Stating a national policy in the law will assure that States are not subjected to these bureaucratic whims and assure a true national policy.

Land use policy is but one of the considerations which must be identified in making public policy. There is no question but that land use decisions will affect transportation, energy, and the environment. And yet we have or should have a national policy for each. To impose one on top of the other without consideration of their relative impact would be irresponsible.

Land use control does not by itself protect the public health even though public health may be adversely affected by air and water pollution associated with a given land use. But existing law provides for that. The Interior Committee does not argue that S. 632 is public health legislation. Certainly, no one would suggest that air and water pollution laws designed to protect public health and welfare should be subrogated to land use decisions which may only relate to economic development. Therefore, it is essential that we not only have guidance as to land use but also have the capacity for the Federal Government

to become sufficiently involved in the development of land use plans to assure that other equally or more important national policies will not be upset in pursuit of land use decisions.

I do not doubt that the initial steps anticipated by this legislation will lead to a substantive Federal presence in State land use decisions in any event, whether or not the sponsors of this legislation so intend. I simply intend in my amendments to clarify that role, to establish the necessary guidance and to assure a substantive response.

Repeatedly, statements which have been made about this bill argue that the Federal Government only procedurally becomes involved in land use. But I would point out to my colleagues that under the guise of procedural involvement with the penalty provisions established in the legislation, there is an indirect Federal involvement in the State land use plans which is as great as that which I would propose, without the guidance of the Congress as to what the nature and extent of that involvement should be. Any Federal program which is initiated on the presumption that failure to adequately perform can result in reduction of Government funds must necessarily leave to the administrators of that program the determination of adequacy of performance. Such a determination without policy guidance simply means an ad hoc judgment, in this case by the Secretary of the Interior, as to whether or not he likes a land use plan developed by a State.

There are other vital areas of concern. No land use policy can be effective in this country without attention to and reform of the property based tax system. The degree of reliance of local governments on the property tax base is such that no meaningful land use decisions can be made without first focusing on what the property tax will permit. This matter is not addressed anywhere in S. 632 and yet it is integral to S. 632.

There is no reason to believe that the policies developed under this legislation and imposed on local government will take into account the need for tax reform unless the Congress insists that tax reform be an integral part of land use policy. To do less would be irresponsible. To encourage and, in fact, require the States to take over local land use decisionmaking responsibility without requiring that States assure continued availability of local services and fulfillment of all local government financial obligations, regardless of losses associated with changes in value of property rezoned to meet State plans, is ridiculous.

Mr. President, we have today an outstanding example of how foolish it would be to permit land use reform without tax reform. The Subcommittee on Air and Water Pollution recently held a hearing on pollution of the Lake Tahoe Basin.

My colleagues know that the Tahoe basin is a unique national resource. Its ecology is fragile and it is being destroyed. If current development plans for that basin were permitted to proceed unchecked Lake Tahoe could be written off now. In recognition of this, the States of California, Nevada, and the Congress enacted an interstate compact with the power to make determinations as to how best to use the land in that area in order to protect that fragile environment.

The Tahoe Regional Planning Agency has developed a land use plan and, as should have been expected, has changed entirely the property tax base for the political subdivisions which operate in that area. Land formerly valued at speculative rates because of anticipated development has been devalued because the fragility of the land surface will not permit any development whatsoever. And yet, the political subdivisions within that basin, anticipating development and responding to the needs created by that development, have invested heavily in improvements such as water, sewer, waste treatment plant, so on, to meet the needs of anticipated growth.

Today those communities are desperate. Debt service must be retired or the communities in question will face severe fiscal crisis. But there are no funds. There has been no reform. There is no mechanism to compensate those communities for the loss associated with rezoning requirements which have been determined essential for the preservation of that basin.

Mr. President, this example alone should serve as warning to the Senate of the need to mandate, as a part of this legislation, an absolute requirement that property tax reform accompany, if not precede, any land use policy decisions at the State level. Today, I shall propose amendments to assure consideration of these matters as part of the land use program.

Mr. President, the Land Use Policy and Planning Assistance Act would rest responsibility for procedural review of State land use plans in an Office of Land Use in the Department of the Interior. I question this viability and the wisdom of this provision. The Interior Department has a long and distinguished history of involvement in development of public land, wilderness areas, and national parks.

Unfortunately, the Interior Department has no broadbased planning responsibility as would be established under S. 632. The Interior Department has no awareness of issues relating to State and local tax patterns. The Interior Department has had no involvement or experience in the Nation's urban areas where 70 percent of the population lives and where the major, critical land use planning problems exist. Because of the Interior Department's limited experience in these areas, I am concerned that solution to urban-based land use problems, at worse, may be misjudged and at least delayed or complicated. Sound evaluation of public policy requirements argue that an Interior Department traditionally oriented toward public lands and rural areas will not comprehend other issues, including the host of problems which confront urban areas in 50 States.

An argument can be made for charging several Federal agencies with the lead agency role in land use planning. But any fair evaluation of the Federal structure demands the conclusion that no single agency has either the ability or the breadth to do the job. The Department of Housing and Urban Development, for example, has experience in comprehensive planning in urban areas but has limited understanding in such matters as watersheds, irrigation rights, wilderness needs, and mineral exploration which affect many important land use decisions outside of urban areas.

The Environmental Protection Agency, with knowledge of environmental issues, has but little involvement with the social and fiscal implications which affect land use planning in urban areas or the land management issues which must be recognized in nonurban areas.

For this reason, it is essential that, should the Federal Government assume the role in guiding development of State land use planning programs assigned by S. 632, coordinating it must occur through an agency with the breadth to recognize all of the broad issues, with capacity to bring together all of the experience of Federal agencies relating to the land use planning which does not exist in the narrow line agencies. Only the Executive Office of the President has the overall capability to coordinate this responsibility.

My amendment would vest responsibility for implementation of this legislation in the Executive Office of the President. I admit that this is an imperfect solution, but land use is so complex—land use involves so many facets of public activity—land use involves the programs of so many Federal agencies—that land use must be within the responsibility of a Federal office which has the capability to bring to bear all of the resources of the Federal Government.

Under my amendment, the President would have to establish an Office of Land Use Planning in the White House. That office should be able to draw immediately the best talent available from the Departments of the Interior, Housing and Urban Development, Transportation, and Agriculture as well as EPA, independent agencies, the academic community, and the private sector. I do not expect this office to be political. Like the Office of Management and Budget, it should be an agency composed of civil servants dedicated to a specific responsibility.

And, the White House which has ultimate responsibility of implementation and coordination of those national policies to which I have referred is the only logical location for the responsibilities proposed by this bill and the amendments thereto.

So, Mr. President, I shall offer an amendment to change jurisdiction over this land-use program from the Department of the Interior to the Executive Office of the White House itself.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that Elwin L. Skiles, Jr., minority counsel of the Subcommittee on Banking, Housing, and Urban Affairs, and Thomas Nelson, assistant minority counsel of the Committee on Interior and Insular Affairs, be permitted to be on the floor during the consideration of the pending measure.

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

Mr. JACKSON. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I am sure none of us disagrees with the objectives that are sought to be achieved by this legislation before us. I think a great many of us have some very serious misgivings as to the ability of the bill to deliver these goals and to do it in a fashion that is acceptable to the kind of government we have had. I want to say that initially one of the principles we have had great regard for is embedded in the Constitution and has been incorporated in most of the laws that have been passed from time to time—the ownership of private property.

This bill as it appears before us now, unamended, threatens an invasion of the right to the ownership and the management of private property. I do not deny at all that a great many things have taken place in our country by owners of private property which obviously have not redounded to the public good. Yet I think the whole network of laws regarding condemnation, eminent domain, and public appropriation have been passed recognizing that government should have the ability to step in when necessary and to exercise its sovereign right. But inherent in this philosophy is the right of a person to his day in court. A citizen shall have a right to present his point of view, and that if his rights are minimized or diluted, or diminished in any way in his right to full exercise of private property, that he shall be recompensed for whatever diminution may result from abridgment of those rights.

As I read this bill as it is presently drafted no provision is made for this sort of consideration. I think it would be an unfortunate thing if in the interest of trying to advance the public good we were to invade this very greatly cherished landmark in our Government and say it is perfectly all right if most people feel that a landowner should not do something with his land and then not provide the landowner the right to go to court.

Mr. President, it was not too long ago that America changed from a rural to an urban-oriented community. City life brought with it a rash of new social and economic problems.

To meet the influx of undesirable spinoffs of an urban society, the courts recognized a new concept which had been hidden under the umbrella of the legal repository of state police power. This concept was zoning. Zoning has been used time and time again during the last hundred years in an attempt to relieve the socio-economic pressures of this country.

The problems which face virtually every urban center in our Nation today bear simple witness to the success of zoning meeting the ills of urban expansion.

There is no doubt that zoning in certain local instances has led to a more ordered and proper evolution of communities resulting in improvement of the environment, health, safety, comfort, and welfare of its citizens. But there is little doubt that the record attests to the fact that zoning has proven not to be a sure remedy of urban plight.

As time has passed and local zoning has apparently proven unable to do its job of solving and expanding society's problems, the solution has seemingly been to isolate the planning decisions further and further from the local community—to rely on some higher governmental entity to resolve local problems.

I would remind Senators that only last week we were discussing trying to return government to the people. The whole concept behind revenue sharing was that local people, understanding local conditions, with full understanding of local problems, know better than does the Federal Government what should be done. Local decisions should we made at the local level.

This legislation, on the other hand, seeks to turn that concept around and say that the overall omnipotence of the Federal Government should be exercised so as to say to the States, "If you do not come up with a plan acceptable to us we will impose the Federal will on you."

To that extent I am sure that I must take exception.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, will the Senator yield to me for 3 minutes?

Mr. JACKSON. I yield 3 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, the distinguished floor manager of the bill (Mr. JACKSON) and the ranking member today on the committee, the Senator from Idaho (Mr. JORDAN) worked diligently on the Public Land Law Review Commission Report. I am also a member of that group and worked for a number of years—I did not serve on the Commission for the full time of its life—to bring about a program that would result in the orderly development of the land of our States and communities. This was a very difficult situation whereby we could coordinate to have a program in which there would be complete coordination between the Federal Government and the States to accomplish this objective.

Mr. President, I agree with what President Nixon stated in regard to the subject:

> Our ultimate purposes are many: To restore to the States their proper rights and roles in the Federal system with a new emphasis on and help for local responsiveness; to provide both encouragement and the necessary resources for local and State officials to exercise leadership in solving their own problems; to narrow the distance between people and the government agencies dealing with their problems; to restore strength and vigor to local and State governments; to shift the balance of political power away from Washington and back to the country and the people.

My capable colleague from Wyoming has brought out this desire, and the intent we had, as the committee was working on the bill, when we were seeking this goal, but when we talk about this under the reported bill, the loss of State control may not be readily apparent upon its enactment; but it has happened so often as to almost be an established rule that once a State is placed under a Federal program involving approval of State plans by an official in Washington, upon penalty of the loss of Federal funds, the autonomy of the State has been compromised. After that, the "natural" course of events seems to be more and more direction from the Federal bureaucracy and less and less input by State and local officials until virtually 100-percent Federal control evolves.

This is my great concern—that we have, in writing this bill, brought about a circumstance which makes it very hard to give the authority to the States——

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

Mr. FANNIN. May I have 2 minutes?

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator from Arizona.

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

Mr. FANNIN (continuing). Authority to the States whereby they can cooperate with the Federal Government in having orderly development of its lands, and in accordance with that, to have also the development of Federal lands compatible with this intent.

The bill which has been reported contains punitive provisions for those States which do not submit acceptable land use plans for those areas and covering those uses which are agreeable to the Secretary of the Interior.

So this is a demand upon the Federal Government to the States that I do not think carries out the intent of the work of the Public Land Law Review Commission.

Congress finds that the primary responsibility and the constitutional authority for land use planning on non-Federal lands rests with State and local governments.

That is stated in one section of the report. Then it states later that the responsibility and authority for land use planning within a State is the prerogative of States which should not be usurped by the Federal Government.

It goes on to say that if Congress enacts a law which only gives lip service to this principle and then turns around and forces the States to submit to what the Federal Government may decide is best for them, then we sincerely believe that one of the last remaining vestiges of State police power will have been usurped.

So when we see the basis upon which the incentives will be allowed, the grants would provide a large amount of money——

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

Mr. FANNIN. May I have 1 more minute?

Mr. JORDAN of Idaho. I yield 1 minute to the Senator.

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

Mr. FANNIN. The grant program would provide $100 million annually for 8 years, but still there is not a definite basis upon which the States and communities can depend, because with this vast amount of money being available

from the Federal Government and without any certain policy or certain formula whereby the States know exactly what they could expect or what would be proper and fair, I think this would lead to a great deal of difficulty.

That is my concern, and I hope that we can, while this bill is being considered, adopt amendments that will correct this inequity.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, will the distinguished Senator from Washington yield me 2 minutes for a question?

Mr. JACKSON. I am happy to yield to the Senator from Illinois.

Mr. STEVENSON. Section 202 directs the Secretary, acting through the newly created Land Use Policy Administration to maintain a continuing study of land resources of the United States and their use. I was hoping such a continuing study would include information on the ownership of land by the type of organization—corporate, partnership, or public body, and the like—similar to the information which is now provided by the Census Bureau for agricultural land. This kind of information would be helpful in projecting future land uses. Would this, in the Senator's opinion, be envisioned by this bill?

Mr. JACKSON. I can say to the Senator from Illinois that it is indeed the intention of this provision that information such as he suggests be included in the study. Rational land use planning would be impossible without knowledge of patterns of land ownership within a given area.

Mr. STEVENSON. I am very grateful to the Senator for yielding and for giving me that assurance. I also want to commend him for recognizing the importance of rational land use planning in the country and for helping to bring this bill to the floor.

Mr. President, I also ask unanimous consent that a member of my staff, Mr. Harold Wolman, be permitted to remain on the floor during the debate of this bill.

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

AMENDMENTS NO. 1535

Who yields time?

Mr. JACKSON. Mr. President, I call up my amendments No. 1535 and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

(1) On page 68, between lines 3 and 4, insert a new subsection (e) as follows:

"(e) The Board shall have as advisory members two representatives each from State governments and local governments, and one representative each from regional interstate and intrastate entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period."

(2) On page 69, line 7, strike "Secretary" and insert in lieu thereof the "Advisory Commission on Intergovernmental Relations".

(3) On page 69, line 14, strike "Secretary" and insert in lieu thereof "Advisory Commission".

(4) On page 75, line 23, after "agencies;" and before "the" insert "flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960, as amended;".

(5) On page 81, between lines 20 and 21, insert a new clause (2), as follows:

"(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State's land use program is in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administrator shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary."

(6) On page 87, line 23 through page 91, line 9, strike subsections (b), (c), (d), and (e) of section 307 and insert in lieu thereof a new subsection (b), as follows:

"(b)(1) After five fiscal years from the date of enactment of this Act, no Federal department or agency shall, except with respect to Federal lands, propose or undertake any new action, financially support any new State-administered action, or approve any loan or loan guarantee which might have a substantial adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to this Act. Such actions shall be designated in the guidelines promulgated pursuant to section 502 of this Act.

"(2) Upon application by the Governor of the State or head of the Federal department or agency concerned, the President may temporarily suspend the operation of paragraph (1) of this subsection with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits a schedule, acceptable to the Secretary, for meeting the requirements for eligibility for grants pursuant to this Act: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised good faith efforts to comply with the terms of such schedule."

(7) On page 100, lines 6 through 22, strike subsection (f) of section 501 and insert in lieu thereof a new subsection (f), as follows:

"(f) The term 'key facilities' means public facilities on non-Federal lands which tend to induce development and urbanization of more than local impact and major facilities on non-Federal lands for the development, generation, and transmission of energy."

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc and, if agreed to, treated as original text for the purpose of further amendment.

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

Mr. JACKSON. Mr. President, amendment No. 1535 consisting of seven amendments, is the product of 2 years of consultations between the staffs of the Public Works Committee and the Interior Committee. The Senator from West Virginia and chairman of the Public Works Committee joins with me in endorsing these amendments.

The first amendment would effect a major change in the sanction provisions—subsections (b) through (e) of section 307—of the act. No longer would the airport and airway development program, the primary and secondary Federal-aid highway programs, and the Land and Water Conservation Fund program be selected out and identified as the only programs to which the sanction—a phased withholding over a period of 3 years of a portion of each program's funds—would apply.

The concept of a phased withholding of funds from certain programs, first included in the original measure (S. 3354) which I introduced in the 91st Congress, was subsequently dropped by the Interior Committee when it reported the measure in December 1970, and was received with the administration's amendment to its land use policy bill (S. 992), introduced early this year.

Although less severe, the problems, first identified by the Interior Committee in the 91st Congress, with a sanction which proposes phased withholding of funds for other programs pertain as well to the sanction now contained in S. 632. First, there exists the jurisdictional problem of specifically identifying programs under the aegis of committees other than the Interior Committee and of departments other than the Interior Department. Secondly, there remains the question of why single out these specific three programs. The selection is reasonable—the two developmental programs, of all Federal programs, have the greatest potential impact upon land use patterns and the environmental program insures that a balance of interests will work for S. 632 success. However, there are numerous programs not subject to the sanction which seriously affect land use patterns. It can be said that too great an onus is placed on the three programs identified for the sanction. Finally, there remains the difficult task of insuring that funds needed for health and safety purposes are not affected by the sanction. The administration assured us the 21-percent ceiling on withholding would not lower the funding level for airport development and primary and secondary highway work sufficiently to impede any project the primary purpose of which is safety or health. However, even if these withholding levels have been carefully selected with public health and safety in mind, the mix between safety projects and developmental projects could shift. And such a shift might make the ceiling restrictive enough to interfere with safety projects.

The sanction now proposed by me and endorsed by the chairman of the Public Works Committee is similar to the one contained in S. 3354, as reported in the last Congress, and in S. 632 as introduced. The new sanction would provide for a freeze on all new Federal actions, federally supported State-administered actions, and Federal loans and loan guarantees which might have a substantial adverse environmental impact or which would significantly affect land use. The sanction would apply after 5 fiscal years to a State which has not been found eligible for S. 632 grants. This

freeze would be lifted for any project which is necessary for the public health, safety, or welfare upon request to the President from the Governor of the State or the head of a relevant agency.

This new sanction avoids the three problems of the old sanctions: jurisdictional disputes would be mitigated as no specific program is identified and as the Executive Office of the President, not the Department of the Interior, is the final arbiter; the sanction applies equitably to all programs that have major land use impacts and thus no programs are singled out for special onus; and a special procedure for releasing all safety and health projects from the sanction is provided.

The second amendment agreed to between the chairman of the Public Works Committee and myself would remove identification of specific public projects from the definition of key facilities. Identified were such projects as airports, Interstate Highway System interchanges and frontage access highways, and major recreational facilities. This change is in the spirit of the act. S. 632 is written so as to allow the States to identify the specific land uses which are of distinctly more than local concern and are most troublesome. For one highly urbanized State, highways may be such a use; for another State blessed with valuable scenic beauty, recreational facilities may be critical; and for another State, yet another set of public facilities may be of more than local concern. The States must undertake the task of identifying the key facilities; this amendment will insure that they will do so.

Two more amendments simply substitute the Advisory Commission on Intergovernmental Relations in place of the Secretary of the Interior as the party responsible for conducting the 2 year study of interstate coordination of land use policies and decisionmaking. These are particularly good amendments in that: First, they avoid the jurisdictional problems of having the Secretary of the Interior study interstate entities which participate in other Federal departments' programs; and second, the Commission has already proven its ability and expertise in this field with its recently released report on interstate entities, entitled "Multistate Regionalism."

A fifth amendment specifically identifies flood plain zoning plans prepared pursuant to the Flood Control Act of 1960, as amended, among the plans and programs with which the State land use planning agency must coordinate its activities.

A sixth amendment adds advisory members from State and local governments, and interstate and intrastate regional bodies to the National Advisory Board on Land Use Policy.

The seventh and most important amendment concerns the relationship of the air and water quality and other environmental laws with S. 632. The chairman of the Public Works Committee and I are agreed that S. 632 should not interfere with the effectiveness of those laws. I have assured the chairman that this measure would in no way adversely affect those laws, rather it would strengthen them. The Chairman of the Council on Environmental Quality gave strong endorsement to this view in his letter to me of August 1, 1972. I quote Mr. Train:

> In no way do we view S. 632 as conflicting with existing air or water quality legislation or the goals of other environmental legislation. On the contrary, it is fully consistent with and supports them, and I am informed that the Environmental Protection Agency concurs in these views.

Specifically, S. 632 as reported gives preeminence to air and water quality and other environmental laws over S. 632 and the land-use programs prepared pursuant to it. Clause (E) on page 77 and clause (4) on page 75 accomplish this.

However, the chairman of the Public Works Committee and I have agreed to an amendment which will leave no doubt that the air and water laws and other environmental measures shall in no way be altered by this legislation and that, instead, an important purpose of S. 632 is to lend support to those laws. The amendment states that the Secretary of the Interior shall make no grant to a State after 5 years if that State's land-use program, first, is not in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution, or, second, would, during the next annual review period, not be in compliance with the standards, criteria, emission, or effluent limitations, monitoring requirements, or implementation plans required by those laws. The determination of compliance or lack of compliance rests not with the Secretary but with the Administrator of the Environmental Protection Agency.

This amendment, stronger than S. 632's language and much stronger than the Public Works Committee's amendments to the other major land-use bill already passed by the Senate—the Magnuson Coastal Zone Management Act—will insure that S. 632 will reinforce all other environmental laws.

These seven amendments, submitted en bloc, jointly supported by the chairmen of the Public Works and Interior Committees, do strengthen S. 632. I commend them to my colleagues.

Mr. HANSEN and Mr. COOPER addressed the Chair.

Mr. JACKSON. I yield first to the Senator from Kentucky for a unanimous-consent request.

Mr. COOPER. Mr. President, as cosponsor of some of the amendments being considered, I ask unanimous consent that Richard Hellman from the Public Works Committee staff be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HANSEN. Mr. President, I ask the distinguished floor manager of the bill what effect this amendment would have on my Amendment No. 1520, introduced on behalf of the Senator from Idaho (Mr. JORDAN), the Senator from Arizona (Mr. FANNIN), the Senator from Kentucky Mr. COOPER) and myself.

Mr. JACKSON. It will not affect the Senator's amendment. I shall be offering an amendment, or Senator MAGNUSON may offer the amendment, in behalf of the Senator from Nevada (Mr. CANNON), which will be pertinent to the amendment being offered by the Senator from Wyoming, and that will be offered at the end of the series of amendments. I shall be glad to remind the Senator when that amendment will be coming up if he wants to offer a substitute.

Mr. HANSEN. If the Senator will yield further, I have one further question. Does this amendment offered by the distinguished Senator from Washington imply that a State failing to come up with a land use plan acceptable to the Secretary of the Interior be denied funds, for airport expansion, highway extension, or almost anything?

Mr. JACKSON. No, that is not involved. We specifically changed that provision in this amendment.

Mr. HANSEN. How does the Senator's amendment change it?

Mr. JACKSON. This relates entirely to programs which would affect the environment or land use patterns. This does not deal with the general sanctions. We are also dealing here with the question of air and water pollution, statutes and their relation to this measure.

Mr. HANSEN. I thank my colleague.

Mr. BIBLE. Mr. President, will the Senator yield for a question at that point?

Mr. JACKSON. I yield.

Mr. BIBLE. Would the Senator mind detailing the various programs against which the sanctions would run? I understood him to say they would run only against air and water pollution. Is that correct?

Mr. JACKSON. I shall be offering another amendment concerning the sanctions, or Senator MAGNUSON will offer it. This amendment will run to those programs which will have a substantial environmental impact on other activities. Instead of singling out three programs as subject to the sanctions as we did in the reported measure, we have now confined the sanction to those programs which would have a substantial or significant environmental impact or significantly affect land use. I suppose that very clearly that would include the building of certain facilities of a certain kind that would have a substantial impact on land. It is now required, of course, as the Senator knows, under the National Environmental Policy Act, that there be an environmental impact statement filed in those cases.

Mr. BIBLE. I am just trying to see the extent of the breadth to which the amendment the Senator is offering would reach, and I hoped he would list the programs involved. That is all.

Mr. JACKSON. I think it would affect large construction programs. Such undertakings, in the future, would significantly affect land use.

Mr. BIBLE. Would that include a highway program, for example, the building of an interstate highway across the Senator's State or mine?

Mr. JACKSON. The interstate highway programs are deleted from the sanction by this amendment, as the Senator may recall.

Mr. BIBLE. I understand that.

Mr. JACKSON. This is because of the

unfairness that could result from one State complying and another State adjoining not complying and the lack of compliance of the latter State could prevent the interstate highway from coming into the former State.

Mr. BIBLE. Would this apply, then, to the primary highway system, which is not interstate, or the secondary road system?

Mr. JACKSON. It could apply to primary and secondary roads which would, in fact, have a substantial environmental impact as they would affect the land.

Mr. BIBLE. Well, would it apply to the construction of a large airport?

Mr. JACKSON. Yes.

Mr. HANSEN. Mr. President, will the Senator yield at that point?

Mr. JACKSON. I yield.

Mr. HANSEN. I meant to ask, and I thought I did ask, the question just posed by the Senator from Nevada; and I thought the chairman's response was that it would not apply to airport expansions and highways. Do I now understand that it does?

Mr. JACKSON. I was referring to the amendment that will be offered in behalf of the Senator from Nevada (Mr. CANNON) by Senator MAGNUSON. He is offering an amendment which would exempt airports, as I recall.

Mr. HANSEN. I was wondering, if the Senator will yield further—maybe I am interrupting here——

Mr. BIBLE. It is perfectly all right. I interrupted the Senator; turnabout is fair play. Go right ahead.

Mr. HANSEN. I am sure we had the same purpose in mind, Mr. President, and that is to understand clearly what the amendment proposes to do. We are talking about amendment 1535. Is that correct?

Mr. JACKSON. That is correct.

This key language is on page 3, beginning on line 6:

> After five fiscal years from the date of enactment of this Act, no Federal department or agency shall, except with respect to Federal lands, propose or undertake any new action, financially support any new State-administered action, or approve any loan or loan guarantee which might have a substantial adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to this Act.

Mr. HANSEN. If the Senator will yield further, it is my understanding, on the basis of past experience, that almost any activity that one can think of has been construed by some and has been supported by the courts to have an environmental impact. We are talking about expanding the airport in Jackson, Wyoming, approximately 1,700 feet.

Mr. JACKSON. I think the courts very clearly are not going to place within the purview of the language I have referred to, "substantial adverse environmental impact"——

The PRESIDING OFFICER. The time of the Senator from Washington on the amendment has expired.

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator.

Mr. JACKSON. It would have to be a large project. It is one that would have a substantial impact on the land, the use of the land. It does not apply to smaller projects. Although these things cannot be described by metes and bounds or in terms of dollars, we are talking about very large projects.

Mr. HANSEN. The Park Service, I think, is laboring under the illusion, in Grand Teton, that this does have a major environmental impact. Is the Senator saying that it does not?

Mr. JACKSON. It would not apply at all if the State complies with the provisions of the act and is eligible.

Mr. HANSEN. Assuming that it does not.

Mr. JACKSON. Assuming that it does not, I do not see how it would apply to a small airport, unless it was in, shall we say, a pristine area, which obviously could have a serious environmental impact.

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

Mr. JORDAN of Idaho. I yield 1 additional minute to the Senator.

Mr. HANSEN. I should like a definition.

Mr. JACKSON. The way the Senator describes it, I do not see how it would.

Mr. HANSEN. The Park Service feels it is of critical environmental concern.

Mr. JACKSON. Is this going to be in a park?

Mr. HANSEN. It is in a park.

Mr. JACKSON. In which park?

Mr. HANSEN. Grand Teton.

Mr. JACKSON. Under existing policy, I do not know that there can be an airport in a national park. I defer to the Senator from Nevada.

Mr. BIBLE. My memory is that we normally do not, but I think we passed special legislation—and a couple of dollars to go with the legislation—to put an airport there.

Mr. HANSEN. It is already there.

Mr. BIBLE. I think it is an exception.

Mr. JACKSON. Based on what I now find, that it is in the Grand Teton, I would say that it is Federal land, and that, therefore, this bill does not apply. The pending measure does not apply to Federal land. We have a provision about joint coordination between the Federal Government and the State government to bring about a more compatible adjoining use, but the requirements of the act relate specifically to non-Federal lands.

Mr. BIBLE. May I ask the Senator one more question?

Mr. JACKSON. Yes.

Mr. BIBLE. This has been suggested to me by Elmo DiRico. I think the Senator from Washington knows him. He is director of our department of conservation and natural resources. He wants to know what, if any, effect the sanction provision—I am calling it that for want of a better name—has upon land and water conservation funds. Does it have any effect whatever? If the State does not come into complete conformity within the periods prescribed, do you hold back on the land and water conservation funds?

Mr. JACKSON. It would be my judgment that it would not apply to the land and water conservation fund. That was in the previous bill. It has been taken out now. In light of that legislative history, it would not apply.

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

Mr. JORDAN of Idaho. I yield 2 additional minutes to the Senator.

Mr. BIBLE. Would that apply in cases where, under the Land and Water Conservation Fund, there might be some adverse effect on the environment?

Mr. JACKSON. I do not know what kind of situation that would be, because the moneys of the Land and Water Conservation Fund are used to enhance the environment for park and recreational purposes. I suppose the environmental impact statement requirement under existing law, the National Environmental Policy Act, would apply, in any event.

Mr. BIBLE. I just want to clear that up, so that I can answer the Director properly.

Mr. JACKSON. I think the Senator has raised a very proper question. It would be my judgment, as the author of this amendment, that it would not apply.

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

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Idaho has 10 minutes remaining. The Senator from Washington has no remaining time.

Mr. MUSKIE. As I understand it, the penalty provision of this bill is designed to put teeth into it after 5 years. That is, if a State does not come up with an adequate land use program after 5 years, then funds in these various programs can be withdrawn or withheld, up to a certain maximum.

My concern about the penalty provision written into the pending bill is that, in effect, it gives the administrative agency, the Secretary of the Interior, the authority to impose his own judgment about what is an adequate land use program; and if his personal judgment is not agreed to by the State, he can implement that personal judgment by withholding program funds.

As I understand the amendment that has been offered, the penalty would be broadened to include not just those programs included in the bill—that is, the highway programs, the airport programs, and the park programs—but also any one of the 112 Federal programs which are covered and which involve grants or potential grants to the States. Am I correct in that?

Mr. JACKSON. My understanding is that before the Secretary could act, there has to be a hearing before the ad hoc board set up by the President. In addition, the head of EPA and the Secretary would have to join in the findings and recommendations of the ad hoc board which would be appointed by the President.

Mr. MUSKIE. But the penalty provision is to be broadened to include any one of these 112 programs which involve grants to States. Any one of these can be cut back for failure of the State to conform to the land-use policy requirement in the proposed legislation?

Mr. JACKSON. If such programs have

a substantial adverse environmental impact and therefore would significantly affect land use. Of course, there is an exception: It is provided that health and safety matters are exempt from this sanction.

Mr. MUSKIE. I may be confused on this, and I want clarification because it would be of interest to the Senate.

As I understand the penalty provision of the act, this sanction could be applied, under the pending bill and under this amendment, if a State failed to produce an adequate land-use program, period. This sanction could be held up as a threat to a State to force it to adopt what the Secretary, and whatever other agency is involved, consider an adequate land-use program. Am I in error on that?

Mr. JACKSON. The whole question is whether or not, as the Senator knows, on land use, a plan has to go through the stated procedures in the act. There is an appeal from that. There is adequate opportunity for States to be heard. Before any sanctions can be imposed, there has to be the ad hoc hearing committee set up in which the head of the EPA and the Secretary of the Interior will have an opportunity to participate. It does not deny all Federal programs. It only applies where such programs, no matter what they are, other than those affecting public health and safety or welfare, where the Governor of the State intervenes and asks for a suspension on that ground. It has to be of a substantial adverse type of environmental impact.

Mr. MUSKIE. Here is another clause. Let me read it from the amendment—part 6 on page 2 if I am referring to the same page. It has to do with this particular language we are discussing—page 2, halfway down is No. 6 on page 87——

Mr. JACKSON. The key language starts on page 3, line 6, of the pending amendment No. 1535 that we are using.

Mr. MUSKIE. Let me refer to the printed amendment, then, which contains the same language. Page 3, lines 11 and 12—the Senator has said that the program funds can be withheld in the event the project would have a substantial and adverse environmental impact, but I refer the Senator to the next line, "or which would significantly affect land use in any State." Almost any one of the 112 programs would affect land use. This language does not suggest that the effect must be deleterious or harmful. It simply says if it affects.

Mr. JACKSON. Significantly affects.

Mr. MUSKIE. If a State has not adopted a satisfactory land-use program, as I read line 12 of the Senator's printed amendment, or there is failure to deal with such programs, it would give the administrator the authority, whether he would exercise it or not, to withhold the funds.

Mr. JACKSON. It has to have a significant effect. It is just not any effect. Its use is disjunctive.

Mr. MUSKIE. It might affect the programs involved for the Airport and Airway Development Act, the Appalachian Regional Development Act, the Atomic Energy Act, the Consolidated Farmers Home Administration Act, the Demonstration Cities and Metropolitan Development Act, the Elementary and Secondary Education Act, the Federal Aid Highway Act, the Federal Power Act, and so forth. Every one of these programs has a significant land use impact, intentionally if not in fact, in every project.

Mr. President, I ask unanimous consent to proceed for another 15 minutes to continue discussion on this issue which, in my judgment, in many ways is one of the key elements in this legislation. The time will be under the control of the Senator from Washington and the Senator from Idaho, of course.

The PRESIDING OFFICER (Mr. KENNEDY). Is that 15 minutes total or on each side?

Mr. MUSKIE. Fifteen minutes total because the discussion should involve both.

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

Mr. NELSON. Mr. President, I have about 3 minutes in total in which I should like to propound a question to the Senator from Washington. It might take a minute and a half for the question and another minute and a half for the answer. Could I be permitted to get that total of 3 minutes within the 15-minute period?

Mr. MUSKIE. I have no objection. We are flexible enough here, to get additional time.

Mr. JACKSON. Yes, I would be happy to yield.

Mr. NELSON. The total would be about 3 minutes. I thank the Senator.

Mr. MUSKIE. My concern with the penalty provisions is not so much that there are penalties—they seem to concern other Senators—but the fact that the penalties would give the Secretary of the Interior a substantive impact on land use programs developed by the State without any guidelines written into the law. Those penalty provisions give him some clout, in my opinion on an ad hoc basis, to tell the States what they should do with land use policy. Because of my concern with that, which I will raise later in an amendment, I wonder whether I am ready to agree at this point in effect to increase the penalties. That is what I would do. As I understand it, there are 112 Federal programs which can be affected by implementation of this legislation. I have already referred to a number. I ask unanimous consent that a list of some of the major ones which I began to read from be printed in the RECORD.

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

Some of the major programs whose planning and funding processes or licensing practices will be significantly affected by S. 632—the land-use bill—are:

Airport and Airway Development Act.
Appalachian Regional Development Act.
Atomic Energy Act.
Consolidated Farmers Home Administration Act.
Demonstration Cities and Metropolitan Development Act.
Elementary and Secondary Education Act.
Federal Aid Highway Act.
Federal Power Act.
Federal Water Pollution Control Act.
Flood Control Act.
Higher Education Act.
Housing Act.
Hill-Burton Act (hospital construction).
Land and Water Conservation Fund Act.
National Housing Act.
Public Works and Economic Development Act.
River and Harbor Act.
Rural Electrification Act.
Public Land Sale Act.
Urban Mass Transportation Act.
Chapter 12 of Title 23, U.S. Code (Reclamation and Irrigation of Lands by the Federal Government).

Mr. MUSKIE. Mr. President, if there is a penalty provision and it should be broad enough to include all programs which have a significant land-use impact, then I would not have any differences with it, but until the question of whether the legislation itself has guidelines for the establishment of land use policy is settled, I am not ready to agree to an increase in the penalties. That is what is troubling me. I feel that the cart is before the horse here, because of my concerns in debate on this legislation. So the one question I want to have answered relates to line 12 because, as I read it in the Senator's printed amendment, on page 3, what it says is that if the State fails to produce overall land use programs satisfactory to the Secretary of the Interior and whatever agencies or boards advise him, grants under all the programs can be withheld from the offending State until it produces an overall land use program that is satisfactory to him.

Mr. JACKSON. Could I clarify one point here which I think is the main point the Senator is making. First of all, no sanctions can be invoked by the Secretary of the Interior. Rather, the ad hoc hearing board, which is appointed by the President, made up of a neutral head of a Federal agency, and a representative of one of the States appointed by a neutral Governor, and an unbiased prominent citizen—three members—make the decision. So it is not a case of the Secretary of the Interior's trying to dominate other departments.

I would point out that on page 83 of the bill, beginning on page 83 line 11 it states:

In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State other than the State the grant eligibility of which is in question, whose States does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor selected by the President may designate—

Then the next part—

one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members can-

not agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this title. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility the Secretary shall find the State ineligible for grants pursuant to this Act.

Mr. MUSKIE. Mr. President, my point is that the Senator refers to the language of the bill which provides for a repeal or a review and the Secretary determining that a State is ineligible for a grant.

The first point I want to establish is whether the eligibility for grant applies to all 112 programs and whether or not it depends upon a State's being within the land use program within the meaning of the pending legislation.

If the answer to my question on those two points is in the affirmative, then I gather that the language that the Senator is reading from on page 83 of the legislation, in that respect says yes, that if the Secretary determines that a State is ineligible for grants, he makes that determination after the board it established and set up.

So the State must then defend itself against a finding by the Secretary of ineligibility for a grant under 112 programs, after the board sustains the Secretary. And if it does so within the four corners of this legislation and within the four corners of the policy laid down by this legislation, then a State is ineligible for 112 programs.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that we may have an additional 2 minutes.

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

Mr. JACKSON. Mr. President, may I say to my good friend that he seems to be saying that only the Secretary of the Interior could do this.

Mr. MUSKIE. No, I am not. I am trying to focus not on that aspect. However, the Senator only referred to that language. I am trying to get two questions answered.

The first is whether a State's eligibility for grants under 112 programs depends upon the broad language of the program which meets the requirements of the legislation.

Mr. JACKSON. The answer to that specific question is no. It is a selective program.

Mr. MUSKIE. Then, I would like to know the meaning of the language on page 3, line 12, and if eligibility is dependent upon these words, "which would significantly affect land use in any State."

In my judgment, at least, the 20 to 21 major programs which I have listed before all significantly affect land use in any State if grants are made to such State under such a program, and all of the States—and there are 21 of them—would have a significant effect upon land use in any State.

I take it that would be across the board if the State is declared ineligible by the Secretary. After review by the Land-Use Board, in all of the respects which the Senator referred to, a State would be ineligible for grants across the board in 112 programs.

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

Mr. JACKSON. Mr. President, I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. JACKSON. Mr. President, the answer to that, of course, is no. The administering Federal agency, as provided in the amendment, will make a determination which is a condition precedent to the ad hoc board being set up and everything else. It will have to determine whether or not the project in question might have a substantial adverse environmental affect or would significantly affect the use of the land.

This applies, of course, to the agencies in question. As the Senator knows, the question of ineligibility must be established first by the heads of the agencies involved, who are not only the Secretary of the Interior, but also the Secretary of Housing and Urban Development and the Administrator of the EPA. And these are conditions precedent to the setting up of the ad hoc board which I referred to earlier and which the President appoints and which makes the final decision.

Mr. President, let me point out that when we adopted the Land and Water Conservation Fund Act back in 1965, I believe it was, we stipulated that as a condition precedent to getting procurement grant-in-aid funds, a State had to establish a statewide park and recreation plan. A good number of States did not like this planning requirement. However, this is something that all the States should have done over the years, but did not do. And, they have since complied with that act.

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

Mr. JACKSON. Mr. President, I yield myself 2 minutes.

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

Mr. JACKSON. There would be no need for this legislation had the States seen fit to go ahead with the kind of land use planning which would have resolved the great conflicts over land use, whether they relate to saving land for park and recreation use or other conservation purposes or to using land for development purposes—or whether it is the proper location for a plant or whether or not a powerplant ought to be located. In most cases, the States have not been able to accomplish this. This bill would encourage the States to do so.

We are trying here very simply to set up a forum in which we can deal with the critical problems that face us resolving environmental, social, and developmental issues as they relate to the land.

There is no such forum today where one can go and get a land use matter considered and have a resolution of these adverse interests. What happens? Land that ought to be destroyed is being preserved, and land that should be utilized for development, for power, and for various economic purposes is not being put to those purposes. We have blackouts; we have brownouts; we have picketing, we have litigation, we have—to put it simply—confusion. All of this stems from the fact that we have 80,000 governmental entities in the United States involved in land use planning.

This is why the Governors' Conference unanimously endorses the pending measure. The Governors need help in trying to get the States that they represent to recognize the need to use their police power and engage in the kind of sensible land use planning that will achieve both goals: Economic development and the conservation of our resources.

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

Mr. MUSKIE. Mr. President, would the Senator yield for one observation?

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield the Senator 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from Maine is recognized for 1 minute.

Mr. MUSKIE. Mr. President, I regret that time is so restricted on this legislation. However, I am not satisfied with the interpretation of the penalty provisions as I understand them, having read the pending bill and the amendment. They do not have the effect that I have suggested. And I think that ambiguity exists.

I cannot support the pending amendments. They are being considered en bloc. Other amendments are included which I have no difficulty with. However, until this matter is clarified, I cannot support the pending amendments in that respect.

I hope that other Senators will indicate their position on the matter if they think my interpretation is wrong. However, I have read them carefully and as I understand it, what this would do is give the Secretary authority, subject to hearings, to eliminate the grants right across the board in as many as 112 programs if he feels that they have failed to produce land use programs satisfactory to the Secretary of the Interior—without guidelines in the bill to protect a State undertaking in good faith to do its job.

Mr. NELSON. Mr. President, I wish to propound a question to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington has no time remaining.

Mr. JACKSON. Mr. President, I ask unanimous consent to proceed for 3 minutes in order to answer the Senator's question.

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

Mr. NELSON. Mr. President, in 1968, the Senate Small Business Subcommittee on Monopoly held hearings on the movement of corporations into farming. In 1969, the full committee issued a report, Senate Report No. 91–628, summarizing the hearings and the principal recommendations received from witnesses. One of the problems that was noted was the shortage of reliable information on corporate ownership and control of agricultural land. In the list of remedial proposals, recommendation No. 8, on page 24 of the report, read as follows:

8. Require farm and ranch ownership registration (owner's name and address, property size and location, acquisition date and type of ownership) with farm companies required, in addition, to list stockholders with more than a 5-percent interest and report any ties to farm supply, processing or marketing firms.

As I read section 202 of S. 632, as reported, it would seem to me that the new Office of Land Use Policy Administration will have authority to carry out that recommendation in full. In fact, it would seem to me virtually impossible for that office to carry out its assigned functions, its mandatory functions, under the section, unless it developed, in cooperation with the States, standard methods of obtaining and classifying information on the ownership of land, including but not limited to agricultural land. Would the distinguished chairman of the Committee on Interior and Insular Affairs agree with that interpretation of the scope and unavoidable effect of section 202?

Mr. JACKSON. The Senator's interpretation is correct. The Senator from Illinois (Mr. STEVENSON) asked a similar question, and I answered that question the same way. It will be the duty of the Office of Land Use Policy Administration to develop and make available to governments at all levels, and the public, "statistical data and information on past, present, and projected land use patterns, which are of more than local significance." The office will also be required to develop and maintain files on "the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management." It would obviously be impossible to develop and maintain and make public files of information on "plans and programs of—private enterprises which have more than local significance for land use planning and management" without identifying the private enterprises that own or control the land and make the plans and programs. It seems not only probable, but inevitable that, among the many other benefits of this legislation, the country may expect to obtain fairly soon a system of identifying and classifying the ownership and control of land, wherever the amount and use of the land in question is of more than local significance.

Mr. NELSON. I thank the distinguished Senator.

Mr. AIKEN. Mr. President, I wonder if I might ask a question.

Mr. JORDAN of Idaho. Mr. President, I yield 1 minute to the Senator.

Mr. AIKEN. Mr. President, on page 3 of the amendment, paragraph (b)(1), it states that no agency shall approve any loan or guarantee which might have an adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to the act.

Would that not put the Small Business Administration pretty much under the Secretary of the Interior or whatever agency is decided upon to run this program, because that agency would determine the eligibility of loans from the Farmers Home Administration or the Small Business Administration, as provided for in the Rural Development Act, which has just become law.

Mr. JACKSON. No. I see what the point the Senator is making. If the Senator will go back to line 7 on page 3 it states:

No Federal agency shall undertake any new action. . . . Which might have a substantial adverse environmental impact or which would significantly affect land use. . . .

The initial decision as to whether a State land use program complies with the act is shared by the Secretaries of the Interior and HUD and Administrator of the EPA; and the ultimate decision of eligibility rests with the ad hoc hearing board, which I referred to earlier, which would be appointed by the President. The ad hoc hearing board would be made up of a three-man board consisting of a representative from one of the Federal agencies, a Governor, and the third selected by the first two, and if not, selected by the President.

Mr. AIKEN. I wonder if the administering agency would make the final decision and could overrule the Farmers Home Administration.

Mr. JACKSON. The final decision, if it is an appeal from an initial decision of ineligibility, would be made by the ad hoc hearing board. They have to be found ineligible—first by the Secretaries of the Interior or HUD or the Administrator of EPA. The final decision would be made by the ad hoc hearing board appointed by the President.

Mr. AIKEN. I want to make sure the Farmers Home Administration and the Small Business Administration and the rural development program are not subordinated to this super agency being set up under this bill.

Mr. JACKSON. They would not be. As the author of it I can assure you of that.

Mr. AIKEN. The Senator does not intend that they would?

Mr. JACKSON. I do not intend that by this amendment.

Mr. COOPER. Mr. President, will the Senator from Idaho yield?

Mr. JORDAN of Idaho. I yield.

Mr. COOPER. I have read the language on page 87, section 307. It seems to me the Secretary does have the final authority. In every case where a question is raised and it is not objected to by the board within a certain number of days, the ad hoc board hears the question and then the Secretary has to make final determination. It is well that we know that.

I know the objectives of the bill are fine, but I think the Senator has to recognize he is placing in the hands of one man perhaps the largest grant of power ever given to any man in the world.

Mr. JACKSON. On page 87, line 16.

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

Mr. JORDAN of Idaho. I yield 2 additional minutes.

Mr. JACKSON. On line 16, page 87 of the bill before us it states:

The Secretary shall have authority to terminate any financial assistance extended to a State under this act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, . . .

The hearing board is the one, as I mentioned, the ad hoc hearing board appointed by the President of the United States. There would be one member from the Federal agency, one from one of the Governors, and the third to be appointed by the first two, and if they cannot agree, the President will select a distinguished citizen, so the Secretary does not have any such authority.

That section applies only to the $100 million of grant funds provided by the act. The Senator was reading from the one that applies to the grant-in-aid program, which is $100 million a year is for 8 years.

Mr. HANSEN. Does the Senator anticipate the hearing board would reverse the finding of the Secretary?

Mr. JACKSON. I cannot, of course, make such a judgment. I would point out that the elements of impartiality are there. First, the States are represented on the hearing board, and second, the representative of a neutral Federal agency would sit on the board. It would have to be a neutral Federal agency that had no interest in the problem——

Mr. AIKEN. Are Presidents always neutral?

Mr. JACKSON. We do have the problem of the administering of our laws by the executive branch of the Government.

Mr. FANNIN. I yield myself 1 minute to ask a question of the distinguished manager of the bill. On page 2 of the amendment on lines 15 and 16, the Senator refers to the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution, and then it goes on.

For purposes of clarification, what does the Senator mean by the goals? What is intended by the goals? How could we determine what is intended by that language?

Mr. JACKSON. I think the intent of it is to establish that there is a good faith showing of intention to comply with the provisions of the act.

Mr. FANNIN. Well, I just ask the distinguished Senator who would make that interpretation? Who would make this determination?

Mr. JACKSON. In this case, in the area of pollution, it would involve a determination by the head of EPA. That would be a condition precedent. Of course, in each case an ad hoc committee would be established, which would have to take the final action, as I outlined earlier.

Mr. FANNIN. I would just say that the Secretary is given this authority, according to the reading here, starting on page 12. Is the Director of the Environmental Protection Agency then going to overrule the Secretary, or how would they make that determination?

Mr. JACKSON. No. I covered that earlier by saying that a State cannot be ruled ineligible, except after approval has been given by the ad hoc committee appointed by the President of the United States. No agency can do it.

Mr. FANNIN. I remind the Senator that when he says the goals, that is an interpretation.

Mr. JACKSON. That is a good faith bit of language and it involves the question whether there is a good faith compliance.

Mr. FANNIN. I think it could be a very troublesome matter if we are going to say it is good faith and do not tie it down to a formula.

Mr. JACKSON. Words are very difficult at best to provide for that kind of inclusion. We have to couch the language in rather broad terms in order to achieve what we have in mind here and so that there will not be a manifest abuse of discretion or an arbitrary or capricious act upon the part of the——

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. There is no time left on the amendment.

Mr. JACKSON. One minute?

Mr. HARRY F. BYRD, JR. I do not think I can ask the question in 1 minute on a bill of this magnitude.

Mr. JACKSON. I ask unanimous consent, despite the previous unanimous consent agreement—how much time does the Senator want?

Mr. HARRY F. BYRD, JR. I do not know how long it is going to take. I want to try to get an understanding.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Virginia may proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARRY. F. BYRD, JR. I would like to go back to the question raised by the distinguished Senator from Maine. I am not clear as to the Senator from Washington's response. As I recollect; the Senator from Maine raised the question whether, if a State did not have what a Washington board would consider an adequate land use program, the board in Washington could withhold grants from any one or all of a multitude of programs. Would that be correct?

Mr. JACKSON. The requirement basically centers upon a plan that the States must submit.

Mr. HARRY F. BYRD, JR. Suppose they do not submit it?

Mr. JACKSON. There is the right of appeal, I will say to the Senator. It deals with the critical areas, and I outlined them in my opening statement. There are areas of critical environmental concern which they must plan for, such as flood plains, wetlands, beaches and dunes, shorelands. flood plains, and scenic or historic areas.

Mr. HARRY F. BYRD, JR. Suppose they do that, but in doing that do not satisfy the individual or individuals here in Washington who must subsequently pass on it. If they do not satisfy the individuals in Washington, can they then lose or stand to lose all the entitlements of the various programs involved?

Mr. JACKSON. I will make it very, very clear. This is not a subjective thing where the Federal Government can intercede and substitute its subjective judgment for the State's judgment.

As long as the plan covers the four principal areas that I have mentioned, then the Federal Government is required to accept it. They do not have to go into all the details, but they have to deal with the substantive issues that I have mentioned and that can be found in the bill. I will give the Senator the citation in just a moment.

Secondly, let me point out the safeguards here. Number one is the one I just mentioned, that the States do not have to satisfy the Federal Government in every detail, but they have to wrestle with these four areas I have mentioned. They have to show they have made a good faith effort with a plan to deal with those principal environmental problems that do have a very wide range of impact.

Then if there is a dispute on this and the agencies say that it does not comply, the President appoints——

Mr. HARRY F. BYRD, JR. Regardless of who appoints, it still rests with the board in Washington, does it not?

Mr. JACKSON. The board in Washington, though, is made up of three individuals. One is from the Federal department, one is a Governor, and the third one would be selected by the first two; so the States also would be involved in this.

I thought that was very necessary, and if the first two cannot agree on the third one, then the President can appoint a third person, who is an impartial, disinterested citizen, who cannot be out of the Federal bureaucracy. So the States are involved, as I mentioned, in this board.

Mr. HARRY F. BYRD, JR. But if that board is not satisfied, then under the proposed amendment that particular State which is involved could lose——

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

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

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

Mr. HARRY F. BYRD, JR. Could lose funds that otherwise they would be entitled to in a multitude of programs having nothing to do with land use; is that correct?

Mr. JACKSON. Oh, no. The point is we do not want to be granting funds for programs that will have an adverse effect on the land. The programs that would be affected would only be those programs that significantly affect land use in any State. Look on page 3 of the amendment. Does the Senator have that?

Mr. HARRY F. BYRD, JR. Yes. I have the amendment.

Mr. JACKSON. If the Senator will look down on line 12, it reads "which would significantly affect land use in any State", that is the key language. For example, we run into the classic case of providing grant-in-aid funds for a park to a State then finding that they are going to undo the park by using adjacent land for some other purpose involving the Federal grant of funds.

We have the case of the Everglades in Florida, where we were going to build a commercial airport adjacent to the Everglades National Park that we are also supporting; we also had a Federal engineering project that would take water away from the Everglades, all of this involving Federal funds. This is what we want to avoid.

Mr. HARRY F. BYRD, JR. But is it not correct, as the Senator from Maine brought out, that there are 112 programs that could be affected——

Mr. JACKSON. One hundred twelve Federal agencies could be affected, only where those agencies have large projects, substantial projects, that have a substantial adverse environmental impact—that is on line 11—or which would significantly affect land use in any State.

It seems that we have to decide here if we are going to have the kind of coordinated Federal help that will not go one way in one program and an adverse way in another.

Mr. HARRY F. BYRD, JR. That is not the——

The PRESIDING OFFICER. All time on the amendment has expired. There is no time remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I think this is important. I ask unanimous consent that we proceed on this amendment for another 6 minutes.

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

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

Mr. HARRY F. BYRD, JR. I yield to the Senator from Maine.

The PRESIDING OFFICER. Who is in control of the time?

Mr. JACKSON. I will yield to the Senator.

Mr. MUSKIE. Mr. President, I refer to section 307(a) of the bill, on page 87, line 16. That language would be left in the bill if the amendment were agreed to. It reads as follows:

> The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

The Senator must have that language in mind in order to understand the language on page 3 of the en bloc amendment of the Senator from Washington.

Mr. HARRY F. BYRD, JR. If the Senator from Maine will yield, what the language actually says is that the Secretary shall have the authority to terminate any financial assistance.

Mr. MUSKIE. Yes. We can debate the meaning of the section, but the section applies to States which do not meet the

requirements of this act in terms of land use planning policies. It is those States, and no others.

Mr. JACKSON. Mr. President, if the Senator will yield this section 307 applies only to the grant-in-aid programs to the States, which involve $100 million a year.

Mr. MUSKIE. Oh, but if the Senator will yield, on page 3 of the Senator's pending amendment——

Mr. JACKSON. Section 307(a), we are talking about.

Mr. MUSKIE. On page 3 of the pending amendment, the language we have been discussing now for some time——

Mr. JACKSON. That is entirely different.

Mr. MUSKIE. Wait a minute. That section applies to "any State which has not been found eligible for grants pursuant to this Act."

I agree that section 307 terminates eligibility for grants under this act, but the Senator's pending amendment, by having left that reference in, applies these sanctions, these broad sanctions, to States which are denied eligibility under this act.

Mr. JACKSON. But in addition, though, I want to point out to the Senator—and we have gone through this until it is getting repetitious—that in connection with section 307(a) and in connection with section 307(b)—and I request the attention of the Senator from Virginia on this point—both of these provisions require the concurrence of the hearing board. That is the board that I referred to earlier, which is appointed by the President, which is made up of a representative of one of the Governors or the Governor and the head of a Federal agency, and a distinguished third citizen, whomever they choose to agree upon. So the States are tied into this. No one agency can do anything to detract from it.

Mr. HARRY F. BYRD, JR. It appears to me to be quite broad. What I am trying to do is get a better understanding than I have of it.

As I understand the Senator's amendment, it would eliminate from the bill subsections (b), (c), (d), and (e) of section 307 of the bill.

In doing that, the Senator would eliminate public hearings. What is the purpose of eliminating public hearings, which are provided for as a part of the bill which was submitted by the committee to the Senate?

Mr. JACKSON. I must say the public hearings provision remains. That is not eliminated.

Mr. HARRY F. BYRD, JR. As I read the amendment, on page 3, it says:

> On page 87 lines 23 through page 91, line 9, strike subsections (b), (c), (d), and (e) of section 307.

It is subsection (b), on page 88, that provides for the public hearings. The amendment offered by the Senator from Washington does not appear to provide for public hearings, unless I missed something there.

Mr. JACKSON. There is a public hearing provision elsewhere. I will state the section.

Sections 302 and 303 cover that, and the language was changed simply to make it conform with the other provisions in the act. The right of a hearing still applies; that has not been taken away.

In addition, I might say that——

The PRESIDING OFFICER. All time has expired.

Mr. HARRY F. BYRD, JR. I ask unanimous consent for 5 additional minutes.

Mr. PASTORE. Mr. President, we have been here since 10 o'clock this morning. We have been walking back and forth all day from our offices over here. I would like to know from the leadership how long we are going to be here tonight. This bill came up an hour and a half ago, and we have not completed work on one amendment. It strikes me that anyone who has a case to state can state it in 15 or 20 minutes. This is no reflection on anyone.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, reserving the right to object, and I do so only because the Senator from Rhode Island raised the question, I thought we had reached a unanimous-consent agreement all the way around last week that we would spend 1 hour on the bill and one-half hour on amendments. I did hope there would be no further extensions on the bill, that if Senators wanted to speak, they would offer amendments in good faith, and in that way help the bill along, because, as the Senator from Rhode Island has indicated, we have been in session since 9 o'clock, it has been a long day, and we have a lot of long days ahead of us, and I would hope the Senate would take this statement in good faith and pay some heed.

I shall not, at this time, object to the request of the Senator from Virginia.

Mr. PASTORE. Neither will I.

Mr. MUSKIE. Mr. President, reserving the right to object, as a party to the time limitation agreement on this legislation, I would like to indicate the reservations I had about a time agreement. I have been concerned about this legislation, its complexity, and its difficulty for some weeks. I agreed to a time limitation agreement because I was aware of the leadership's desire to expedite the work of the Senate. I was willing to be cooperative, but it was understood that because the time on this particular legislation was restrictive there would be flexibility on the giving of additional time. I do not want to abuse that, and I have not, except in one instance, asked for additional time, not for my purposes, but for the purpose of undertaking to explain a matter to a Senator who has not had an opportunity to study this legislation, in response to a serious question he had.

I think if we are going to have unanimous consent agreements, there must be some flexibility with respect to Senators who do not study particular legislation as closely as others. This, as I said in the beginning, is one of the most complicated pieces of domestic legislation the Senate will consider this session. I do not intend to filibuster it, stall it, or delay it, but the Senator from Virginia is deeply concerned about a particular question, and ought to have the right to pursue it.

Mr. JACKSON. Mr. President, it might help to expedite matters here——

The PRESIDING OFFICER. Is there objection? Without objection, the request of the Senator from Virginia for 5 additional minutes is agreed to.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. JACKSON. In the interest of trying to expedite action on the pending amendment, I ask unanimous consent to delete from my amendment—which, by the way, I worked out with the chairman of the Committee on Public Works (Mr. RANDOLPH)—that language, starting on page 3, line 3, which is the area in controversy. Does the Senator have that?

Mr. HARRY F. BYRD, JR. Yes, I have it.

Mr. JACKSON. On page 3, line 3, strike all the language to the bottom of the page—that is, subsection 6—to and including line 2 on page 4. That matter can be dealt with at another time.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, will the Senator repeat that?

Mr. JACKSON. On page 3, line 3, of the pending amendment, strike all the language through line 25 and lines 1 and 2 on page 4.

Mr. MUSKIE. Mr. President, may I ask the Senator a question?

Mr. JACKSON. Yes.

Mr. MUSKIE. Is it the Senator's intention to offer that part of his amendment later in the discussion?

Mr. JACKSON. I may. I want to reserve judgment on that. But in the interest of expediting the matter—I think this goes to the heart of the question the Senator raised and other Senators have raised—I ask unanimous consent that this request be granted.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—and I shall not object—I want to say that this is a very far-reaching piece of legislation; 50 pages are involved. It deals with a subject of importance to every citizen of our Nation.

The Senator from Kentucky has just called my attention to some very important points in this bill that I do not have an answer to, and I do not think the Senator from Kentucky does, and perhaps many other Senators do not. I think we ought to devote an adequate amount of time to understanding just how far-reaching this legislation is.

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

Mr. JACKSON. I yield whatever time I have remaining.

Mr. BAYH. Mr. President, I have listened to the colloquy—I just came to the Chamber after attending to some committee business—and I am concerned about the matter raised by the Senator from Virginia with respect to hearings. At an appropriate time, I have an amendment to offer, which I understand the Senator from Washington is prepared to accept, so far as the whole matter of public hearing is concerned.

Mr. JACKSON. That is correct. I am prepared to accept the Senator's amendment. I am aware of it.

Mr. President, I ask for a vote on the amendment as modified. I yield back the remainder of my time.

Mr. JORDAN of Idaho. I yield back the remainder of my time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington, as modified. 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), 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 further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr JAVITS) is absent because of religious observance.

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

Also, the Senator from Tennessee (Mr. BROCK) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 448 Leg.]

YEAS—71

Aiken	Cooper	Inouye
Allen	Cotton	Jackson
Anderson	Cranston	Jordan, N.C.
Bayh	Dole	Jordan, Idaho
Beall	Dominick	Kennedy
Bennett	Eastland	Magnuson
Bible	Edwards	Mansfield
Boggs	Ervin	Mathias
Brooke	Fannin	McClellan
Buckley	Fong	Miller
Burdick	Gambrell	Mondale
Byrd, Harry F., Jr.	Gurney	Montoya
	Hansen	Muskie
Byrd, Robert C.	Hart	Nelson
Case	Hatfield	Packwood
Chiles	Hollings	Pastore
Church	Hruska	Pearson
Cook	Hughes	Percy
Proxmire	Smith	Talmadge
Randolph	Spong	Thurmond
Roth	Stafford	Tunney
Saxbe	Stennis	Weicker
Schweiker	Stevenson	Williams
Scott	Symington	Young

NAYS—0

NOT VOTING—29

Allott	Gravel	Metcalf
Baker	Griffin	Moss
Bellmon	Harris	Mundt
Bentsen	Hartke	Pell
Brock	Humphrey	Ribicoff
Cannon	Javits	Sparkman
Curtis	Long	Stevens
Eagleton	McGee	Taft
Fulbright	McGovern	Tower
Goldwater	McIntyre	

So Mr. JACKSON's amendment, as modified, was agreed to.

AMENDMENT NO. 1544

Mr. BAYH. Mr. President, I call up my amendment No. 1544 and ask that it be stated.

The PRESIDING OFFICER (Mr. HART). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 97, line 12, strike "when the public interest warrants,".

On page 97, line 13, after "hearing" add the following: "or provide an opportunity for such a hearing;".

On page 97, line 16, strike the word "warranted" and insert in lieu thereof the word "held".

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Fred Kraft be permitted the privilege of the floor during the debate on this legislation.

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

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Michael Helfer also be permitted the privilege of the floor during debate on this legislation.

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

Mr. BAYH. Mr. President, I call up this amendment now because of the colloquy and discussion among the Senator from Virginia, the Senator from Washington, and the Senator from Maine relative to the matter of public hearings.

The Senator from Indiana has discussed this measure with the Senator from Washington and the Senator from Maine and I understand that there is general agreement on it.

I do not desire to ask for a rollcall vote. I believe the Senator from Washington will accept it.

For the sake of saving time, let me briefly describe what the amendment will do.

Mr. President, the purpose of this amendment is very simple: It is intended to assure that the members of the public have an opportunity to express their views on issues arising out of a conflict between uses of Federal and related non-Federal land. Resolution of such issues is a matter of vital public concern. S. 632 recognizes this by providing for the establishment of:

Ad Hoc Federal-State Joint Committees to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of federal lands and of adjacent non-federal lands.

But the bill presently does not guarantee that interested, concerned, affected members of the public will have an opportunity to make their views known to the joint committee at an open hearing. For under section 405, the joint committee must hold a hearing only when it determines—apparently in its own discretion—that "the public interest warrants" one. My amendment would require the joint committee to hold a hearing or provide an opportunity for such a hearing before making its recommendations in any situation.

There are several reasons why this amendment will improve the bill, while being wholly consistent with its purpose. First, joint committees will come into existence, according to the report which accompanies the pending bill, only in unusually difficult or important situations. Let me quote the report:

It is expected that most conflicts over the uses of Federal lands and adjacent non-Federal lands are not of sufficient magnitude or difficulty to warrant the establishment of these committees and the undertaking of procedures—established for them.

It is precisely in these difficult and important cases that public participation is most important.

Second, experience shows that concerned citizens and citizens groups often can make meaningful contributions to resolving environmental disputes and assuring compliance with environmental protection laws. Their expertise should be presented to the joint committees. Third, experience also shows that public participation, or at least the opportunity for public participation, increases public confidence in the governmental decisionmaking process, with little or no additional burden on those charged with the responsibility to make the decisions. This is why so many of our environmental protection laws—and the very bill before us in other sections—see, that is, page 88, 1.2; page 92, 1.8—require an opportunty for public hearings in similiar situations. Indeed, the report accompanying this bill states that one of the committee's findings was that:

All those affected by land use decisions should be afforded an opportunity to participate in the decisionmaking.

Finally, I fear that the present section 405 would lead to unnecessary and time-consuming litigation over the question whether the joint committee's decision not to hold a hearing was arbitrary and capricious or not. Surely no purpose would be served by such litigation—and the easiest way to avoid it is to require the joint committee to provide an opportunity for a public hearing.

For these reasons, Mr. President, I hope the distinguished manager of the bill (Mr. JACKSON) and the rest of my colleagues will join me in supporting this amendment.

Let us not leave anything to chance. Let us just state that there will be an opportunity for public hearings.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment of the distinguished Senator from Indiana. What he is doing is making mandatory the need for hearings in public situations. What he has done—and that was the original intent of the commit-

tee—is to provide for public participation in land use decisionmaking.

I commend the Senator. I think it is very helpful. I am delighted to accept it.

Mr. BAYH. I appreciate the remarks of the distinguished Senator from Washington.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I commend the Senator from Indiana for the introduction of his amendment. That was one point which concerned me about the previous amendment before it was changed by the Senator from Washington. It appeared to cut out the public hearings which were contained on page 88 of the bill.

I ask the Senator from Indiana where his amendment is placed in the bill or is it all inclusive.

Mr. BAYH. On page 97, line 12, we strike out "the public interest warrants." The question is: When does the public interest warrant it? We think there ought to be public hearings and not let the board determine in what instance the public interest warrants it.

Mr. HARRY F. BYRD, JR. I think that is a very fine improvement in the bill. I commend the Senator from Indiana.

Mr. BAYH. It applies specifically to Federal-State land, I might say to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask the Senator from Washington (Mr. JACKSON) whether the amendment applies only to one section of the bill or to all sections of the bill.

Mr. JACKSON. Mr. President, this section of the bill, section 405, found on page 97 of the bill, applies only to the situation involving a conflict between Federal land and non-Federal land.

Mr. BAYH. Mr. President, is it not fair to say—if the Senator from Washington will permit me to interject one thought—that it was the impression of the Senator from Indiana that the measure covered all other aspects of the bill as far as public hearings were concerned. I quoted in my statement the references to public hearings. However, it was in this one place where we felt that it had been inadvertently omitted. And it was confined to that portion alone for that reason.

Mr. JACKSON. Mr. President, the Senator is correct. Another section provides for all hearings on other aspects of the bill. That is why the Senator's amendment only ran to the particular problem where Federal land is adjacent to non-Federal land.

Mr. HARRY F. BYRD, JR. Mr. President, it is only section 405 on page 97 that uses the phrase "when the public interest warrants." It was not mentioned in the other areas of the bill.

Mr. JACKSON. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

AMENDMENT NO. 1440

Mr. BOGGS. Mr. President, I call up amendment No. 1440 which I submitted on August 15 on behalf of myself and Senators COOPER, MUSKIE, and TUNNEY.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 72, line 24, insert the following: Before the word "agriculture," insert "conservation and preservation of natural resources;".

Mr. BOGGS. Mr. President, the purpose and content of this amendment is very simple and direct. It is intended to assure the States that they can and should consider the establishment of a portion of their lands for the purpose of preserving and conserving natural resources for the future.

Title III of S. 632 authorizes the Federal Government to make annual grants to assist the States in developing and administering a State land-use program.

Section 301 lays out the basis for determining if a State is in a position to initiate such a program.

Section 302 establishes conditions for evaluating the process under which a State develops its land-use plan.

If a State is to receive continued Federal support for land-use planning after 3 full fiscal years following enactment of this bill, the conditions of section 302 must be met.

The Federal Government's determination of the adequacy of the State's planning process is made on a number of points, the third of which, beginning on page 72, line 22, of the bill, reads as follows:

"(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local government services;"

The amendment I am offering on behalf of myself and my colleagues would insert an additional phrase in that list. After the word, "appreciation," which ends on page 72, line 24, of the bill, the amendment would insert the phrase "conservation and preservation of natural resources."

The subsection requires that the statewide land-use process include projections on the natural and quantity of land needed and suitable for a variety of purposes. We believe it is necessary to add language that will assure the consideration of the "conservation and preservation of natural resources" in making such projections.

As reported, paragraph (3) of section 302(a), relating to preparation of statewide projections of the nature and quality of land, seems to be limited to present or future uses of land for development for purposes such as recreation, transportation, or urbanization. An inventory and evaluation that fails to include consideration of conservation and preservation—land set aside for no development—would be inadequate, we believe.

It is our view that the conservation and preservation of natural resources must be weighed in any such evaluation of land-use policy.

I believe this option is vital to assure a proper balance that will allow growth while protecting our environment for future generations. As paragraph 3 of section 302(a) is now proposed, it appears to me that a no-use classification could not be considered as an alternative by the State. This amendment would make clear that point that States may establish such "no-use" classifications, if the State wishes.

The intent of the entire bill is to create a reasonable standard for future national growth. I urge adoption of this amendment, which seeks to assure such a balancing test.

I believe that the distinguished floor manager of the bill, the Senator from Washington (Mr. JACKSON), may see fit to accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment of the Senator from Delaware. The amendment is in accord with the intent of the act and with the intent of section 302 (a)(3).

It was the committee's view that the language in section 302(a)(3) concerning recreation and esthetic appreciation covered the concerns the Senator has expressed. Adoption of the clarifying language the Senator proposes will, however, make the intent clear.

I commend and approve the amendment of the Senator from Delaware.

Mr. BOGGS. Mr. President, I thank the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. BOGGS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

AMENDMENT NO. 1439

Mr. JORDAN of Idaho. Mr. President, I call up my amendment No. 1439.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition

diminishes the use of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

Mr. JORDAN of Idaho. Mr. President, this is a very simple amendment. The purpose of this amendment is to make abundantly clear that in implementing a land-use plan, a State cannot deprive an individual of his property without due process and, if warranted, compensation.

The situation may arise where a land-use plan will impose limitations or prohibitions upon the use of private property, short of condemnation. For example, a State in endeavoring to comply with the provisions of this measure could make a determination that a particular tract of land was in an area of critical environmental concern within the State. That would have the effect of severely limiting and prohibiting the use to be made of that land which could in turn cause economic hardship of the landowner.

A limitation of the use of land should be compensable even though such limitations do not amount to outright confiscation. The amendment provides the landowner with the right to go to court and have a determination made as to whether there has been a diminution in the use of his property and the amount of compensation to be awarded therefor.

Mr. President, I hope Senators and the distinguished chairman and manager of the bill will accept the amendment.

Mr. JACKSON. Mr. President, here again the amendment that is offered would strengthen and clarify the bill. I am in full accord with the intent of the amendment.

It is my position and the position of the committee that S. 632 in no way diminishes any person's right to go to court and to receive compensation if the use and enjoyment of his property has been so restricted as to constitute a taking.

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

Mr. JACKSON. I yield.

Mr. MUSKIE. I address my question to the Senator. As I read the language it is to reflect the right of any citizen under existing law to compensation where his land is taken for public purposes and it is not to substantially add to present law. It should be clear in the RECORD that this measure does not endorse payments for speculative land values, that may be lost because of rezoning or because of land use limitations of any kind.

Mr. JORDAN of Idaho. Mr. President, I think the Senator has offered a clarification I would accept.

Mr. JACKSON. As I understand it, and the author of the amendment agrees, it does not add to nor detract in any way from any law that now applies, as it pertains to private property.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. JORDAN of Idaho. I yield.

Mr. HANSEN. I understood it was the intent of the Senator to recognize that zoning could, indeed, adversely affect the property owner.

I live in an area that is largely in Federal ownership. My county of Teton is 97 percent in Federal ownership. Presently there are some remaining cattle ranches in the area. If it became impossible to continue a livestock operation there or economically infeasible to continue, and a landowner chose to make some other use of his property, it would be sold to land developers and it would then be subdivided.

My question is: According to the clarification by the Senator from Maine, would this amendment of the Senator from Idaho imply that if the zoning board or Land Use Planning Board said there could be no further subdivisions in an area, that that would be it and the owner of the land would not be entitled to any relief?

Mr. JACKSON. It would be up to the court to decide.

Mr. HANSEN. I ask the Senator from Washington because he cited the illustration of a zoning board action which affected the landowner because of a zoning ordinance.

Mr. JACKSON. I do not want to get into a complicated discussion as to what the law is. Zoning is a very confused area. The courts have held that the States in subdivisions have the police power to zone land. The courts have held this is not a taking of property. We are not trying to undo the law. Counsel says I am correct, and I think I am.

To rezone retroactively gets into serious constitutional questions of taking property without due process of law. But when they zone——

Mr. HANSEN. What does the Senator mean by "zoning retroactively"?

Mr. JACKSON. Exactly that. I am talking here, however, about a zoning ordinance that goes into effect prospectively.

Mr. HANSEN. Then, let me cite an example. Let us assume that within this area there may be some large apple orchards. As I read the bill, on page 99, section 501, subsection (e) provides:

(e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include significant undeveloped agricultural, grazing, and watershed lands.

I wish to ask the distinguished Senator if it could not very well be that through imposition of a zoning ordinance that that land, those apple orchards could be declared areas of critical environmental concern, and that it might be determined there should be no subdividing, no developmental efforts undertaken to do any building, or anything.

Mr. JACKSON. Under the provisions of this bill—and I am violently opposed to any Federal zoning—this is up to the local jurisdiction.

What the amendment does is to provide that the bill does not in any manner, shape, or form change any existing law, add to it or detract from it; it maintains the status quo, whatever it is.

There are lawyers who practice zoning law exclusively. I would not pretend to know the law on property rights under a given set of facts. I can only say that we are not telling them what to do by Federal zoning. This is up to the local entity which would have jurisdiction of property under the law in Wyoming.

Mr. HANSEN. I do not argue that. What concerns me is what results if the State authority, acting in conformance with this legislation, works up a State plan wherein certain uses and developmental activities may be precisely prohibited, and in the course of events it becomes economically unsound further to continue a dairy operation or an apple orchard.

Then, obviously, I can see where a landowner could be put at a very distinct disadvantage for reasons entirely beyond his control. Maybe the property goes into an estate. It may be that he would want to make other use of it.

I thought the purpose of the amendment of the Senator from Idaho was to recognize the inequity that would otherwise result from that situation and afford relief to the property owner to go into court and say, "I cannot continue to operate my apple orchard. I could sell this land for x dollars, but that use has been denied me by action of the State in its land plan, so I must think of other uses."

That would involve the difference in value from the use on the one hand that would yield the greatest economic return and the use on the other hand which would be countenanced by State land planning action would be so much less. I assume the purpose of the amendment was to say to that landowner that either the Federal Government or State would recognize that landowner's right to seek relief. Is that not correct?

Mr. JACKSON. May I answer the question?

Mr. HANSEN. I would be happy for the Senator to answer the question.

Mr. JACKSON. Let me make it very clear. This is up to the State of Wyoming.

Mr. HANSEN. I fully agree. I do not argue that point. I am not saying who has the authority.

Mr. JACKSON. Wait a minute. Look, I can give the Senator some cases.

Mr. HANSEN. I just want a simple answer to a very simple question.

Mr. JACKSON. Give me the question.

Mr. HANSEN. All right. I thought I did, but let me state it again.

Mr. JACKSON. All right.

Mr. HANSEN. Suppose I live in Virginia and I have a thousand-acre apple orchard.

Mr. JACKSON. Yes, right, and it has been zoned only for agricultural purposes and the persons involved, the people who own it, want to get a better price, and they want to subdivide it, and they subdivide it. This bill does not change anything. I submit that is the case over and over again that is going on in America. It is a very difficult situation. Farmlands are being gobbled up for subdividing and

the question is, can the State, through its local subdivision, make a determination that that land shall be for agricultural purposes only?

Mr. TALMADGE. Will the Senator yield on that point?

Mr. JACKSON. Yes. I shall be happy to yield.

Mr. TALMADGE. It is my understanding each State must submit to the Secretary of the Interior a land use plan. Is that not correct?

Mr. JACKSON. This is correct.

Mr. TALMADGE. Suppose the State submits a land use program.

Mr. JACKSON. It is the program as a whole.

Mr. TALMADGE. And has broken down various areas within the State, and particular area should be restricted for agricultural purposes only; does the bill authorize that?

Mr. JACKSON. If the State makes the determination that certain areas should be assigned for agricultural purposes only, they would be conforming to the plan authorized by this bill.

Mr. TALMADGE. And then how could that be changed? Suppose it was an area of tremendous growth, taxes have shot up so high until it was confiscatory to continue for agricultural purposes, people want to come in there and buy land to build homes, and things of that nature. How would that plan then be changed from agricultural purposes to some other higher use value?

Mr. JACKSON. It is a continuous process of changing the plan. Under this bill the State, as it can do now, would not be affected in any manner, shape, or form. It could change it and say this area now is within a large metropolitan area and this land can be subdivided and, of course, in most States, the taxes skyrocket.

Mr. TALMADGE. Will the Senator yield on that point?

Mr. JACKSON. Yes. I want to emphasize to the Senator, this is a completely flexible plan. It is not a static matter. It is an ever-changing situation.

Mr. TALMADGE. Would the State make that determination or the local zoning authority do it under existing law?

Mr. JACKSON. That would be entirely up to the States, and if the States permitted local zoning authorities to do it, they could do it.

Mr. TALMADGE. What I am trying to get at ——

Mr. JACKSON. It is left to the States entirely.

Mr. TALMADGE. So far as I know, under existing law virtually all zoning authority is regulated by zoning boards within specific subdivisions of government.

Now we are introducing a new area, to-wit, the States, and the States must submit plans to the Secretary of the Interior, so we have two new layers of authority over the local zoning authority. We have the State authority and finally the Secretary of the Interior. We have pyramided two more zoning authorities over local zoning authorities, so how is that going to affect the local zoning authorities in the future in making a decision as to whether a filling station could be located here or a schoolhouse can be located here or a hospital can be located here or some other section that has been traditionally a local decision by local people?

Mr. JACKSON. Let me say, to get back to the basic authority, that is, that the authority to set out these plans resides within the police power of the respective States. I think the Senator will agree with me. The States, of course, will vary on this point.

What we are really wrestling with, I will say to my good friend from Georgia, is what the Governors complained about—that in the 50 States today we have some 80,000 governmental entities within the States that are involved in land use planning, and there is overlap, there is conflict, so that the decisionmaking process is breaking down.

What we are trying to do here is to assist the States in bringing about a more orderly procedure.

I know that the State of Georgia controls the zoning over certain critical areas. That is what we are referring to here, where the States are involved, such as coastal marshland, and I think there are certain other proposals under consideration now.

In other words, in all States—not in all States, but in the States that are moving forward on this problem—they identify critical areas that need attention by the State government, that go beyond the purely local problem that the Senator has been talking about, and I do not want to see any interference with that.

The problem is to deal with these very large regional decisions, that can have an impact on the local communities without their being able to participate in it, which can, indeed, have an adverse effect on the State.

Mr. HANSEN. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. HANSEN. Mr. President, I think we need to keep in mind the basic issue here. I do not argue with the police powers of a State to exercise authority in the areas of zoning, but what this bill does is to use both a carrot and a stick approach. It can withhold up to 21 percent of the funds that are available to airports. It can withhold up to 21 percent of the money that would be available for the expansion of primary highways and secondary highways. That could be a vital importance in every city, and to every citizen in this country. It can withhold up to 21 percent of the Land and Water Conservation Fund. Then the bill turns around and tells the States they do not have the choice of deciding whether they want to do those things, whether they intend of their own volition to exercise their police powers; but it says in effect to the States they have to do it, and that is why I think the question by the Senator from Georgia is very relevant to this question.

If the Federal Government is going to go that far, if it is going to go that far in saying the States have to do these things, then it seems entirely appropriate to me that the bill ought to recognize the injustice that can be done to a private landowner.

This is precisely the question that concerns people in the State of Wyoming; the fact that taxes escalate, land values rise, boards of county commissioners and equalization boards raise the property values, taxes can increase until old uses no longer can yield any return and the land has to be disposed of.

I thought what the amendment by the Senator from Idaho proposed was that realistically and fairly this is something we have to consider. It gives a landowner the right to go into court and petition the court to make a determination if he has been hurt, and if he has been hurt, then I suspect it would give him some relief. I do not see anything wrong with that. I am amazed we would say this has no place in the bill.

The PRESIDING OFFICER. The time remaining to the Senator from Washington has expired. Twelve minutes remain to the author of the amendment.

Mr. JORDAN of Idaho. I yield 1 minute to the Senator.

Mr. JACKSON. I think I can answer—I hope I can answer—the Senator from Wyoming. I gather the Senator is asking whether the Federal Government can interfere in these local zoning problems and say, "You cannot do this."

Mr. HANSEN. No, just to give them the right.

Mr. JACKSON. The right?

Mr. HANSEN. The landowner the right?

Mr. JACKSON. Well, the landowner has all the rights he had before.

Mr. HANSEN. If the Senator can cite one example where so far a landowner has been able to go into a court and petition that he has been adversely affected and has been entitled to a judgment on account of a zoning ordinance, I would be interested.

The PRESIDING OFFICER. The minute has expired.

Mr. JACKSON. Look, we are not involved in that.

Mr. HANSEN. As a landowner, I am involved in it.

Mr. JACKSON. I understand.

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

Mr. JACKSON. Yes.

Mr. PASTORE. If this denial is given by State law, then it is a question of State law. It is a State edict.

Mr. JACKSON. Right.

Mr. PASTORE. It is not Federal.

Mr. HANSEN. But this bill emphasizes the responsibility of the States to make these edicts.

Mr. PASTORE. That is not so. As a matter of fact, they will lose 21 percent of the highway funds, 21 percent of airport expansion funds. That is the way I read it.

Look at page 99 of the bill.

Mr. PASTORE. Mr. President, will the Senator yield? As I understand it, there is a fundamental difference between the Senator from Washington and the Senator from Maine, in the fact that the Senator from Washington retains State jurisdiction. Am I right or wrong?

Mr. JACKSON. The Senator is correct.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, may I just respond first to the Senator from Wyoming? This bill does not require State zoning. It simply requires that the

States come in with an overall program. The States may delegate it all locally to the cities or the counties subject only to review under State guidelines. And, as the Senator from Rhode Island pointed out, if people have been deprived, in their judgment, of their property by zoning—and as we all know, the law books are full of questions on the point of whether you have taken property by zoning—then that is a matter that the States have accomplished, and nothing else.

For example, take the farm situation. Some States have said, "You can only use this land for agricultural purposes. It is zoned." The facts are that if you could subdivide it, it would be worth five times as much. So you go into court and say, "I want to subdivide it." Well, the local judge will tell you, and the courts have so ruled, "That's too bad, you are zoned." We all know there have been some terrible scandals in this country——

Mr. HANSEN. Indeed there have; I would agree.

Mr. JACKSON (continuing). About changes in zoning in order to enhance the value of property. But is all at the local level. For the most part we are not changing local zoning, adding to it or detracting from it.

I cannot solve the Senator's problems concerning the environment dealing strictly with local situations and problems by this bill. I would not attempt to, Mr. President.

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

Mr. JACKSON. This is a matter of getting the States to exercise States' rights.

Mr. MUSKIE. Mr. President, will the Senator from Wyoming yield?

Mr. HANSEN. Yes, I am happy to yield as much time as the Senator desires.

The PRESIDING OFFICER. Who yields time?

Mr. JORDAN of Idaho. How much time does the Senator want?

Mr. MUSKIE. Does the Senator from Wyoming have time on his amendment?

The PRESIDING OFFICER. The Senator from Wyoming has 9 minutes.

Mr. HANSEN. I yield the Senator 2 minutes.

Mr. MUSKIE. The amendment of the Senator from Idaho has provoked discussion along the whole broad range of issues related to this bill. I would like to put a question in relation to his amendment.

Does the Senator, in offering this amendment, intend to create a cause of action which does not now exist under present law? As I understand, the Senator from Washington, in his reply to me, stated his belief that the Senator's amendment does not create a cause of action. Is it the Senator's intent, as one of the authors, to create a cause of action which does not now exist under current zoning law?

Mr. HANSEN. In responding to the Senator from Maine, let me observe that credit must first be given to the Senator from Idaho. I am a cosponsor of the amendment; I endorsed it, and I think it has great merit. Certainly the Senator from Idaho may speak more knowledgeably than I can, but it is my understanding that what this amendment proposes to do is to recognize that under the Federal coercion that this bill imposes upon State governments, situations may arise where a landowner would be adversely affected, and this amendment would provide him with the only possible redress.

I am not a lawyer, but if that does help clarify the Senator's understanding as to my intentions, I am delighted.

Mr. MUSKIE. May I say, as one who was once a lawyer—it has been a long time, but I have been involved in that profession—as I read the Senator's language, it does not do what he thinks it does. I think that is what has projected this disagreement. The Senator may disagree with me, but as I read this language it does not create a cause of action, but simply recognizes that whatever causes of action exist under current law will continue to exist without any dimunition under this bill. That is what I wanted reassurance about from the manager of the bill. I gather that the Senator from Wyoming understands this language to do something it does not do.

Mr. HANSEN. Well, I suspect we must leave it to the courts to determine what was intended by Congress. I assume that the Senator from Maine endorses the concept of the amendment as he interprets it; am I right about that?

Mr. MUSKIE. The Senator is correct. I had questions about the meaning of the language.

Mr. HANSEN. Then I take it he will support it.

Mr. MUSKIE. But as far as the language is concerned, the interpretation which I take to be that of the manager of the bill is the interpretation I support.

Mr. JORDAN of Idaho. Mr. President, we have had a very interesting discussion about the language of the bill generally, but I think we had better read the language of the amendment as stated:

> Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition diminishes the uses of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

As an example that I did not previously state, but I will state now, of how an individual might suffer an economic hardship: A State, on its own or under the direction of the Secretary might designate a mountain area, a lake area, or a beach area, as an area of critical environmental concern. Unfortunately for Mr. X, a man nearing retirement age who has purchased land in one of these areas intending to construct a retirement home for himself, construction of residences is now prohibited under the management plan for such area.

Mr. X has made a substantial investment in a building site, but he can no longer build, and as land within an area of critical environmental concern, his land has lesser value. He has suffered an economic hardship, and is entitled to redress from the courts.

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

Mr. JORDAN of Idaho. I yield.

Mr. PASTORE. As a very distinguished former Governor of his State, the Senator certainly would not tolerate denying an individual that right. From what the Senator has read, it is very clear that this is what the State is doing.

Mr. JORDAN of Idaho. That is exactly right.

Mr. PASTORE. That is the point I am making: Why do we fault the Federal Government? We should not fault the Federal Government, because that is the doing of the State, and any Governor who tolerates that is not worth his salt.

Mr. COOK. Mr. President, will the Senator yield? It is not a matter of whether or not that particular Governor may be worth his salt, may I say, because I think what he is doing, and I am inclined to want to extend the colloquy, if we could, relative to the proposition submitted by the Senator from Maine, because I think we are setting in a second level between the right of a property owner to use his property as he desires and the right of eminent domain, and between there, we now see that we are not going to exercise this right to acquire, but we are going to exercise the right to determine that something is in a serious environmental area, that we are not going to acquire it, yet we are going to compensate if in fact there is a decision made that a loss has resulted.

So I think in fact we have established something. If the Senator does not think so, I am rather amazed, because I think we do have this problem, and I think this amendment may cure the problem, but I worry about the phrase "a court of competent jurisdiction." I worry about questions such as we have in many environmental bills, as to whether one has a right to bring this action either in a State court or a Federal court, or whether or not this is clear in the amendment and the ramifications thereof, and I think it does present a problem.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. JORDAN of Idaho. I yield to the Senator from California.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. COOK. Mr. President, I ask unanimous consent that the colloquy may continue for another 10 minutes.

Several Senators addressed the chair.

Mr. ROBERT C. BYRD. Mr. President, I object. I ask unanimous consent that time may be yielded from the bill by those in charge of the time on the bill to any Senator on any amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TUNNEY. Will the Senator from Washington yield me 2 minutes on the bill?

Mr. JACKSON. If I have it.

Mr. TUNNEY. On the bill.

Mr. JACKSON. Mr. President, do I have 2 minutes on the bill?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. COOK. Then I will object to that, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The ob-

jection was untimely; unanimous consent had been granted.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. How much time do I have on the bill?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. JACKSON. I will yield 2 minutes to the Senator from California, and then I will yield to the Senator from Kentucky.

I did not have any time on the amendment.

Mr. COOK. I can only say to the Senator that if there are real problems on this bill and we cannot debate them and are going to be kept within a time limit, there is only one thing to do: We have to make up our minds to vote for or against on final passage.

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

Mr. TUNNEY. I should like to ask the able Senator from Idaho if it is his intention to create a new cause of action. That was the question that was posed by the Senator from Maine, and it was my understanding that the understanding of the Senator from Washington was that if this amendment were accepted, it would not create a new cause of action.

Is it the understanding of the Senator from Idaho that it would create a new cause of action that does not presently exist by State law?

Mr. JORDAN of Idaho. My understanding of this amendment is that it only asserts what should be a litigant's right in the first place. If he is damaged by some State action that has prohibited or restricted for full use and enjoyment of his property, he should be entitled to go to court.

Mr. TUNNEY. But it would not create a new cause of action. Under existing State law, a claimant would have the right to go to court if he felt that he were injured; but it would not create a new cause of action as a result of the passage of this legislation if this amendment is included therein.

Mr. JORDAN of Idaho. No rights are taken away.

Mr. TUNNEY. It is not a question of taking away rights. It is a question of giving a new right that does not exist.

As I read the amendment, my interpretation is that it would not create a new cause of action. But I am curious to know whether the sponsor of the amendment feels that it would create an additional cause of action that would exist in addition to those causes of action that presently exist under State law where there is a taking by zoning.

The PRESIDING OFFICER. The 2 minutes have expired.

The question is on agreeing to the amendment.

Mr. HANSEN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. JORDAN). 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

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

Also, the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 58, nays 14, as follows:

[No. 449 Leg.]

YEAS—58

Aiken	Edwards	Packwood
Allen	Ervin	Pastore
Anderson	Fannin	Pearson
Beall	Fong	Percy
Bible	Fulbright	Randolph
Boggs	Gambrell	Roth
Brooke	Gurney	Saxbe
Buckley	Hansen	Schweiker
Burdick	Hatfield	Scott
Byrd, Harry F., Jr.	Hollings	Smith
	Hruska	Spong
Byrd, Robert C.	Inouye	Stafford
Case	Jackson	Stennis
Church	Jordan, N.C.	Symington
Cook	Jordan, Idaho	Taft
Cooper	Magnuson	Talmadge
Cotton	Mathias	Thurmond
Dole	McClellan	Weicker
Dominick	Miller	Young
Eastland	Montoya	

NAYS—14

Bayh	Kennedy	Proxmire
Chiles	Mansfield	Stevenson
Cranston	Mondale	Tunney
Hart	Muskie	Williams
Hughes	Nelson	

NOT VOTING—28

Allott	Bentsen	Eagleton
Baker	Brock	Goldwater
Bellmon	Cannon	Gravel
Bennett	Curtis	Griffin
Harris	McGovern	Ribicoff
Hartke	McIntyre	Sparkman
Humphrey	Metcalf	Stevens
Javits	Moss	Tower
Long	Mundt	
McGee	Pell	

So the amendment of Mr. JORDAN of Idaho was agreed to.

Mr. JORDAN of Idaho. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1520

Mr. HANSEN. Mr. President, I call up my amendment No. 1520 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 62, strike lines 11 through 15. On line 16, change "(d)" to "(c)". On line 22, change "(e)" to "(d)". On line 25, change "(f)" to "(e)".

On page 87, strike out all of section 307 and add the following new section:

"FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

"SEC. 307. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred and eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development, shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require."

Mr. HANSEN. Mr. President, very simply my amendment would alter section 307 of the pending legislation so as to delete those portions of the section dealing with economic sanctions.

As now proposed, section 307 contains the "stick" provision of the mythical "carrot-stick" approach encompassed in S. 632 as reported by the Interior Committee. The section provides that upon the determination of the Secretary or a hearing board established under this act, a State's land use plan can be deemed unacceptable. Consequently, a State could lose up to 21 percent of its Airport and Airway Development Act funds, Land and Water Conservation Act funds, and certain Federal Aid Highway Act project funds. My amendment would delete these economic sanctions.

Mr. President, this is not a bill which would encourage land use planning—this bill requires land use planning by the imposition of certain punitive provisions for those States which do not submit acceptable land use plans for those areas

and covering those uses which are agreeable to the Secretary of the Interior.

Mr. President, I do not deny that there are a growing number of land use problems being created coincidental to the expansion of our population. If the States need help in meeting these problems, under my amendment, the Federal Government could still play a proper role in assisting with these difficulties by making funds available to the States.

Land use regulation and zoning are tools which have long been used to meet local expansion problems. The plight of the urban sprawl which characterizes so much of America today testified that zoning has not proven to be the answer to all of our domestic problems.

As time has passed and local zoning has not been able to meet with all the problems, there has been a trend to migrate to some higher level of government for assistance.

This bill forces this trend to the State and Federal level. This bill not only takes zoning out of the realm of local determination, it puts at the Federal level what areas will be zoned or planned.

The pending land use legislation provides a cumbersome superstructure whose authority lies with the Secretary of the Interior to determine those private lands which must be the subject of land use planning. According to the bill, the States must submit a plan for use of designated areas of "critical environmental concern" to include:

First, coastal wetlands, marshes, and other lands inundated by the tides;

Second, beaches and dunes;

Third, significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

Fourth, areas of unstable soils and high seismic activity; that could be areas around Denver, Colo. They had seismic activity down there. It could also include much of Alaska.

Fifth, rare or valuable ecosystems; I would defy almost anyone to point out an ecosystem that is not considered by someone or another to be either rare or valuable.

Sixth, significant undeveloped agricultural, grazing, and watershed lands; I think that cuts across the interests of every single Member of this body. There is not a single State that does not have significant areas of undeveloped agricultural, grazing, and watershed lands.

Seventh, forest and related land which require long stability for continuing renewal;

Eighth, scenic or historic areas; and

Ninth, such additional areas as a State determines to be of critical environmental concern.

In other words, Madam President, what this bill demands of the States is that they shall come up with a plan which satisfied not the people in the State government, not the State legislature, not the Governor, not the county commissioners, not the city, not the school board, but the Secretary of the Interior, because he is all wise, all knowing, and knows best. It is up to the States to satisfy him.

Failing that, 21 percent of the funds available for airport extension and safety, land and water conservation funds, and Federal aid to highway funds, which includes the primary and secondary highway systems so essential to the cities, all can be withheld.

Under this definition, there is little doubt that the Secretary of the Interior could determine that any private land within any State is of critical environmental concern and necessarily a part of a State land use plan.

One of the aspects of the bill that should be of special interest to many of my colleagues from the more urban States is that while the definition of areas of critical environmental concern is apparently oriented to the more rural environment of our country, the penalty provisions would penalize the cities. The extension of urban transportation systems, airport development and service, as well as important urban recreational facilities, would be cut if the State did not submit an acceptable plan. It is the State that would submit the land use plan, but it is the cities that would be largely affected.

Mr. President, if my amendment is accepted, the States would still be encouraged to submit an acceptable land use plan. However, if the State determines that the problems do not warrant statewide planning, or if the determination is made that land planning matters are better left to the local people, my amendment would honor this decision.

Briefly, my amendment allows the flexibility for a State to use Federal assistance if it determined the need for such help. The amendment would delete those provisions of the bill that would penalize the cities for failure by the States to submit a plan acceptable to the Secretary of Interior.

I urge its favorable consideration.

Madam President, I hope that this amendment will be agreed to because it is in the interest of trying to return government to the people, the whole idea back of revenue sharing.

Mr. JACKSON. Madam President, will the Senator from Wyoming yield?

Mr. HANSEN. I yield.

Mr. JACKSON. I would hope, in view of the lateness of the hour, that the pending amendment would go over and be the pending business tomorrow and that, in the meantime, we may be able to work out an alternative solution by the time we take up the matter tomorrow.

I would hope that my colleague would join with me.

Mr. JORDAN of Idaho. Madam President, we have been imposing on the good nature of a lot of Senators this afternoon. I think this matter is of profound importance and requires more attention. We should take a fresh start and consider it further tomorrow.

Mr. HANSEN. Madam President, how much time does the distinguished manager of the bill propose be given to this amendment on tomorrow?

Mr. JACKSON. Madam President, I ask unanimous consent that this colloquy not be taken out of the time on the amendment.

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

Mr. HANSEN. Madam President, I am happy to yield back my time and vote right now.

Mr. MUSKIE. Madam President, let us do that.

Mr. JACKSON. Madam President, I would hope that in the interest of working out the best possible solution, we go over it thoroughly tomorrow. The able manager on the minority side concurs in that. And I think this would be in the best interests of the Senate. It has been a long day. We have had 12 rollcall votes. And I believe that we will all be better off if we defer the matter until the morning. We do not need to take a vote on it at this moment.

Mr. HANSEN. Madam President, I am happy to yield to my good friends, the chairman of the committee and the ranking minority member in whatever they wish. However, as far as I am concerned, I would be happy to vote now.

Mr. MAGNUSON. Madam President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MAGNUSON. Madam President, I have an amendment that I propose to offer to the bill which would touch at least one facet of what the Senator is talking about. It would make it clear that funds from the airway and airport trust funds shall not be withheld in case a State does not meet the standards on land use under this legislation. Do I understand that would be included in the Senator's amendment?

Mr. HANSEN. Madam President, I must ask the forgiveness of my good friend, the Senator from Washington, I did not hear his full statement.

Mr. MAGNUSON. Madam President, at least one facet of my bill deals solely with airways and airport trust fund.

Mr. HANSEN. Madam President, I say to my good friend, the Senator from Washington, that, if this amendment is approved, as I earnestly hope it might be, there will be a continued expansion of airports in this country.

I want to see a continued output of the products made in the city of Seattle throughout our land.

Mr. MAGNUSON. Madam President, I think the Senator's amendment covers what I was doing under the airways and airport trust fund. However, I would like to take a look at it.

Mr. HANSEN. It does. I fully appreciate what the distinguished Senator says. I think it is equally important that we recognize that the way the bill is written now it would deny highway funds which are so essential to the cities of the country.

Mr. MAGNUSON. Mr. President, the Senator has talked about the airways and airport transport fund. I think it is included.

Mr. HANSEN. It is included.

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

Mr. HANSEN. I yield.

Mr. AIKEN. Mr. President, what happens if an airport is in one State, but the business is across the border of another State and that State does meet the requirements. They will get cut off because the State in which the airport is located failed to comply with the requirements.

Mr. ROBERT C. BYRD. Madam President, in view of the statement by the manager of the bill, concurred in by the very distinguished ranking minority member of the committee who is helping to manage the bill, I am constrained to say that there will be no more rollcall votes and no more action on the bill today.

Mr. TALMADGE. Madam President, will the Senator yield?

Mr. ROBERT C. BYRD. Madam President, I yield to the Senator from Georgia and other Senators provided I may retain my right to the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

AMENDMENT NO. 1549

Mr. TALMADGE. Madam President, I send to the desk an amendment and ask that it be printed and lay over until tomorrow. The purpose of the amendment is to make it absolutely certain that nothing in this act will deny existing State and local authority to zone land in accordance with existing law.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Does the Senator from West Virginia wish that his time not be charged against the pending amendment?

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that no time be charged against either side on the pending amendment.

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

Mr. TUNNEY. Mr. President, I have received a considerable amount of mail from my constituents concerning S. 632, the land use bill. Leading conservation and citizen groups, especially, have strongly supported the bill as reported, arguing that despite some weaknesses, it offers a needed first opportunity to protect our land from exploitation and to assure orderly growth.

However, before any legislation is enacted, no matter how noble in intent, it is essential to consider its likely impact on work which Congress has already undertaken. In order to assure adequate examination of certain provisions of this bill, I signed a letter with my colleagues on the Public Works Committee to insist that certain basic issue be thoroughly debated. After participating in the committee's examination of the legislation, I have concluded that certain provisions have far-reaching implications which were scarcely considered in the official record.

I am most pleased with the Interior Committee's acceptance of an amendment I had planned to introduce to S. 632 which would give the Administrator of the Environmental Protection Agency direct and specific authority to review and certify State land use plans to assure consistency with Federal environmental laws. However, I am further concerned with the appropriateness of the Interior Department to adequately handle the many facets of land use planning by itself. Because of the inherent intimacy between issues respecting land use, environment, housing, and so forth, I feel that it would be more appropriate for the Executive Office of the President to have the responsibility for the land use program. This would assure that all aspects of land use, by they acquisition, environment, or housing, are considered. This is the reason why I have cosponsored amendment 1521 which would shift responsibility for the program from the Interior Department to the Executive Office of the President.

I am concerned, also, that the "determinative State authority" provision in section 303, might have the unexpected and unwelcome effect of allowing a State land use planning agency to override the decisions of State pollution control agencies established pursuant to Federal law. As written the bill seems to leave open the possibility that air, water, and solid waste pollution control regulations could be reversed or modified almost at will by the statewide land use planning "superboard." As amended by Senator MUSKIE, the "determinative State authority" provision will be replaced by a requirement that environmental control regulations be consistent with the State-established land use policy. This will produce the desired result without jeopardizing administration of our environmental protection laws.

Each of the other amendments which the distinguished Senator from Maine (Mr. MUSKIE) has offered approaches similar potential problems with the hope of preserving both the principles of the Land Use Policy and Planning Assistance Act, and the progress being made under Federal environmental legislation. They have my full support. With these amendments I am confident that we can produce legislation that will deal effectively with the problems of land use planning and at the same time protect the progress we have already made in environmental areas.

Mr. CHURCH. Mr. President, as chairman of the Senate Subcommittee on Public Lands and as a cosponsor of the legislation, I want to add my endorsement of S. 632.

There is no doubt that this legislation is needed. The haphazard patchwork of land use, which may have answered the needs of our expanding frontiers and population, is no longer acceptable in a society suddenly aware of the limitations of its environment.

Following 2½ years of study and hearings, our Senate Committee on Interior and Insular Affairs has come up with what I consider a good bill to assist State and local governments to improve on land use planning and management.

The measure provides a grant-in-aid program to assist the States to accomplish two major objectives: First, develop a statewide land use planning process within 3 years, and second within 5 years establish and administer a State land use program. I believe this is ample time in which to get the job done, and I believe this legislation will be welcomed by nearly all of our States.

Under provisions of the bill, $100 million annually would be provided for 8 years. In the first 5 years, funds would be disbursed to the States at 90 percent of the cost of developing these land use programs. And then for 3 years, 66⅔ percent of the cost of implementing and administering the programs would be received by the State.

This is not simple legislation, but it is constructive and dramatic when you consider the problems that it attacks, and the great strides it will take toward intelligent, planning for future land use.

I will not attempt further detail. The committee report, No. 92-869, on the Land Use Policy and Planning Assistance Act of 1972 is a good one, and I recommend it as an excellent explanation of this proposed legislation.

There is an urgency in our acting on this bill, and moving it for House consideration, and I hope we can pass it today.

Mr. MATHIAS. Mr. President, my interest in land use reform legislation goes back to 1961 when I introduced, as a Member of the other body, H.R. 6702, a bill to foster the creation of tax supported public recreation parks and related facilities. Again in 1963 I offered a bill to amend the Soil Conservation and Domestic Allotment Act in order to achieve a more balanced land use policy within our urban areas. In 1963 I offered for consideration by the House of Representatives a bill, H.R. 553, which had as its objective the preservation and acquisition of open spaces throughout our Nation. My interest in systematic land use development and management was reflected most recently in the introduction of Senate bill 2554 on September 21, 1971. Although modeled after S. 632 as originally introduced, it did in my mind contain many new and practical amendments, which I am told were finally adopted by the Interior Committee in their reported committee bill which we are today considering. Due to the popularity of this bill, its limited supply, and the numerous requests which I have received for it, I now ask unanimous consent that the full text of the bill appear in the RECORD at this time.

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

S. 2554

A bill to establish a systematic and comprehensive national land-use policy

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "National Land-Use Policy Act of 1971".

TITLE I—A NATIONAL LAND-USE POLICY AND PROGRAM OF ASSISTANCE TO THE STATES

PART 1—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient and comprehensive system of national, regional, statewide, and local land-use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in emerging patterns of land use, the fragmentation of governmental entities exercising land-use planning powers, and the increased size, scale, and impact of private actions have created a situation in which land-use management decisions of national, regional, and statewide concern are often

being made on the basis of expediency, tradition, short-term economic considerations, and other factors which are often unrelated to the real concerns of a sound national land-use policy.

(b) The Congress further finds that a failure to conduct competent, ecologically sound land-use planning has, on occasion, required public and private enterprise to delay, litigate, and cancel proposed public utility and industrial and commercial developments because of unresolved land-use questions, thereby causing an unnecessary waste of human and economic resources and a threat to public services and often resulting in decisions to locate utilities and industrial and commercial activities in the area of least public and political resistance, but without regard to relevant ecological and environmental land-use considerations.

(c) The Congress further finds that many Federal agencies are deeply involved in national, regional, State, and local land-use planning and management activities which because of the lack of a consistent policy often result in needless, undesirable, and costly conflicts between agencies of Federal, State, and local government; that existing Federal land-use planning programs have a significant effect upon the location of population, economic growth, and on the character of industrial, urban, and rural development; that the purposes of such programs are frequently in conflict, thereby subsidizing undesirable and costly patterns of land-use development; and that a concerted effort is necessary to interrelate and coordinate existing and future Federal, State, local, and private decisionmaking within a system of planned development and established priorities that is in accordance with a national land-use policy.

(d) The Congress further finds that while the primary responsibility and constitutional authority for land-use planning and management of non-Federal lands rests with State and local government under our system of government, it is increasingly evident that the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation, and wilderness areas and other Federal lands; that the interest of the public in State and local decisions affecting these areas extends to the citizens of all States; and that the failure to plan and, in some cases, poor land-use planning at the State and local level, pose serious problems of broad national, regional, and public concern and often result in irreparable damage to commonly owned assets of great national importance such as estuaries, ocean beaches, and other areas in public ownership.

(e) The Congress further finds that the land-use decisions of the Federal Government often have a tremendous impact upon the ecology, the environment, and the patterns of development in local communities; that the substance and the nature of a national land-use policy ought to take into consideration the needs and interests of State, regional, and local government as well as those of the Federal Government, private groups and individuals; and that Federal land-use decisions require greater participation by State and local government to insure that they are in accord with the highest and best standards of land-use management and the desires and aspirations of State and local government.

(f) The Congress further finds that there is a national interest in encouraging the States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing land-use plans including unified authorities, policies, criteria, standards, methods, and processes for dealing with land-use decisions of more than local significance.

(g) The Congress further finds that decisions about the use of land significantly influence the quality of the environment and that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate, with the result that the implementation of standards for the control of air, water, noise, and other pollution is impeded.

DECLARATION OF POLICY

SEC. 102. (a) In order to promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land-use planning and management, to undertake the development of a national policy, to be known as the national land-use policy, which shall incorporate ecological, environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental, recreational, and industrial growth and development on the Federal lands, and shall provide a framework for development of regional, State, and local land-use policy.

(b) The Congress further declares that it is the national land-use policy to—

(1) favor patterns of land-use planning, management, and development which are in accord with sound ecological principles and which encourage the wise and balanced use of the Nation's land and water resources;

(2) foster beneficial economic activity and development in all States and regions of the United States;

(3) favorably influence patterns of population distribution in a manner such that a wide range of scenic, environmental, and cultural amenities are available to the American people;

(4) contribute to the revitalization of existing rural communities and encourage, where appropriate, new communities;

(5) assist State government to assume land-use planning responsibility for activities within their boundaries;

(6) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of land-use planning; and

(7) systematize methods for the exchange of land use, environmental, and ecological information in order to assist all levels of government in the development and implementation of the national land-use policy.

(c) The Congress further declares that intelligent land-use planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for maintaining conditions capable of supporting a quality life and providing the material means necessary to improve the national standard of living.

PURPOSE

SEC. 103. It is the purpose of this title—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning, management, and administration of the Nation's land resources through the development and implementation of comprehensive statewide land-use plans and management programs designed to achieve an ecologically and environmentally sound use of the Nation's land resources;

(b) to establish a grant-in-aid program to assist State and local governments to hire and train the personnel and establish the procedure necessary to develop, implement, and administer a statewide land-use plan which meets Federal guidelines and which will be responsive and effective in dealing with the growing pressure of conflicting demands on a finite land resource base;

(c) to establish reasonable and flexible Federal guidelines and requirements to give individual States guidance in the development of statewide land-use plans and to condition the distribution of certain Federal funds on the establishment of an adequate statewide land-use plan;

(d) establish the authority and responsibility of the Secretry of the Interior (hereinafter referred to as the "Secretary") to administer the Federal grand-in-aid program, to review the statewide land-use plans for conformity to the provisions of this title, and to assist in the coordination of Federal agency activities with statewide land-use plans;

(e) to develop and maintain a national policy with respect to federally conducted and federally supported projects having land-use implications; and

(f) to coordinate planning and management relating to Federal lands with planning and management relating to non-Federal lands.

PART 2—STATEWIDE AND INTERSTATE LAND USE PLANNING GRANTS

SEC. 104. (a) In order to carry out purposes of this title, the Secretary is authorized to make land use planning grants to an appropriate single State agency, designated by the Governor of the State or established by law, which has statewide land use planning responsibilities and which meets the guidelines and requirements set out in section 105 of this title; and

(b) The Secretary is authorized to make land use planning grants in accordance with the provisions of this title to assist and enable eligible State and interstate regional agencies—

(1) to prepare an inventory of the State's or region's land and related resources;

(2) to compile and analyze information and data related to—

(A) population densities and trends;

(B) economic and characteristic and projections;

(C) directions and extent of urban and rural growth and changes;

(D) public works, public capital improvements, land acquisitions, and economic development programs, projects, and associated activities;

(E) ecological, environmental, geological, and physical conditions which are of relevance to decisions concerning the location of new communities, commercial development, heavy industries, transportation and utility facilities, and other land uses;

(F) the projected land-use requirements within the State or region for agriculture, recreation, urban growth, commerce, transportation, the generation and transmission of energy, and other important uses for at least fifty years in advance;

(G) governmental organization and financial resources available for land-use planning and management within the State and the political subdivisions thereof or within the region; and

(H) other information necessary to conduct statewide land-use planning in accord with the provisions of this title;

(3) to provide technical assistance and training programs for appropriate interstate, State, and local agency personnel on the development, implementation, and management of statewide land-use planning programs;

(4) to arrange with Federal agencies for the cooperative planning of Federal lands located within and near the State's or region's boundaries;

(5) to develop, use, and encourage common information and data bases for Fed-

eral, regional, State, and local land-use planning;

(6) to establish arrangements for the exchange of land-use planning information among State agencies; and among the various governments within each State and their agencies; between the governments and agencies of different States; and among States and interstate compact agencies and regional commissions;

(7) to establish arrangements for the exchange of information with the Federal Government for use by the Secretary and the State and interstate agencies in discharging their responsibilities under this Act;

(8) to conduct hearings, prepare reports, and solicit comments on reports concerning specific portions of the plans and the plans in their entirety; and

(9) to conduct such other related planning and coordination functions as may be approved by the Secretary.

FEDERAL GUIDELINES AND REQUIREMENTS FOR STATEWIDE LAND-USE PLANS

SEC. 105. (a) A State agency specified in section 104(a) must meet or give assurances that it will meet the following requirements in the development of a statewide land-use plan described in subsection (b) of this section to be eligible for statewide land-use planning grants under this title—

(1) a single State agency, designated by the Governor or established by law, shall have primary authority and responsibility for the development and administration of the statewide land-use plan;

(2) a competent and adequate interdisciplinary professional and technical staff as, well as special consultants, will be available to the State agency to develop the statewide land-use plan;

(3) to the maximum extent feasible, pertinent local, State, and Federal plans, studies, information, and data on land-use planning already available shall be utilized in order to avoid unnecessary repetition of effort and expense.

(b) During the five complete fiscal year period following the initial publication of regulations by the Secretary implementing the provisions of this title, the State agency must, as a condition of continued grant eligibility, develop a statewide land-use plan which—

(1) identifies the portions of the State subject to enforcement of the statewide land-use plan, which shall include all lands within the boundaries of the State except—

(A) lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents; and

(B) at the discretion of the State agency, lands located within the boundaries of any incorporated city having a population in excess of two hundred and fifty thousand or in excess of 20 per centum of the State's total population, which has land-use planning and regulation authority;

(2) identifies those areas (within the State, except where otherwise indicated)—

(A) where ecological, environmental, geological and physical conditions dictate that certain types of land-use activities are undesirable;

(B) where the highest and best use, based upon projected local, State, and National needs, on the Statewide Outdoor Recreation Plan required under the Land and Water Conservation Fund Act, and upon other studies, is recreational-oriented use;

(C) which are best suited for agricultural, mineral, industrial, and commercial development;

(D) where transportation and utility facilities are or it appears should, in the future, be located;

(E) which furnish the amenities and the basic essentials to the development of new towns and the revitalization of existing communities;

(F) which, notwithstanding Federal ownership or jurisdiction, are important to the State for industrial, commercial, mineral, agricultural, recreational, ecological, or other purposes; and

(G) which although located outside the State, have substantial actual or potential impact upon land-use patterns within the State; and

(H) which are of unusual national significance and value.

(3) includes appropriate provisions designed to insure that projected requirements for material goods, natural resources, energy, housing, recreation, and environmental amenities have been given consideration;

(4) includes provisions designed to insure that the plan is consistent with applicable local, State, regional, and Federal standards relating to the maintenance and enhancement of the quality of the environment and the conservation of public resources;

(5) provides for assuring orderly patterns of land use and development;

(6) includes provisions to insure that transportation and utility facilities do not interfere with congressional policies relating to the status and use of Federal lands, and are established in compliance with regional and State needs, State policies, and policies and goals set forth in other Federal legislation;

(7) provides for measures such as buffer zones, scenic easements, prohibitions against nonconforming uses, and other means of assuring the preservation of esthetic qualities, to insure that federally designated, financed, and owned areas, including but not limited to elements of the national park system, wilderness areas, and game and wildlife refuges are not damaged or degraded as a result of inconsistent or incompatible land-use patterns in the same immediate geographical region;

(8) provides for flood plain identification and management;

(9) provides for other appropriate factors having significant land-use implications;

(10) provides a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit;

(11) includes a policy for influencing the location of new communities and a method for assuring appropriate controls over the use of land around new communities;

(12) provides a method for controlling proposed, large-scale development of more than local significance in its impact upon the environment; and

(13 includes a system of controls and regulations pertaining to areas and developmental activities previously listed in this subsection which are designed to assure that any source of air, water, noise, or other pollution will not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan.

(c) To retain eligibility for statewide land-use planning grants after the end of five complete fiscal years from the beginning of the first fiscal year after the initial publication of regulations by the Secretary implementing the provisions of this title, the statewide land-use plan developed in accordance with subsection (b) of this section and the State land-use planning agency must meet the following Federal guidelines and requirements—

(1) the statewide land-use plan must be approved by the Secretary in accordance with section 106;

(2) the agency must have authority to implement the approved plan and enforce its provisions;

(3) the agency's authority may include the power to acquire interests in real property;

(4) the agency's authority must include the power to prohibit, under State police powers, the use of any lands in a manner which is inconsistent with the provisions of the plan;

(5) the agency must have authority to conduct public hearings, allowing full public participation and granting the right of appeal to aggrieved parties, in connection with the dedication of any area of the State as an area subject to restricted or special use under the statewide land-use plan; and

(6) the agency must have established reasonable procedures for periodic review of the plan for purposes of granting variances from and making modifications of the plan, including public notice and hearings, in order to meet changed future conditions and requirements.

(7) the statewide land-use plan shall be coordinated with metropolitanwide plans developed by an areawide agency designed pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and existing on January 1 of the year in which the State land-use plan is submitted to the Secretary;

(8) the statewide land-use plan shall be coordinated with appropriate neighboring States with respect to lands and waters in interstate areas;

(9) in the development of such statewide land-use plan, there shall be taken into account the plans and programs of other State agencies and of Federal and local governments; and

(10) the State shall utilize, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the statewide land-use plan, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and title IV of the Intergovernmental Cooperation Act of 1968.

(d) Nothing in this section shall be deemed to preclude a State from planning for land use or from implementing a statewide land-use plan in stages, with respect to either (1) particular geographical areas including but not limited to coastal zones, or (2) particular kinds of uses, as long as the other requirements of this Act are met.

(e) Nothing in this Act shall be deemed to preclude the delegation by the State agency to local governmental entities of authority to plan for land use and enforce land-use restrictions adopted pursuant to the statewide land-use plan, including the assignment of funds authorized by this Act, to the extent available, except that—

(1) the State agency shall have ultimate responsibility for approval and coordination of local plans and enforcement procedures;

(2) only the plan submitted by the State agency will be considered by the Secretary;

(3) the statewide land-use plan submitted by the State agency must be consistent with the guidelines established by this Act; and

(4) the State agency shall be responsible to the Secretary for the management and control of any Federal funds assigned or delegated to any agency of local government within the State concerned.

REVIEW OF STATEWIDE LAND-USE PLANS

SEC. 106. (a) Upon completion of each statewide land-use plan—

(1) The State agency responsible for the development of the plan shall submit it to the Secretary.

(2) The Secretary shall submit the plan for review and comments to those Federal agencies the Secretary considers to have significant interest in or impact upon land use within the State concerned. A period of ninety days shall be provided for the review.

(3) Upon completion of the review period established by paragraph (2) of this subsection, the Secretary shall review the plan

along with the agency comments and approve the plan if it—

(A) conforms with the policy, guidelines, and requirements declared in this title;

(B) is compatible with the plans and proposed plans of other States, so that regional and national land-use considerations are accommodated; and

(C) does not conflict with the objectives of Federal programs authorized by the Congress.

(4) Notwithstanding the provisions of paragraph (3) of this subsection, the Secretary shall not approve such plan unless he has first ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the plan dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities meet the requirements of clause (E) of paragraph (2) of subsection (b) of section 105, paragraphs (10), (11), (12), and (13) of subsection (b) of section 105, and paragraph (6) of subsection (C) of section 105, of this Act.

(5) After December 31, 1974, or the date the Secretary approves a grant under this Act, whichever is earlier, Federal agencies submitting statements required by section 102(2)(C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land-use plan which has been found eligible for a grant under this Act.

(b) A State may at any time make modifications of or grant variances from its statewide land-use plan: *Provided*, That such modification or variance does not render the statewide land-use plan inconsistent with the policies, guidelines, and requirements declared in this Act: *And provided further*, That such modification or variance is reported to the Secretary on or before its effective date. The Secretary shall approve the modification or variance unless it causes the plan to no longer meet the criteria set forth in subsection (a).

(c)(1) In the event the Secretary determines that grounds exist for disapproval of a statewide land-use plan or, having approved such a plan, subsequently determines that grounds exist for withdrawal of such approval pursuant to section 114, he shall notify the President, who shall order the establishment of an ad hoc hearing board, the membership of which shall consist of:

(A) The Governor of a State other than that which submitted the plan, whose State does not have a particular interest in the approval or disapproval of the plan, selected by the President, or such alternate person as the Governor selected by the President may designate;

(B) One knowledgeable, impartial Federal official, selected by the President;

(C) One knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President.

(2) The hearing board shall meet as soon as practicable after all three members have been appointed. The Secretary shall specify in detail to the hearing board its reasons for considering disapproval or withdrawal of approval of the plan. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether disapproval or withdrawal of approval would be reasonable, and set forth in detail the reasons for its determination. If the hearing board determines that disapproval would be unreasonable, the Secretary shall approve the plan.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in Government service employed intermittently. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

COORDINATION OF FEDERAL PROGRAMS

SEC. 107. (a) All Federal agencies conducting or supporting activities involving land use in an area subject to an approved statewide land-use plan shall operate in accordance with the plan. In the event that a departure from the plan appears necessary in the national interest, the agency shall submit the matter to the Secretary. The Secretary may approve a federally conducted or supported project a portion or portions of which may be inconsistent with the plan if he finds that (1) the project is essential to the national interest and (2) there is no reasonable and prudent alternative which would not be inconsistent with an approved statewide land-use plan. In the event that the Secretary fails to approve the project, the project may be undertaken only upon the express approval of the President. The President may approve projects inconsistent with a statewide land-use plan only when overriding considerations of national policy require such approval.

(b) State and local governments submitting applications for Federal assistance for activities having significant land-use implications in an area subject to an approved statewide land-use plan shall indicate the views of the State land-use planning agency as to the consistency of such activities with the plan. Federal agencies shall not approve proposed projects that are inconsistent with the plan.

(c) All Federal agencies responsible for administering grant, loan, or guarantee programs for activities that have a tendency to influence patterns of land use and development, including but not limited to home mortgage and interest subsidy programs and water and sewer facility construction programs, shall take cognizance of approved statewide land-use plans and shall administer such programs so as to enable them to support controlled development, rather than administering them so as merely to respond to uncontrolled growth and change.

(d) Federal agencies conducting or supporting public works activities in areas not subject to an approved statewide land-use plan shall, to the extent practicable, conduct those activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

(e) Officials of the Federal Government charged with responsibility for the management of federally owned lands shall take cognizance of the planning efforts of State land-use planning agencies of States within which and near the boundaries of which such Federal lands are located, and shall coordinate Federal land use planning for those lands with State land use planning to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

PART 3—ADMINISTRATION OF LAND USE PLANNING GRANTS

ALLOTMENTS

SEC. 110. (a) From the sum appropriated pursuant to section 201 the Secretary is authorized to make State land use planning grants to agencies the proposals of which are approved in any amount not to exceed ninety per centum of the estimated cost of the planning for the five full fiscal years after the initial publication by the Secretary of regulations implementing the provisions of this title. Thereafter, grants may be made in an amount not to exceed two-thirds of the State agency's planning and operating costs.

(b) Land use planning grants shall be allocated to the States with approved programs based on regulations of the Secretary, which shall take into account the amount and nature of the State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any land use planning grant made for the purpose of this title shall increase, and not replace State funds presently available for State land use planning activities. Any grant made pursuant to this title shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys, or investigations under other federally assisted programs.

(d) Not more than 5 per centum of any funds granted pursuant to any State plan under this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 111. The method of computing and paying amounts pursuant to this title shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this title for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this title was greater or less than the amount which should have been paid to such State for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 112. (a) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Such other records shall be kept and made available and such reports and evaluations shall be made as the Secretary may require regarding the status and application of Federal funds made available under the provisions of this title.

(c) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this Act.

SANCTIONS FOR NONCOMPLIANCE

SEC. 113. The Secretary shall have authority to terminate any financial assistance extended to a State agency for land use planning under this title and withdraw his approval of a statewide land use plan, whenever, after the State concerned has been given

notice of a proposed termination and an opportunity for hearing, the Secretary finds that—

(1) the designated State land use planning agency has failed to adhere to the guidelines and requirements of this title in the development of the land use plan;

(2) the State has not enacted legislation which allows the State agency to meet the requirements of subsection (c) of section 105; or

(3) the plan submitted by such State and approved under section 106 has been so changed or so administered that it no longer complies with a requirement of such section.

SEC. 114. (a) After the end of five fiscal years from the beginning of the first fiscal year after the initial issuance of regulations by the Secretary implementing the provisions of this title, no Federal agency shall, except with respect to Federal lands, propose or undertake any new action or financially support any new State-administered action which may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land in any State which has not prepared and submitted a statewide land use plan in accordance with this Act.

(b) Upon application by the Governor of the State or head of the Federal agency concerned, the President may temporarily suspend the operation of paragraph (a) with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits a schedule, acceptable to the Secretary, for submission of a statewide land-use plan: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised due diligence to comply with the terms of that schedule.

TITLE II—GENERAL

MISCELLANEOUS

SEC. 201. There are hereby authorized to be appropriated not to exceed $20,000,000 for each fiscal year, 1972 through 1976, and for each fiscal year thereafter, such amount as the Congress may hereafter provide, for grants authorized by this Act, such funds to be available until expended.

SEC. 202. (a) The Secretary of the Interior shall—

(1) prepare an inventory and maintain a continuing study of the land resources of the United States, and report biennially to the President and the Congress on land resources and uses, projections of development and uses of land, and analyses of current and emerging problems of land use;

(2) maintain a continuing study of the adequacy of administrative and statutory means of the coordination of Federal programs which have an impact upon land use and of the compatibility of such programs with State and local land-use planning and management activities; it shall appraise the adequacy of existing and proposed Federal policies and programs which affect land use; and it shall make recommendations to the President with respect to such policies and programs; and

(3) The Secretary shall develop and maintain an information and data center, with such regional branches as he may deem appropriate, which has on file—

(a) copies of all approved statewide land-use plans, including approved modifications and variances;

(b) copies of all federally initiated and federally assisted plans for activities which directly affect or involve land use;

(c) to the extent practicable and appropriate, the plans of local government and private enterprise which have more than local significance for land-use planning;

(d) statistical data and information on past, present, and projected land-use patterns which are of national significance;

(e) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of information relating to land-use planning and management;

(f) such other information pertaining to land-use planning and management as the Secretary deems appropriate.

SEC. 203. (1) All Federal agencies are required, as a part of their planning procedures on projects involving a major land-use activity, to consult with the Secretary for the purpose of determining whether the proposed activity would conflict in any way with the plans of other Federal, State, or local agencies. In the event a conflict is discovered, the matter shall be reported to the Secretary. If the conflict is not resolved by the agencies involved within a reasonable period of time, the Secretary shall investigate the conflict and report his findings, along with his recommendation concerning the proper resolution of the issue, to the Congress, the President, the State agency or agencies responsible for land-use planning and enforcement of any approved statewide land-use plan in the State concerned, and any other State or local agency involved.

(2) The Secretary shall make the information maintained at the center available to Federal, State, and local agencies involved in land-use planning and to members of the public, to the extent practicable. The Secretary may charge reasonable fees to defray the expenses incident to making such information available.

FEDERAL ACTION IN THE ABSENCE OF STATE LAND-USE PROGRAMS

SEC. 204. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after December 31, 1974, in a State which has not been found eligible for a land planning grant pursuant to this Act, the responsible Federal agency shall hold a public hearing in that State at least one hundred and eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in section 105 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary or the Secretary of Housing and Urban Development shall be part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). This section shall be subject to exception where the President determines that the interests of the United States so require.

AVAILABILITY OF FEDERAL EXPERTISE

SEC. 205. (a) Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures to make such data or expertise available to States for use in preparation, implementation, and revision of State land plans approved under this Act.

(b) The Secretary may provide technical assistance to any eligible State or interstate agency to assist it in the performance of its functions under this Act.

GUIDELINES

SEC. 206. The Domestic Council (established in the Executive Office of the President pursuant to Reorganization Plan Numbered 2 of 1970) is authorized to issue guidelines to Federal agencies to assist them in carrying out the requirements of this Act.

REPORTS AND EVALUATIONS

SEC. 207. Any State receiving a grant under this Act, the agency designated by the Governor to administer such grant, and State agencies allocated a portion of such grant, shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved land-use plan as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

MISCELLANEOUS

SEC. 208. (a) Nothing in this Act shall be interpreted to extend the territorial jurisdiction of any State.

(b) Nothing in this Act shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

STUDIES

SEC. 209. The Secretary may, by contract or otherwise, make studies and publish information on subjects related to State, regional, and national land-use planning.

RULES AND REGULATIONS

SEC. 210. The Secretary, except with respect to subsection (c) of section 106—

(1) shall promulgate rules and regulations for the administration of title I, including the detailed terms and conditions under which grants may be made;

(2) with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of his functions under title I and the use of funds available therefor, as may be necessary in order to assure (A) coordination of the program authorized by this Act with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 and (B) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purposes of this Act; and

(3) shall make such other rules and regulations as it may deem necessary or appropriate for carrying out his duties and responsibilities under the provisions of this Act.

EFFECT ON EXISTING LAWS

SEC. 211. Nothing in this Act shall be construed—

(1) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of land planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act; and

(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

DEFINITIONS

SEC. 212. For the purposes of this Act—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(2) the term "interstate agency" means any interstate compact agency established in accordance with Federal law;

(3) the term "new action", as used in section 114, means any action which has not been previously authorized by the Congress;

(4) the term "key facilities" means public facilities which tend to induce development and urbanization of more than local impact and includes (A) any major airport that is used or designed to be used for instrument landing; (B) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; and (C) major recreational lands and facilities; and

(5) the term "development and land use of regional benefit" includes land use and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulation.

Mr. MATHIAS. Mr. President, I have held hearings throughout the State, conducted workshops and had many discussions calling to the attention of the citizens of Maryland the essential need for sound land reform and land management. Most recently I sponsored a land use conference in Columbia, Md., on March 16, 1972, attended by land use planners, citizens, and elected officials from those counties making up the Frederick-Baltimore-Washington corridor. Mrs. Connie Finney of Howard County volunteered her services to summarize the thousands of pages of testimony and findings of the conference. Her efforts are most appreciated. It should be noted that the recommendations contained in the workshops coincide with the legislative recommendations which we are now considering. At the heart of the conference's recommendations is the cry for the respect for our land. One specific recommendation of one workshop is the creation of a national land-use policy, of the type which we are today considering. It is for these reasons that I support Senate bill 632 and I pledge my support to see that it be enacted into law.

I ask unanimous consent that the entire summary as prepared by Mrs. Finney appear in the RECORD at this time.

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

SENATOR MATHIAS' CONFERENCE ON PRESERVING OPEN SPACE AND NATURAL RESOURCES IN THE DEVELOPING AREAS

On March 16, 1972, a group of professional people and concerned citizens representing the seven Maryland counties undergoing the most rapid urbanization in the State—the counties of Howard, Montgomery, Prince George's, Baltimore, Ann Arundel, Frederick and Carroll—met at the Urban Life Center in Columbia, Maryland, for the purpose of frank discussion on ways to preserve the natural resources and open spaces within their geographical boundaries.

After registration, the conference was convened by Mr. Howard Crist of the Howard County Farm Bureau. Welcoming addresses were given by the Howard County Executive, Omar J. Jones and Senator Charles McC. Mathias, Jr. The group then adjourned into the five working workshops for the morning and part of the afternoon sessions.

Before adjournment to the workshops, Maryland State Comptroller, Louis M. Goldstein was called upon for some remarks in which he urged the group to work objectively to establish sound land use management.

What the workshops hoped to accomplish at this initial meeting or at any future gatherings can best be summarized in these remarks made by Senator Charles McC. Mathias in his opening address to the conference.

. . . We meet to discuss the growing problems that are related to land, and the problem of our diminishing open space.

. . . There was a time when cities like Ellicott City, Maryland, were built on rock because developers, citizens, and governments wanted to preserve the rich valleys and farm land for agricultural production. Today I'm afraid we tend to save the rocks and bulldoze our best soil. We've lost respect for the farmer and for his contribution to America. We've prostituted our land—sold it to the highest bidder without regard to its limited supply. We've dug up the rich minerals and hunted the wild life as if generations to come have an unlimited supply.

I think we must begin to listen to each other. Although some problems can be corrected by formal governmental actions, others can still be solved merely by understanding the difficulties that we have in common with our neighbors.

States and counties can no longer build and develop without regard to their neighbors. We've so often seen high density development along the borderline of neighboring counties—bad land use planning which might have been avoided merely by communication or by an interest in the welfare of our neighbor.

I think that today, with the ownership of land comes responsibilities as well as rights. There's a right to develop only if the development is met. There is a right to destroy only if what is destroyed does not destroy the environment for others.

Time is very short. We have only a day to do the work that generations demand of us.

A short summary of the workshop recommendations follows:

WORKSHOP 1

Preserving water resources and stream valleys plus storm water managements, Chairman James Shay.

RECOMMENDATIONS

1. Counties should encourage planning on a water shed level, using a systems approach and incorporating this approach into county master plans.

2. The Maryland Department of Water Resources should make their resources available to local governments for the development of their respective master plans.

DISCUSSION

Each of the counties represented had an established soil control program as well as engaged in varying degrees of storm water management, channel control and flood plain management. There was overall agreement that preservation of stream valleys can be most successful when it depends on criteria established by the coordinated efforts of planners, developers, soil conservationists and political leaders. Once basic and general criteria is established, it should then be the responsibility of the counties to set and implement programs suited to their individual needs.

It was agreed that the most careful attention should be given to the economic feasibility of any stream valley plan in its initial stages, so as not to be hampered subsequently by a lack of support. Systematic planning was emphasized throughout the workshop's discussions.

Activities of the Surface Water Management Division of the Maryland Department of Natural Resources it was reported consist of issuing permits for the construction of dams and related water-ways, assisting local subdivisions in dealing with flood plain management, and sediment control programs. The Department is asking for new legislation this year to better define their responsibilities in the area of flood plain management. The workshop members support such legislative efforts and would further recommend better criteria in sediment control practices. The members of the workshop also look forward to a departmental progress report on a research program on developing criteria for handling storm water. It was noted that the Maryland National Capital Park and Planning Commission is researching what can be done in terms of altering the scheme land use within in a master plan for that land which effects storm water run-off; the workshop members were most anxious to see the product of this research.

Workshop 2—Preservation of wildlife, forests and natural areas. Chairmen—James Coulter and Spencer Ellis.

RECOMMENDATIONS

1. The development of a comprehensive land use development policy and operative philosophy that should be nationwide, statewide and countywide.

2. The development of an inventory of land including its present uses and best possible uses for each parcel.

3. A set of reasonable priorities should be established to control the use of land in the future. These priorities should benefit the maximum number of people and the welfare of the community.

DISCUSSION

The major objectives brought to the attention of the workshop in this area are: preserving wildlife, forest and natural areas, decreasing pressures upon the land from urbanization, facilitating the passing of restraining legislation and regulations and the creation of conservation oriented guidelines for developers. It was noted that ten percent of the forest land in Maryland is in public ownership; the rest is privately owned.

Incentives, assessments, tax credits, easements and deeding of lands were some of the means of implementing a land use policy that were discussed. It was generally agreed that the vitality of the urban areas was essential to restore in order to establish and maintain a balanced scheme of land allocation and planning.

Citizen involvement and meaningful participation was deemed essential toward sound and realistic land use development and planning.

Workshop 3. Preserving agricultural land.

Chairman—Herbert Rice

RECOMMENDATIONS

1. The planning and zoning laws need to be reevaluated in order to best suit their original objective.

2. The tax laws as they relate to property and inheritance taxes, need a complete overhaul in order to make them more equitable, fair and conducive to good land management.

3. The farmer's economic investment must be carefully considered in any governmental policy, for, it is the farmer who has toiled the land, and preserved it and most often with little economic benefits.

DISCUSSION

This workshop was unable to come up with a means of permanently protecting or preserving agricultural land particularly as it relates to land that will be engulfed by urbanization. It was recommended that a small task force be established to study and propose legislation that would have as its objective the preservation of the agricultural economy within a growing urban state. The

farmer must always be involved in the plans and legislative proposals in their area, for it was agreed without considering him these proposals would be denying a voice and vote to an important segment of the community and thus make any remedy void of reality.

WORKSHOP 4

Preservation of future parks and recreation areas. Chairman—John P. Hewitt

RECOMMENDATIONS

1. That all political subdivisions of the State prepare and adopt a Master Plan of Parks, Recreation and Open Space that would be integrated with related state and federal Master Plans of Parks, Recreation and Open Space. The master plan should indicate the acquisition, development, maintenance and operation of such parcels and clearly spell out their method of funding.

2. A continuing committee on preservation of open space and natural resources in developing areas should be established and hosted by the State Department of Natural Resources, which would meet quarterly to review and consider further recommendations to implement preservation policies.

3. The requirement for matching funds under the Maryland State Open Space Program should be eliminated. In lieu of the matching fund requirement we recommend that grants from the Open Space Program fund be direct grants to foster the preservation of parks, recreation and open space for the political subdivisions in the State of Maryland.

DISCUSSION

It was remarked that with regard to park development, the quideline of 35 acres of parkland per 1,000 population is as good a standard as is today possible. Some of the needed parkland is acquired through developers but the majority of it comes from public funds, thus it was felt that the general public should be kept informed and sensitized to all stages of parkland acquisition. It was agreed that the rate of park acquisition should now be accelerated due to spiraling land prices and urban sprawl.

WORKSHOP 5

Preservation of aesthetics and historic sites. Chairman—Mrs. Connie Finney

RECOMMENDATIONS

1. Article 66B of the Maryland Code should be amended to state that it is the policy of the State of Maryland to allow zoning for aesthetic purposes.

2. Each county should continuously review the criteria set forth by The Department of Public Works with regard to design and planning, for often its guidelines are out of step with contemporary practices.

3. All counties should consider creating the necessary legislation to enable them to have a Historic District Zone.

DISCUSSION

Sound land use policies on national, state and local levels must be given immediate attention. There should be a complete reevaluation of the priorities we now have, based on the growing information the environmental movement has provided for us. Preservation and beauty should be considered as important as economics in subdivision regulations, zoning, planning critera and public agency regulations.

There was agreement that political leadership was vital to aesthetic preservation and that input from local citizens must be increased. There was discussion on recommending citizen review panels for the capital improvement programs in the counties. Perhaps even more important it was felt, is the existence of local environmental groups to act as overseers to county and related governmental action.

It was considered necessary to communicate ideas and actions on an inter-county basis. for it was generally agreed that the whole field of aesthetic preservation is new and undeveloped.

The National Registry Act has allowed parcels to be included on a National Registry in order to be preserved for historical significance. As this can be a lengthy process, it was recommended that there be local groups pushing and guiding the registration. Some discussion centered on the idea of having a Maryland Registry that would be supplemental to the functions of the National Registry. In any historic preservation attempt, the means of implementing the actual site restoration and preservation is unclear and uncommunicated. For instance, who pays is always a problem? A Maryland Registry it was thought might remedy some of the present inadequacies.

It was unanimously agreed that the first step in historic preservation of sites should always be the inclusion and identification of such on a county master plan.

Enacting local ordinances such as sign control bills was considered a necessary step in controlling development through aesthetics.

* * * * *

A highlight of the conference was the luncheon speaker Ian McHarg, Professor, Graduate School of Fine Arts University of Pennsylvania, author and landscape architect.

Following the afternoon sessions, Senator William Philip Goodman was introduced to give a brief synopsis of his bill on development rights. He described the plan contained in the bill as one akin to treating the master plan of an area as a corporation that allows property owners within the land to own shares in the development rights of that land. Thus, when the master plan is adopted, stock (the development rights) is issued. In order to develop the type of activity that has been designated for the area, development rights would have to be bought, transferred, sold, etc.

The government could receive at no cost, open space for use by the Public.

After the workshop chairmen reported briefly on the day's findings and recommendations, Mr. Dale Maisel of the Howard County Farm Bureau, chairman of the steering committee for the conference, was introduced. Bringing the conference to a close, he asked for a show of hands from those who felt the day had been a success and worth repeating. The response was unanimous in favor of another conference. The meeting was adjourned.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the full list of those invited to the conferences be printed in the RECORD at this time. I am deeply indebted to Mr. Dale Maisel of Howard County who acted as the chairman of the steering committee that organized the conference. Without his efforts it would not have been the success it was.

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

MONTGOMERY COUNTY

Mr. Richard H. Wieland, 9517 Georgia Avenue, Silver Spring, Maryland 20910.

Elisha C. Freedman, Chief Administrative Officer, County Office Building, Rockville, Maryland 20850.

Mr. David G. Sobers, Office of Program Coordination, County Office Building, Rockville, Maryland 20850.

Mr. Donald L. McCathran, Chief, Division of Design, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. Richard Tustian, Assoc. Director of Planning, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. James Geigerich, Environmental Planner, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Gordon B. Lamb, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Robert C. McDonell, Staff Director, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mrs. Idamae Garrott, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. David C. Smith, President, Suburban Maryland Homebuilders, 9517 Georgia Avenue, Silver Spring, Maryland 20910.

Mr. William H. Hussmann, Deputy Chief Administrative Officer, County Office Building, Rockville, Maryland 20850.

Mr. Richard J. Lynch, Director of Public Works, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. H. Clay Ervine, Chief, Division of Environmental Health Services, Montgomery County Government, County Office Building, Rockville, Maryland 20850.

Mr. John A. Conway, Chief of General Plan, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Cameron Wiegand, Environmental Planner, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Thomas M. Anderson, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mrs. Frances L. Abrams, Planning Policy Coordinator, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Sidney Kramer, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. James P. Gleason, Montgomery County Executive, County Office Building, Rockville, Maryland 20850.

Mr. John A. Hansman, Assistant Director, Office of Program Coordination, County Office Building, Rockville, Maryland 20850.

Mr. James Sayre, Chief, Bureau of Engineering, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. John P. Hewitt, Executive Director, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Md. 20907.

Mr. John J. Broda, Development Coordinator, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Robert E. Brennan, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Esther P. Gelman, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Dickran Y. Hovsepian, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Neal Potter, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mrs. Elizageth L. Scull, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Achilles M. Tuchtan, Mayor, City of Rockville, County Office Building, Rockville, Maryland 20850.

Mr. Sanford W. Daily, City Manager of Gaithersburg, City Hall, Gaithersburg, Maryland 20760.

Mr. Grover K. Walker, 6 Rolling Knoll Court, Gaithersburg, Maryland 20760.

Mr. William Sher, Montgomery County

Council, County Office Building, Rockville, Maryland 20850.

Mr. C. Richard Foote, City Manager of Rockville, County Office Building, Rockville, Maryland 20850.

Mr. Lewis H. Williams, Montgomery Soil Conservation, District, 600 S. Frederick Avenue, Gaithersburg, Maryland 20760.

Mr. Chester M. Leishear, Monrovia, Maryland 21770.

Mr. William H. Willcox, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Harold C. Morris, Mayor, City of Gaithersburg, 26 N. Summit Avenue, Gaithersburg, Maryland 20760.

Mr. Wiley G. Griffith, 6010 Olney-Laytonsville Road, Gaithersburg, Maryland, 20760.

HOWARD COUNTY

Mr. Paul R. Farragut, 5417 Hildebrand Court, Columbia, Maryland 21043.

Dr. Alston Specht, Jennings Chapel Road, Brookeville, Maryland 20729.

Mr. F. Leonard Dunn, 10522 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Charles E. Wehland, 6451 Lawyers Hill Road, Elkridge, Maryland 21227.

Mr. James R. Moxley, Jr., Route 144, West Friendship, Maryland 21794.

Mr. Robert S. Norton, Jr., Driver Road, Marriottsville, Maryland 21104.

Mr. Robert E. Stansfield, 10122 Century Drive, Ellicott City, Maryland 21043.

Mr. Gerald W. VonMayer, 10384 Barcan Circle, Columbia, Maryland 21043.

Mr. Omar J. Jones, County Executive, 4075 Columbia Road, Ellicott City, Maryland 21043.

Mr. Lewis S. Nippard, Route 144, West Friendship, Maryland 21794.

Dr. Aelred D. Geis, Trotter Road, Clarksville, Maryland 21029.

Mr. William P. Brendel, Union Chapel Road, Woodbine, Maryland 21797.

Mr. Robert E. Watson, Summer Hill Farm, Glenelg, Maryland 21737.

Mr. William Jefferson, 10944 Rock Coast Road, Columbia, Maryland 21043.

Mr. John Shallcross, 11362 Homewood Road, Ellicott City, Maryland 21043.

Mrs. Doris Thompson, The Times, Columbia Mall, Columbia, Maryland 21043.

Dr. M. Thomas Goedeke, 2637 Turf Valley Road, Ellicott City, Maryland 21043.

Mr. Edgar C. Kilbourne, 6713 Carlinda Avenue, Ellicott City, Maryland 21043.

Mr. Michael Visconti, Community Development, The Rouse Company, Columbia Maryland 21043.

Mr. Michael D. Spear, 10381 Barcan Circle, Columbia, Maryland 21043.

Dr. John Sundstrom, Route 32, Clarksville, Maryland 21029.

Mr. Albert Diehl, Regional Planning Office, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Roger Holtman, 306 N. Charles Street, Baltimore, Maryland 21201.

Mrs. Helen Ruther, 5001 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. Jack Helm, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. Frederick K. Schoenbrodt, 3702 Ligon Road, Ellicott City, Maryland 21043.

Mrs. Cynthia Croce, The Columbia Flier, 9033C Red Branch Road, Columbia, Maryland 21043.

Mr. J. Gordon Warfield, Marriottsville, Maryland 21104.

Mr. F. Grove Miller, Route 1, North East, Maryland 21901.

Mr. Jesse Smith, Slayton House, Columbia, Maryland 21043.

Mr. Robert Dorenberger, Contee Sand & Gravel, P.O. Box 460, Laurel, Maryland, 20810.

Mr. Wallace L. Hall, Route 1, Box 277, Hughesville, Maryland 20637.

Mr. David Carroll, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Lloyd G. Knowles, 9522 Pepple Drive, Ellicott City, Maryland 21043.

Mr. William A. Altman, 9710 Gwynn Park Drive, Ellicott City, Maryland 21043.

Mr. Melvin E. Schiedt, Highland, Maryland 20777.

Mr. T. Allan Stradley, Chestertown, Maryland 21620.

Mr. N. Thomas Whittington, Jr., Marion Station, Maryland 21838.

Mr. William R. Russell, Jr., Vice-President, First National Bank of Maryland, Light & Redwood Streets, Baltimore, Maryland 21203.

Mr. Jack Anderson, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mrs. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. John H. Gibson, USDA Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. John Mathias, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Claude Kruhm, Route 32, Clarksville, Maryland 21029.

Mr. Richard P. Browne, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. George Lechlider, 23200 Laytonsville Road, Gaithersburg, Maryland 20760.

Honorable Frederick C. Malkus, Cambridge, Maryland 21613.

Mr. Dale Z. Maisel, 12789 Folly Quarter Road, Ellicott City, Maryland 21043.

Mr. Lawrence Nelson, Frederick County Planning, Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. Charles Osbourn, III, 436 W. Bel Air Avenue, Aberdeen, Maryland 21001.

Mr. James Rouse, 10354 Windstream Drive, Columbia, Maryland 21043.

Mr. David Shaw, Westminster, Maryland 21157.

Dr. Frank L. Bentz, University of Maryland, College Park, Maryland 20742.

Honorable James Clark, Route 108, Ellicott City, Maryland 21043.

Mr. Henry Fostell, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. E. Rankin Lusby, Maryland Farm Bureau, Inc., Box 337, Randallstown, Maryland 21133.

Mrs. Marion McCoy, Director of Planning, Anne Arundel County Office Bldg., Annapolis, Maryland 21404.

Mr. Keith Myers, Sharpsburg, Maryland 21782.

Mr. J. Hugh Nichols, 6117 Sebring Drive, Ellicott City, Maryland 21043.

Carolyn D. Price, Frederick County Planning Com., Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. Wilmer Sanner, 3109 Edgewood Road, Ellicott City, Maryland 21043.

Mr. David Shaw, 5972 Turnabout Lane, Columbia, Maryland 21043.

Mr. Hugh Burgess, 3999 College Avenue, Ellicott City, Maryland 21043.

Dr. Edward Cochran, Pindell School Road, Clarksville, Maryland 21029.

Mr. Robert T. Haas, 8901 Old Frederick Road, Ellicott City, Maryland 21043.

Mr. E. Marcum Lynch, 9036 Dunloggin Road, Ellicott City, Maryland 21043.

Mr. Clifford McIntyre, Director of Natural Resources, American Farm Bureau, 425 13th Street NW., Washington, D.C. 20004.

Mr. Charles E. Miller, Gray Rock Farm, Frederick Road, Ellicott City, Maryland 21043.

Mr. G. Willard Oakley, Route 5, Salisbury, Maryland 21801.

Honorable George A. Price, Phoenix, Maryland 21131.

Mr. John Schillinger, New Cut Road, Severn, Maryland 21144.

Dr. Theodore Sidor, 242E Administration Building, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250.

Dr. Gordon Cairns, 8528 Pineway Drive, Laurel, Maryland 20810.

Mr. Edward H. Covell, Easton, Maryland 21601.

Mr. Howard Crist, Jr., Burnt Woods Road, Glenelg, Maryland 21737.

Mr. W. Scott Ditch, 10985 Swansfield Road, Columbia, Maryland 21043.

Mr. Wilber Dove, Woodbine, Maryland 21797.

Mr. Thomas C. Duley, Box 246, Upper Marlboro, Maryland 20870.

Mrs. James Filipczak, 9190 Wintercorn Lane, Columbia, Maryland 21043.

Mrs. Connie Finney, 3409 Pierce Drive, Ellicott City, Maryland 21043.

Mr. George E. Gavrelis, Baltimore County Planning, 301 Jefferson Building, Towson, Maryland 21204.

Honorable William J. Goodman, 3811 Riverdale Road, Riverdale, Maryland 20840.

Mr. William Hanna, St. Johns Lane, Ellicott City, Maryland 21043.

Honorable John Hargreaves, Federalsburg, Maryland 21632.

Mr. Thomas G. Harris, 10513 William Tell Lane, Columbia, Maryland 21043.

Mrs. Charles Higgins, 3788 Church Road, Ellicott City, Maryland 21043.

Mr. James Holway, 6215 Lawyers Hill Road, Elkridge, Maryland 21227.

Mr. Young D. Hance, Prince Frederick, Maryland 20678.

Mrs. Ernie A. Honig, Bethesda, Maryland 20034.

Mr. Lawrence Johnson, Director, Frederick County Planning, Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. John Jones, Underwood Road, Sykesville, Maryland 21784.

Dr. James Carpenter, 3906 McAlpine Road, Ellicott City, Maryland 21043.

Dr. Robert Waller, 5467 Hildebrand Court, Columbia, Maryland 21043.

Mr. Frank Cockrell, Route 108, Clarksville, Maryland 21029.

Dr. Erik Rifkin, 5306 Slipper Court, Columbia, Maryland 21043.

Mr. Lee McFarlane, 5645 Montgomery Road, Ellicott City, Maryland 21043.

Dr. Bernard Nebel, 10407 May Wind Court, Columbia, Maryland 21043.

Mrs. Ruth Keeton, 10989 Swansfield Road, Columbia, Maryland 21403.

Mr. Richard Talkin, Suite 117, Teachers Bldg., Columbia, Maryland 21043.

Mrs. Anita Iribe, Mink Hollow Road, Highland, Maryland 20777.

Mr. Robert Malloy, Allview Inn, Route 108, Ellicott City, Maryland 21043.

Mr. Norman Winkler, 1017 Pasturegate Lane, Columbia, Maryland 21043.

Mr. John E. Cooper, 8896 Town and Country Blvd., Ellicott City, Maryland 21043.

Gini Edwards, 10662 Green Mountain Circle, Columbia, Maryland 21403.

Mr. Palmer Wine, County Health Department, County Office Building, 3450 Court House Drive, Ellicott City, Maryland 21043.

Mr. John Antenucci, 9397 Indian Camp Road, Columbia, Maryland 21043.

Mr. Tom Brizynski, Bryant Woods School, Columbia, Maryland 21043.

Mr. Russell Sadler, 9893 Postwick Road, Ellicott City, Maryland 21043.

Mr. Stanley Boyd, Human Ecology Center, Suite 400, Wilde Lake Village Green, Columbia, Maryland 21043.

Mrs. John Ennis, 9410 Crosby Road, Silver Spring, Maryland.

CARROLL COUNTY

Mr. Herbert G. Rice, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Celius L. Brown, Chairman, Planning and Zoning Commission, c/o Sykesville State Bank, Sykesville, Maryland 21784.

Mr. C. Rogers Hall, Attorney, Court Street, Westminster, Maryland 21157.

Mr. J. Norman Graham, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Charles Shaffer, Director, Carroll County-Westminster Chamber of Commerce, Box 871, Westminster, Maryland 21157.

Mr. James Shriver, Jr., Route 1, Westminster, Maryland 21157.

Mr. George A. Grier, Administrative Assistant, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Dr. James P. Earp, Director, Economic Development Commission, County Office Building, Westminster, Maryland 21157.

Mr. Francis Staley, Route 3, Westminster, Maryland 21157.

Mr. George Wachter, Home Builders Assn. of Maryland, 762 Fairmount Avenue, Baltimore, Maryland 21204.

Mr. John Sanders, Soil Conservation Service, Post Office Building, Box 166, Westminster, Maryland 21157.

Mr. Robert L. Jones, County Extension Agent, County Office Building, Westminster, Maryland 21157.

Mr. James D. Norvell, Planner, County Office Building, Westminster, Maryland 21157.

Mr. Frederick Klein, c/o The Homestead, Route 2, Union Mills, Westminster, Maryland 21157.

Mr. Wayne Kurtz, District Soil Conservation Assistant, County Office Building, Westminster, Maryland 21157.

Mr. Edmund R. Cueman, Planning Director, County Office Building, Westminster, Maryland 21157.

Mr. Carl H. Wishart, Zoning Administrator, County Office Building, Westminster, Maryland 21157.

Dr. George Thomas, Superintendent of Schools, County Office Building, Westminster, Maryland 21157.

Mr. Robert Bair, Parks and Recreation, County Office Building, Westminster, Maryland 21157.

Mr. Walter Bockmiller, Director, Department of Recreation and Parks, Westminster, Maryland 21157.

Mr. James Schwartz, Manager, C and P Telephone Company, East Main Street, Westminster, Maryland 21157.

FREDERICK COUNTY

Mr. Henry L. Lakin, Chairman, Catoctin Soil Conservation District, Jefferson, Maryland 21755.

Mr. Ken Willett, State Forester, 1199 East Street, Frederick, Maryland 21701.

Mr. Robert Klein, Chairman, Frederick County Parks and Recreation Commission, Rose Hill Manor, N. Market St., Frederick, Maryland 21701.

Mrs. Charles Sanner, 22 Kline Boulevard, Frederick, Maryland 21701.

Mr. Richard Grossnickle, Route 1, Union Bridge, Maryland 21701.

Mr. Paul Edwards, Soil Conservation Service, 1199 East Street, Frederick, Maryland 21701.

Mr. Edward F. Holter, Chairman, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. Alan R. Musselman, Municipal Planning Consultant, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. John A. Derr, President, Frederick County Commissioners, Winchester Hall, Frederick, Maryland 21701.

Mrs. Nellie Roby, 9 North Third Avenue, Brunswick, Maryland 21716.

Mr. James H. Gilford, Delegate to the C & O Canal Park Planning Committee, 1199 East Street, Frederick, Maryland 21701.

Mr. Daniel E. Wight, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. Charles F. Bowers, Chairman, Frederick Historic District Committee, 121 North Court Street, Frederick, Maryland 21701.

Mr. Donald L. Lewis, Frederick County Commissioners, Winchester Hall, Frederick Maryland 21701.

Mr. Herbert D. Morrison, 106 North Court Street, Frederick, Maryland 21701.

Mr. Lawrence A. Dorsey, Frederick County Commissioners, Winchester Hall, Frederick, Maryland 21701.

Mrs. Karl Larsen, President, League of Women Voters, Route 1, Frederick, Maryland 21701.

Mr. Raymond Keilholtz, Route 2, Emmitsburg, Maryland 21727.

Mr. Louis J. Brosius, Linganore Corporation, P.O. Box 651, Frederick, Maryland 21701.

PRINCE GEORGES COUNTY

Mr. John Lancaster, Jr., Extension Service, 15209 Main Street, Upper Marlboro, Maryland 20870.

Councilman Francis White, Court House, Upper Marlboro, Maryland 20870.

Mr. Ken Collins, Planner, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mrs. Johanna S. Norris, Washington Suburban Sanitary Commission, 4017 Hamilton Street, Hyattsville, Maryland 20781.

Mr. George Valladares, Park and Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. Warren Kershaw, Park and Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. James K. ---------, Extension Service, 15209 Main Street, Upper Marlboro, Maryland 20870.

Mr. Ken Duncan, County Council, Court House, Upper Marlboro, Maryland 20870.

Mr. Edward W. Chen, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mr. Huffman, Washington Suburban Sanitary Com., 4017 Hamilton Street, Hyattsville, Maryland 20781.

Mr. John F. Downs, Jr., Park & Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. Lester Smith, Chamber of Commerce, Upper Marlboro, Maryland 20870.

Mr. Mike Davis, Planner, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mr. Robert A. Edwards, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mrs. Helen H. O'Leary, 10110 Livingston Road, Oxen Hill, Maryland 20022.

Mr. Robert Arciprete, Park & Planning, Court House, Upper Marlboro, Maryland 20870.

BALTIMORE COUNTY

Dr. John W. Foerster, Professor, Department of Biological Sciences, Goucher College, Towson, Maryland 21204.

Mr. Harry Coulter, Baltimore County Department of Recreation and Parks, 301 Washington Avenue, Towson, Maryland 21204.

Mr. Paul Helm, Baltimore County Department of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Paul Solomon, Baltimore County Office of Plan., Room 301, Jefferson Building, Towson, Maryland 21204.

Mr. William J. Tierney, Director, Baltimore County Department of Recreation and Parks, 301 Washington Avenue, Towson, Maryland 21204.

Mrs. Leila Kaufman, Chairman, Cockeysville Recreation Council, 226 Warren Road, Cockeysville, Maryland 21030.

Mr. Mark H. Beck, Architect, 202 Washington Avenue, Towson, Maryland 21204.

Honorable Francis C. Barrett, Baltimore, County Council, County Office Building, Towson, Maryland 21204.

Mr. Albert B. Kaltenbach, Department of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Lisl Dutterer, Citizens Planning and Housing, 600 E. Joppa Road, Towson, Maryland 21204.

Mr. Steve Collins, Baltimore County of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Otto Koelling, Maryland Department of Forests and Parks, Baltimore Agricultural Bldg., Cockeysville, Maryland 21030.

Mrs. Solmon Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208.

Mrs. Elizabeth Hartline, Long Green Community Council, Baldwin, Maryland 21013.

Mr. Charles B. Allen, Chairman, Recreation and Parks Board, 412–A Jefferson Building, Towson, Maryland 21204.

Mr. Walter Kratzmeier, Baltimore County Planning Office, Room 301, Jefferson Building, Towson, Maryland 21204.

Mr. William Trimble, Sr., Oakdene, Valley Road, Brooklandville, Maryland 21022.

Honorable G. Walter Tyrie, Baltimore County Council, County Office Building, Towson, Maryland 21204.

Mr. George Pryor, Baltimore County Planning Office, County Office Building, Towson, Maryland 21204.

Mr. Manley Gately, Home Builders Association, 762 Fairmount Avenue, Towson, Maryland 21204.

Mr. Stoney Fraley, Open Space Planner, Baltimore County Office of Planning, 301 Jefferson Bldg., Towson, Maryland 21204.

Mr. Paul F. McKean, Caves Road, Route 2, Owings Mills, Maryland 21217.

Mr. Wallace Knight, County Agricultural Building, Cockeysville, Maryland 21030.

Mr. Richard A. Price, Stockton Farm, Phoenix, Maryland 21131.

Mr. Hubert I. Snyder, 343 Old Trail, Baltimore, Maryland 21212.

Mrs. Judy Baer, CPHA Planning Committee, Box 246, Jarrettsville Pike, Monkton, Maryland 21111.

Honorable Dale Anderson, Baltimore County Executive, County Office Building, Towson, Maryland 21204.

Honorable C. A. Porter Hopkins, Falls Road, Glyndon, Maryland 21071.

Mr. William C. McDonnell, The Valleys Planning Council, 212 Washington Avenue, Towson, Maryland 21204.

Mr. George A. Wills, President, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Maryland 21202.

Mr. Thomas Devlin, Director, Baltimore County Health Dept., Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204.

Mr. James Keelty, Developer, 61 E. Padonia Road, Timonium, Maryland 21093.

Mr. Richard Moore, Gaylord Brooks, Inc., Glen Arm Road near Manor Road, Glen Arm, Maryland 21057.

ANNE ARUNDEL COUNTY

Mr. Daniel Tsamouras, Assistant Chief Engineer, Department of Public Works, County Office Building, Annapolis, Maryland 21404.

Mrs. Florence Beck Kurdle, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. John Makell, Director, Anne Arundel County Department of Recreation and Parks, County Office Building, Annapolis, Maryland 21404.

Mr. Sergio Rodriguez, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. L. Marshall Dowling, Pres., Severn River Association, c/o Mrs. Marion McCoy, County Office Building, Annapolis, Maryland 21404.

Mr. Charles Hancock, Anne Arundel Soil

Conservation District, County Office Building, Annapolis, Maryland 21404.

Mr. Joseph E. Elbrich, Jr., Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. William P. Doepkens, Anne Arundel County Forest Conservancy Board, County Office Building, Annapolis, Maryland 21404.

Mr. Richard N. Gauch, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. Arthur M. Love, Architect, c/o Mrs. Marion McCoy, County Office Building, Annapolis, Maryland 21404.

SUPPLEMENTAL LIST

Mr. James B. Coulter, Secretary of Natural Resources, State Office Building, Annapolis, Maryland 21401.

The Honorable Louis L. Goldstein, Comptroller of the Treasury, State of Maryland, Annapolis, Maryland 21404.

Mr. Spencer Ellis, Assistant Secretary, State Department of Natural Resources, State Office Building, Annapolis, Maryland 21401.

Mr. Richard Pelski, Mayor of Greenbelt, 106 Rosewood Drive, Greenbelt, Maryland 20770.

Mr. Ralph Chare, 1129 N. Calvert Street, Baltimore, Maryland 21202.

Mr. Richard Steiner, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mr. Ray Borom, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mr. Richard Alpher, President, Springhill Lake Civic Assoc., 6208 Breezewood Drive, Greenbelt, Maryland 20770.

Mr. Jack L. Folkins, Deputy Supervisor of Assessments, Court House, Upper Marlboro, Maryland 20870.

Dr. Fred Miller, Agronomy Department, College of Agriculture, University of Maryland, College Park, Maryland 20740.

Mr. Neil Solomon, Secretary, Department of Health and Mental Hygiene, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Carville Akehurst, Chairman, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Jeanne Greene, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Stanley Knock, Chairman, Community Housing & Development, 410 S. Monroe Street, Baltimore, Maryland 21223.

Mr. Herman Steingraph, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Gloria Lewis, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mrs. Ruth Mathes, Central Atlantic Environmental Service, 1717 Massachusetts Ave., N.W., Washington, D.C. 20036.

Mr. John Meyer, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Vladamir Wahbe, Secretary, State Department of Planning, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Jacob Kaminsky, Reginal Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. James Giese, City Manager of Greenbelt, Greenbelt, Maryland 20770.

Mr. George Laurent, Baltimore Neighborhoods, Inc., 25 W. 25th Street, Baltimore, Maryland 21218.

Mr. Leonard Simmons, Chairman, Community Orgaization Dept., University of Maryland, Baltimore Campus, 525 W. Redwood Street, Baltimore, Maryland 21201.

Barbara O'Banian, HUD Regional Office, State Office Building, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Harrison Weymouth, Economic Development Dept. Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Mr. Edmond M. Presen, Planner, Planning Coordination, Court House, Upper Marlboro, Maryland 20870.

Mr. Winfield M. Kelly, Jr., Chairman—County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Charles E. Callow, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. John J. Garrity, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Ronald R. Reeder, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Jack Jones, Piper-Marbury, First National Bank Building, Light and Redwood Street, Baltimore, Md. 21203.

Mr. James L. Fisher, President, Towson State College, Towson, Md. 21204.

Mr. Richard L. Hillman, Hillman and Hillman, Attorneys at Law, Annapolis, Md. 21404.

Mr. John Burcham, Vice Chairman—County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Francis B. Francois, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Royal Hart, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Jones Dickinson, Sherwood Feed Mills, 500 President Street, Baltimore, Md. 21202.

Mr. Alfred S. Bassler, 4994 Sheppards Lane, Ellicott City, Maryland 21043.

Mr. William A. Arnold, Charles H. Steffey, Inc., 18 E. Lexington Street, Baltimore, Maryland 21202.

Mr. Kent Mullikin, 79 Market Street, Annapolis, Maryland 21401.

Mr. Samuel Bogley, County Council, Court House, Upper Marlboro, Md. 20870.

Gladys Noon Spellman, County Council, Court House, Upper Marlboro, Md. 20870.

Lucille B. Potts, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Kingdon Gould, 1725 De Sales Street, N.W. Washington, D.C. 20036.

Mr. James Shea, 104 Spring Street, Gaithersburg, Md. 20760.

Dr. Robert McCan, President, Dag Hammarskjold College, 432 DuPont Circle Building Washington, D.C. 20036.

Mr. John W. Steffey, Charles H. Steffey, Inc., 18 E. Lexington Street, Baltimore, Maryland 21202.

Mr. Jack Anderson, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mrs. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. John H. Gibson, Acting State Conservationist, USDA Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. John Mathias, Richard P. Browne Associates, American City, Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. Henry Fostell, Richard P. Browne Associates, American City Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. Albert Diehl, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Roger Holtman, 306 N. Charles Street, Baltimore, Maryland 21202.

Mrs. Helen Ruther, 5001 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Robert Tannenbaum, Richard P. Browne Associates, American City Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. Robert Dorenberger, Contee Sand & Gravel, P.O. Box No. 460, Laurel, Maryland 20810.

Mr. Wallace L. Hall, Route No. 1, Box No. 277, Hughesville, Maryland 20637.

Mr. David Carroll, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Richard P. Browne Associates, American City Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. MATHIAS. Mr. President, there was a time when cities were built on rock because developers, citizens and governments wanted to preserve the rich valleys and farmland for agricultural production. Today I am afraid we tend to save the rocks and bulldoze our best soil. We have lost respect for the farmer and his contribution to America. We have prostituted our land and sold it to the highest bidder without regard to its limited supply. We have dug up the rich minerals and hunted the wildlife as if generations to come have an unlimited supply.

The bill which we are today considering will do a great deal in helping these problems, but it will not solve them all. We must begin to encourage our governments to listen to one another and talk to one another so they may be able to coordinate the development of land which affects citizens of their respective political jurisdictions. We simply cannot afford to have one jurisdiction designing and building without regard to the effects upon its neighbors. How often have we seen high density development along the borderline of neighboring counties—such bad land-use planning could have been corrected and prevented by mere communication and a spirit of understanding. It could be prevented by an interest in the welfare of all people, not just those within their narrow jurisdiction.

And this is really what this bill does today. The bill has as its objective the creation of certain land-use policies which are to be applicable throughout the entire Nation. It does not prohibit each city, or each county from building what is in its best interest and in the interest of its constituents, but it does say to these counties and cities that when you do develop and build, you should consider national land-use policies and directives. It also encourages each State to approach the development of land within its borders on a systematic level. No longer should land be developed without regard to the consequences of its development or subsequent development which might affect its original purpose.

The Federal Government also shares the blame for the present state of poor land-use management. How many times do we see Federal buildings, Federal projects which are built in contravention of some local land-use policy or some other Federal policy? Consider the building and development of the Everglades National Park in Dade County, Fla. Here the Congress made a decision to preserve thousands of historic and beautiful open lands for the generations to come only to be followed by another Federal decision to construct a jet airport which threatened the life of the park. That was simply bad land-use planning on the part of the Federal Government—an error which wasted thousands of dollars of the taxpayers' money. We simply cannot afford many of these mistakes. We simply do not have enough land for these kinds of errors.

With the ownership of land today, come responsibilities as well as rights. There is a right to build and develop only if the responsibility to consider the affects of the development on others is met; there is the right to destroy, only if what is destroyed does not destroy the

environment for others. We need cooperation when it comes to land development. We need understanding. We need preservation. With our increasing population and our fixed supply of land we must learn to cooperate with others to preserve that which is common and essential to us all. I am confident that with the passage of this bill, a greater understanding will prevail across this Nation. I hope that I have been able to make a contribution to this legislative proposal.

Mr. BUCKLEY. Mr. President, I am in complete agreement with those who argue that there is an acute and urgent need for more thoughtful, judicious consideration of the impact of private and governmental decisions affecting land use on our natural resources and on environmental values. I fear, however, that this legislation will intrude the Federal presence far beyond the line which ought to divide Federal areas or responsibility and those in State and local governments.

The argument is made that unless legislation is enacted this year, too much time will be lost in getting States to accept their responsibilities for land use decisions having greater than local impact. I would counter that in view of existing or pending Federal legislation designed to protect watersheds and wetlands, and to control powerplant siting, the most pressing needs will be met while we take the minimum time required that we emerge with legislation which makes the proper balance between national and local interests. Furthermore, I think that we tend to underestimate the extent of the public government for more effective land use planning at all levels of government. I believe we are witnessing a rapid development of the public consciousness to the need for a far less haphazard approach to land usage. This consciousness will cause more and more State legislatures to enact appropriate measures for the inventory of such lands and for the exercise of their police powers over the uses of those lands in the comprehensive manner envisaged by this legislation. This growing interest is reflected in the National Symposium on State Environmental Legislation, sponsored by the Council of State governments, which was held in March of this year and which developed reports and model legislative language for State land use planning.

There is no question, Mr. President, but that there are a number of areas where there is a legitimate Federal concern in the use to which private and State-owned lands is put. I fear, however, that the legislation under consideration will take us far beyond the line which ought to divide State and Federal responsibilities. Furthermore, it will bring pressures to bear, backed by economic sanctions, which may erode to an undesirable degree the lines which now divide State and local responsibilities.

Finally, we come to the question as to who is to make the ultimate judgment as to whether the State land use programs submitted to the Secretary of the Interior will in fact meet the objectives of this legislation. The committee staff tried to be reassuring on this point in the memorandum prepared for the members of the committee describing the bill. The memorandum stated that "* * * the (Federal) review would be for the purpose of determining whether the (State) program will be effective, not whether it is 'good' or 'bad'." I am not convinced that this would in fact be the result in practice. Is it really reasonable to expect that a Secretary would not find some procedural reason for disapproving a program which he in fact believed to be bad? Based on all experience to date with respect to other legislation, I fear that it is not. Perhaps my concerns will be put to rest during the course of the balances of this debate and my amendments to be adopted.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate may proceed with a brief period for the transaction of routine morning business, with a 3-minute limitation on statements therein.

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

ORDER FOR ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

Mr. HANSEN. Madam President, reserving the right to object, let me inform the distinguished majority whip what my problems are. We have scheduled a hearing on the Polecat Bench project tomorrow morning.

Mr. ROBERT C. BYRD. Madam President, I think the Senator is overly concerned when there is no need for it. The Senate will come in at 8:30 tomorrow morning. Six Senators want to speak for 15 minutes each. That will require 1½ hours. There will then be a period for the transaction of routine morning business. That will take us beyond 10 o'clock.

Mr. HANSEN. That is precisely why I am concerned, I say to my friend, the distinguished Senator from West Virginia. The fact is that we have scheduled a hearing at 10 o'clock tomorrow morning on the Polecat Bench. It will be the intention of the Senator from Wyoming to be in attendance at that hearing. This project is very important to my State. I must be present there. That is another reason that I would hope that we might have action on my amendment the first thing in the morning. I am very sorry that we could not do it this evening. However, I am sure that all Senators will demonstrate the fairness characteristic of them and will recognize my plight in wanting to be here during the debate on my amendment, and yet having to be present at the committee hearings.

Mr. JACKSON. Madam President, would the Senator yield?

Mr. HANSEN. I yield.

Mr. JACKSON. Madam President, I would be delighted, and I am sure that the Senator from Idaho representing the minority side will be delighted, to accommodate the Senator. We can all work together on this matter. We could set aside the Senator's amendment until the hearing is over, because I do not think we will be able to finish the other amendments in the meantime. And when the hearing is over, we will then take up the Senator's amendment.

Mr. HANSEN. Madam President, how much time will the hearing require?

Mr. JACKSON. It will require until 12 o'clock.

Mr. HANSEN. I think that would be fine.

Mr. JACKSON. Madam President, I will be delighted and the Senator from Idaho will be delighted to work out an accommodation with the Senator from Wyoming.

Mr. HANSEN. I have no objection.

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

Mr. DOMINICK. Madam President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Madam President, are we operating under morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Madam President, I yield to the Senator from Colorado.

LEAVE OF ABSENCE

Mr. DOMINICK. Madam President, I ask unanimous consent that the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Iowa (Mr. HUGHES), and I be excused from tomorrow's session because of official business.

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

PRIVILEGE OF THE FLOOR

Mr. HARRY F. BYRD, JR. Madam President, I ask unanimous consent that during the consideration of the land use bill, Mr. John I. Brooks, of my staff, be granted the privilege of the floor.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

ORDERS FOR RECOGNITION OF SENATORS CHURCH, CRANSTON, TUNNEY, MONDALE, RIBICOFF, AND SCOTT ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators CHURCH, CRANSTON, TUNNEY, MONDALE, RIBICOFF, and SCOTT.

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

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes with the usual 3-minute limitation on statements therein.

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

ORDER FOR CONSIDERATION OF LAND USE BILL (S. 632) ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, the Senate turn to the consideration of S. 632, the land use bill.

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

ORDER FOR CONSIDERATION OF HIGHWAY BILL (S. 3939) ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that on the disposition of the land use bill (S. 632), the Senate return to the consideration of the highway bill, S. 3939.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROGRAM

Mr. ROBERT C. BYRD. Madam President, the program for tomorrow is as follows:

The Senate will convene at 8:30 a.m. The following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senator CHURCH, Senator CRANSTON, Senator TUNNEY, Senator MONDALE, Senator RIBICOFF, and Senator SCOTT.

There will then be routine morning business for not to exceed 15 minutes, with the usual 3-minute limitation on statements therein.

Following morning business, the Senate will resume the consideration of S. 632, the Land Use Policy and Planning Assistance Act of 1972. There will be votes on amendments and passage of the bill.

Upon disposition of that bill, the Senate will resume consideration of the highway bill, S. 3939.

Only three amendments are in order on S. 3939, an amendment by Senator WEICKER, an amendment by Senator KENNEDY, and an amendment by Senator COOPER. These amendments are under time limitations. Yea-and-nay votes will occur on amendments and final passage of the highway bill.

Mr. CASE. What is the request?

Mr. ROBERT C. BYRD. There is no request. I was stating the program.

Mr. CASE. And no amendments are in order.

Mr. COOK. There was no statement by the Senator as to any time limitation on rollcall votes tomorrow?

Mr. ROBERT C. BYRD. There is a time limitation on amendments to the land use bill of 30 minutes. There is a time limitation on the Cooper amendment to the highway bill of 2 hours. There is a time limitation on the amendment by Mr. KENNEDY of 1 hour and a time limitation on the amendment of Mr. WEICKER of one-half hour.

Mr. COOK. Is there a time limitation on the Weicker amendment?

Mr. ROBERT C. BYRD. Yes, there is. I secured it. I will ask the Chair.

The PRESIDING OFFICER. That is correct.

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

Mr. ROBERT C. BYRD. I yield.

Mr. CASE. Are the amendments the Senator listed to the highway bill subject themselves to amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. CASE. Is there a time limitation on such amendments?

Mr. ROBERT C. BYRD. Yes, 30 minutes.

Mr. CASE. The rule of germaneness is applicable?

Mr. ROBERT C. BYRD. There is no rule requiring germaneness of amendments in the Senate. The consent agreement on the highway bill made no reference to germaneness.

Mr. CASE. Does the unanimous-consent agreement provide that amendments to the amendments must be germane?

Mr. ROBERT C. BYRD. The request does not so provide.

Mr. CASE. That is something that already has been agreed to?

Mr. ROBERT C. BYRD. The unanimous-consent agreement was entered into last week.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Madam President, if there be no further business to come before the Senate, I move, pursuant to the provisions of Senate Resolution 365, as a further mark of respect to the memory of the deceased Hon. WILLIAM F. RYAN, late a Representative from the State of New York, and in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. tomorrow.

The motion was agreed to; and at 7:26 p.m. the Senate adjourned until tomorrow, Tuesday, September 19, 1972, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1972:

DIPLOMATIC AND FOREIGN SERVICE

C. Robert Moore, of Washington, a Foreign Service Officer of the Class of Career Minister now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

INTERNATIONAL MONETARY FUND, INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, INTER-AMERICAN DEVELOPMENT BANK, AND ASIAN DEVELOPMENT BANK

John N. Irwin II, of New York, to be United States Alternate Governor of the International Monetary Fund for a term of five years and United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years and until his successor has been appointed; and United States Alternate Governor of the Asian Development Bank, vice Nathaniel Samuels.

U.S. NAVY

Vice Admiral Walter H. Baumberger, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of Title 10, United States Code, Section 5233.

I nominate the following named officers of the United States Navy for temporary promotion to the grade of captain in the line subject to qualification therefor as provided by law:

Adair, Frederick S.
Adams, Billy J.
Addams, John F.
Ailes, John W., IV
Allen, James A.
Allen, John B.
Allen, Winfred P.
Altmeyer, John M.
Ammerman, Clell N.
Anaston, Tommy K., Jr.
Anderson, Alden B.
Armel, Lyle O., II
Aston, William J.
Austin, Robert C.
Bademan, Harold W.
Balderston, Buele G.
Ball, Courtland D., III
Banks, Sidney M.
Barnes, James P.
Bath, Alan H.
Bathurst, Robert B.
Bayne, John P.
Bekkedahl, Clifford L.
Bender, Albert F., Jr.
Benero, Manuel A., Jr.
Bergesen, Andrew J.
Berry, Joel H., Jr.
Best, Eddie F.
Bird, Charles F.
Blackadar, Paul F.
Blackwood, Jack D.
Blackwood, Robert G.
Blandine, Robert E.
Blanding, Robert L.
Bodensteiner, Wayne D.
Booth, Roger G.
Bowers, Henry H.
Boyd, John H., Jr.
Brown, Jacob C.
Brown, Robert M.
Brownley, John H.
Bruce, George W., Jr.
Bruning, Richard A.
Burdon, Eugene R.
Bush, James T.
Butcher, Paul D.
Cameron, Kenneth R.
Cameron, Norman A.
Campbell, James B.
Canon, George A., III
Cantacuzene, Rodion
Carelli, Francis L.
Carter, Powell F., Jr.
Cassidy, Thomas J., Jr.
Chesser, Samuel L.
Clemont, William J., Jr.
Cloughley, William D.
Coakley, Walter J., Jr.
Cobern, Ernest L.
Cockell, William A., Jr.
Coleman, James O.
Colligan, Thomas R.
Collins, Philip K.
Connors, Eugene T.
Cooper, Tommy G.
Coskey, Kenneth L.
Coston, Stanford W., Jr.
Cotten, Thomas R., Jr.
Cromwell, John P., Jr.
Curran, Robert W.
Daniels, Verlyne W.
Dapogny, Robert J.
Davis, George W., Jr.
Davis, Russell E.
Delgiudice, David
Denbigh, Robert S., Jr.
Denton, David N.
Dewispelaere, Earl L.
Dick, Joseph L.
Dimon, Charles G., Jr.
Donaldson, Robert S.
Donovan, James F.
Dowse, Herbert B., Jr.
Dudley, Paul L., Jr.

Dyer, George T., Jr.
Edwards, William R., Jr.
Eggert, Lowell F.
Easter, James M.
Emerson, Jesse R., III
Englander, Owen
Englehart, Harry J.
Farnham, Charles G.
Feeks, Edmond M.
Fenn, Dan E.
Ferguson, Andrew C.
Fernandes, James E.
Finney, Jack L.
Fleeson, Richard J.
Fong, Chong S.
Fraser, Robert E.
Freeman, Robert W.
Frick, Joseph F.
Friese, George A.
Frost, John F., III
Gauthier, John O.
Gavazzi, Robert R.
Geronime, Eugene L.
Giovanetti, William C.
Glaves, Robert H.
Golde, Morton
Good, Ronald P.
Gooden, Richard O.
Graffam, Earl H.
Gray, Harvey, Jr.
Green, William C.
Greiwe, William H.
Grich, Richard J.
Groder, Robert E.
Grosshuesch, David K.
Hamel, James K.
Hamilton, Leroy A.
Hannegan, Frank N.
Harns, John H.
Harp, Robert M.
Helms, Ronald L.
Henry, Albert L., Jr.
Herring, Edwin L.
Hipple, William J.
Hoffman, Robert B.
Hogan, Edward J., Jr.
Holmberg, Lennart G.
Hoskovec, William B.
Howard, Albert W., Jr.
Howe, Richard B.
Hubbard, Samuel W., Jr.
Hull, Fred A.
Humber, Marcel B.
Hyde, Robert A.
Isaacks, Marion H.
Jasper, Charles R.
Johnson, Frederick C.
Johnson, George M.
Johnson, Philip E.
Jones, Donald S.
Jones, Richard H.
Jones, Robert C.
Kehoe, James W., Jr.
Kellogg, Edward S., III
Kelly, James F.
Kosmela, Walter T.
Kraft, Frederick W.
Kugler, Kenneth D.
Lage, Robert L.
Lamm, William A.
Latham, William B.
Latta, Robert L.
Leblanc, Georges E., Jr.
Leedom, Clair E., Jr.
Lenahan, Robert P.
Leverone, Robert M.
Lewis, Robert
Limerick, Christopher J., Jr.
Locke, Walter M.
Loggan, Wilfred J.
Lumsden, Richard E.
Lyon, Peter W.
Lyons, Thomas W., Jr.
Mains, Homer O., Jr.
Mallory, John S.
Maloney, Peter M.
Mann, Horace D., Jr.
Marshall, Robert M.
Martin, Alan F.
Martini, Richard A.
Mau, George W., Jr.
McCardell, James E., Jr.
McCoy, Roy E.
McCrimmon, Douglas R.
McCune, Joe D.
McDonald, Raymond T.
McGathy, Charles L., Jr.
McGrath, William D.
McLuckie, James D.
McMurtray, Robert A., Jr.
McPadden, Donald F. X.
Metzler, Donald M.
Meyer, William F.
Miller, Richard J.
Mitchell, Joseph S.
Montgomery, Stephen C.
Moody, Thomas J.
Moran, Clifford D.
Moredock, William J.
Morford, Dean R.
Morgan, Leroy W., Jr.
Morgan, Houston M.
Morris, Henry C., Jr.
Mullane, Thomas F.
Muncy, William E.
Murray, Joseph E., Jr.
Mustin, Henry C.
Nielson, Donald E.
Nordtvedt, Ernest R.
Norton, Richard J.
Numbers, Earl W.
O'Brien, Austin C., Jr.
O'Connell, John F.
O'Connor, John E.
O'Connor, Joseph E.
Oldham, Albert W.
Orell, Quinlan R.
Ortega, Joseph J.
Osborne, Arthur M.
Paddock, Charles O.
Parcher, Stuart M.
Parker, John T., Jr.
Parkhurst, David C.
Passantino, Sebastian
Pattee, Arthur W.
Paul, John E.
Payne, Douglas W.
Peebles, Edward M.
Peelle, Morris A.
Perry, Lowell E.
Pohli, Richard R.
Polatty, Donald B.
Poling, William E.
Pope, Daniel K., IV
Pressly, George B.
Priddy, Clarence L., Jr.
Prosser, Walter R.
Raithel, Albert L., Jr.
Randolph, Joseph L.
Reeg, Frederick J.
Rhodes, Randolph L.
Ricardo, Benny J.
Rich, Richard
Rilling, Alexander W.
Robinson, Kirby L.
Rodgers, Thomas A.
Rogers, Robert B.
Rorie, Conrad J.
Rose, William R.
Runyon, Richard E.
Sanders, Ben T.
Sayer, William D.
Schaub, John R., Jr.
Schrader, Harry C., Jr.
Scott, Austin B., Jr.
Self, David L.
Semple, William C., III
Sesow, Anthony D.
Sewell, Robert L.
Shaw, John H.
Sheehy, Eugene E.
Sheets, Roger E.
Shelton, Donald C.
Shine, Maurice J.
Simons, Donald W.
Sim, Geizer L., Jr.
Slawson, Ralph L.
Smevog, Herbert W.
Smith, David G.
Smith, John V.
Smith, Richard C.
Snyder, Fred D.
Snyder, James M.
Snyder, Ned C.
Spencer, Robert W.
Sperling, David J.
Stanley, Thomas A.
Stein, Norman F.
Stevens, Jack D.
Stewart, Douglas A.
Story, Warren L.
Sudduth, Roger M.
Sullivan, Walter F.
Sullivan, William W.
Sweet, William J.
Tallet, Arthur J.
Tetreault, Paul J.
Tmompson, Arthur R., Jr.
Thompson, Clifford E.
Tolg, Robert G., Jr.
Turk, Herman L.
Turner, Sherman W.
Veach, Clarence E.
Wages, Clarence J., Jr.
Walker, William B.
Wallace, Cedric S.
Ward, Conley R.
Warren, Tommy H., Jr.
Warthen, Donald
Wasson, John E.
Webber, Gene D.
Weeks, Alan L.
Weeks, Robert H.
Weishar, Charles F.
Westphal, Lloyd M., Jr.
Whitaker, Robert M.
Whitley, Clyde T.
Wight, Roy R.
Wilder, William E.
Wiley, Kenneth R.
Wilhelmi, Quentin E.
Williams, Douglas A.
Williams, James G., III
Williams, Louis A.
Williamson, Robert L.
Williard, Bobbie D.
Wilson, Donald K.
Wilson, Edward W.
Wilson, Samuel B.
Wolff, William M., Jr.
Wyatt, William C., III
Wynn, Carl E., Jr.
Yoder, Dwane F.

Commander Frederick R. Ellis, United States Naval Reserve, for temporary promotion to the grade of captain, subject to qualification therefor as provided by law.

Commanders Celia L. Barteau and Mary E. Donnelly, United States Navy, for permanent promotion to the grade of captain, subject to qualification therefor as provided by law.

EXTENSIONS OF REMARKS

POSTMASTER GENERAL REVIEWS GOALS AND PERFORMANCE OF THE POSTAL SERVICE

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Monday, September 18, 1972

Mr. BOGGS. Mr. President, Postmaster General Elmer T. Klassen recently addressed the Sixth Annual Postal Forum on the performance of the Postal Service in the 14 months since it was created, its goals for the future, and its determination to provide efficient service. I believe his remarks are of general interest. I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF POSTMASTER GENERAL E. T. KLASSEN

The U.S. Postal Service began operations on July 1, 1971, as an independent agency of the Federal government.

The 14 months since then have represented the first phase of a new responsibility for the Board of Governors and the Postmaster General.

This new way of postal life is set forth in the Postal Regorganization Act of 1970.

This stewardship requires the mails to be operated in accordance with a law which holds that the mail service should be paid for by the users of the mail and not by the taxpayers.

This is a little like a new pair of shoes. Because they are new, they occasionally pinch, and cries of protest and distress are clearly heard from many quarters. The truth is that we are passing through a period of necessary—if sometimes uncomfortable—adjustment to the Act's specific goals and requirements.

Nevertheless, the task of Postal Service management is clear. Our lawful duty is to honor the binding provisions of the Act and to pursue the valid objectives and procedures set forth in the Act.

This historic legislation, supported by two Presidents and adopted by both Houses of Congress on a bipartisan basis, is a fair law and fully merits the support of us all—postal management, postal employees, postal unions, postal customers and citizens everywhere.

The more you are familiar with the Act's key provisions, the more you can accurately relate our current programs and policies to the requirements of the law. Remember, these requirements are clear, specific and real. They are binding on all of us.

Here are some of the things we are authorized and required to do:

1. We shall have as our basic function the obligation to provide postal service to bind the nation together.

2. We shall provide prompt, reliable and efficient service to customers in all areas and shall render postal service to all communities.

3. We shall achieve and maintain compensation for our officers and employees comparable to the rates and types of compensation paid in the private sector.

4. We shall put particular emphasis upon opportunities for career advancement of all employees.

5. We shall provide compensation, working conditions and career opportunities that will assure the attraction and retention of qualified and capable supervisory and other managerial personnel, and establish and maintain a program for all such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations.

6. We shall give the highest consideration to the requirements for the most expeditious collection, transportation and delivery of important letter mail.

There is no question in *my* mind that the Postal Reorganization Act gives full and careful protection to the legitimate interests of all concerned.

But to carry out these provisions is not easy, and we are constantly encountering new obstacles.

Nonetheless the objectives of the Act are clearly stated and together we must meet them.

Under no circumstances we can stand passively aside or blink at the requirements of the law, and let this opportunity to serve America better—be destroyed by those who would have us retreat into an entagling web of politics, bureaucracy and waste.

As Postmaster General, I intend to put together the best management team we can assemble, and we pledge to work diligently to